

# ROXBOROUGH VILLAGE METROPOLITAN DISTRICT

8390 E. Crescent Pkwy, Suite 300  
Greenwood Village, CO 80111  
303-779-5710  
www.roxboroughmetrodistrict.org

## NOTICE OF SPECIAL BOARD MEETING AND AGENDA

**DATE:** December 7, 2021  
**TIME:** 6:00 p.m.  
**LOCATION:** Given current events and current advice and directives from local, state and federal jurisdictions related to COVID-19, this meeting is being held by teleconference and virtual meeting only.

Board members, consultants and members of the public may participate by teleconference or by computer/tablet by utilizing the following information:

To attend via Zoom Videoconference, use the link:

<https://us02web.zoom.us/j/85735110189?pwd=cWNHU2o4Vm90WVFFL1B2RVBmdGtEUT09>

**ACCESS:** 1. To attend via telephone, dial 346-248-7799 and enter the following additional information:  
a. Meeting ID: 857 3511 0189  
b. Passcode: 911586

<u>Board of Directors</u>	<u>Office</u>	<u>Term Expires</u>
Calvin Brown	President	May, 2023
Debra Prysby	Vice President	May, 2022
Ephram Glass	Treasurer	May, 2023
Edward Wagner	Secretary	May, 2022
Garry Cook	Assistant Secretary	May, 2022

- I. CALL TO ORDER**
- II. DECLARATION OF QUORUM/DIRECTOR QUALIFICATIONS/DISCLOSURE MATTERS**
- III. APPROVE AGENDA (10 minutes)**
- IV. PUBLIC COMMENT and/or GUESTS (15 minutes)**

*(Note: Members of the public may express their views to the Board on matters that affect the District. Comments will be limited to three (3) minutes. Please sign in. Questions may be asked of the Board but will not be answered at this time.)*

**V. CONSENT AGENDA (5 minutes)**

*(Note: All items listed under the Consent Agenda are considered to be routine and will be enacted by one motion and vote. There will be no separate discussion of these items unless a Board member or a member of the audience so requests.)*

- A. Review and Consider Approval of the November 16, 2021 Minutes (enclosed)
- B. Review and Accept the Cash Position and Property Tax Schedule for November (enclosed)
- C. Review and Consider Approval of Current Claims, Approve Transfer of Funds, and Ratify Payment of Autopay Claims and Ratify Approval of Previous Claims (enclosed)
- D. Review Bailey Tree Update (enclosed)
- E. Review Metco Landscaping Update (enclosed)
- F. Ratify Approval of Code of Conduct at District Board Meetings (to be distributed)
- G. Review and Consider Approval of Resolution No. 2021-11-\_\_\_, Approving 2022 Metco Service Agreement (enclosed)
- H. Review and Consider Approval of Resolution No. 2021-11-\_\_\_, Approving 2022 Metco Snow Removal Agreement
- I. Review and Consider Approval of Resolution No. 2021-11-\_\_\_, Approving 2022 Mulhern Service Agreement (enclosed)
- J. Approve Pay Application Number 1 for Spillway/ Boulder Installation from 53 Corporation, LLC in the amount of \$39,240.00 (enclosed)
- K. Review and Consider Approval of Resolution No. 2021-11-\_\_\_, Approving 2022 Election Resolution (enclosed)

**VI. FINANCIAL MATTERS (5 minutes)**

- A. Other

**DISCUSSION AGENDA**

*(Note: Some items are included in the packet for the Board's information and if not discussed at a Board meeting, may not be included in future packets.)*

**VII. ACTION ITEMS (30 minutes)**

- A. Review and Consider Approval of Resolution No. 2021-11-\_\_\_, Approving 2022 Maintenance Agreement with Bailey Tree, LLC (enclosed)
  - i. Review and Consider Approval of Bailey Tree Proposal for Emerald Ash Borer/ Ash Bark Beetle Premier Tree Injection Treatment in the amount of \$21,360.00 (enclosed)

- ii. Review and Consider Approval of Bailey Tree Proposal for Tree Service and Fertilizer Program in the amount of \$28,130.00 (enclosed)
- B. Review and Consider moving playground planning ahead; Consider a motion to approve consultants to move forward with public bid preparation and related tasks
- C. Review and Consider approval of Amendment to Resolution regarding Colorado Open Records Act Rules and Policy (CORA) (to be distributed)
- D. Review and Consider Approval of Open Space Management Proposal from Ark Ecological Services, LLC in the amount of \$35,750 (enclosed)
- E. Review and Consider Approval of Metco Winter Water Proposal in the amount of \$7,200 (enclosed)

**VIII. DIRECTOR MATTERS (10 minutes)**

- A. Environmental Committee Update (to be distributed)
- B. Other

**IX. MANAGER MATTERS (20 minutes)**

- A. Discussion regarding landscape maintenance and future planning
- B. Consider exploration of frisbee golf course
- C. Other

**X. LEGAL MATTERS (5 minutes)**

- A. Update Regarding Final Water Due Diligence Filing and Executive Session Pursuant to C.R.S. Section 24-6-402(4)(B) and for the Purposes of Receiving Legal Advice on Specific Legal Questions, if requested
- B. Other

**XI. ENGINEERING MATTERS (5 minutes)**

- A. Discussion on scope of 53 Corporation, LLC spillway project
- B. Consider Phase 2 of Northside spillway
- C. Other

**XII. LANDSCAPING MATTERS (10 minutes)**

- A. Other

**XIII. OTHER BUSINESS (5 minutes)**

- A. Confirm Quorum for January 18, 2022 Regular Meeting

**XIV. EXECUTIVE SESSION (15 minutes)**

- A. Executive Session Pursuant to C.R.S. Section 24-6-402(4)(B) for the Purposes of Receiving Legal Advice on the Specific Legal Question of CORA Requests and Responses by District Custodian

**XV. ADJOURNMENT**

---

MINUTES OF A SPECIAL MEETING  
OF THE BOARD OF DIRECTORS OF THE  
ROXBOROUGH VILLAGE METROPOLITAN DISTRICT  
HELD  
TUESDAY, NOVEMBER 16, 2021

A special meeting of the Board of Directors of the Roxborough Village Metropolitan District (referred to hereafter as the “Board”) was convened on Tuesday, November 16, 2021 at 6:00 p.m. via ZOOM. The meeting was open to the public.

ATTENDANCE

**In Attendance were Directors:**

Calvin Brown, President  
Debra Prysby, Vice President  
Ephram Glass, Treasurer  
Ed Wagner, Secretary  
Garry Cook, Assistant Secretary

**Also in Attendance were:**

Anna Jones, Nic Carlson, Shauna DAmato, and Janece Soendker; CliftonLarsonAllen LLP (“CLA”)  
Katie James, Esq.; Folkestad Fazekas Barrick & Patoile, P.C.  
Scott Barnett; Mulhern MRE, Inc.  
Bill Barr; Metco Landscape Inc.  
Mark Rubic; Resident at 7735 Verandah Court  
Kathleen Coderre; Resident at 7783 Verandah Court  
Brendan Coupe; Resident at 8509 Kicking Horse Court  
Shawn Benson; Resident at 9610 Lone Iris Place

CALL TO ORDER

Director Brown called the meeting to order at 6:01 p.m.

DECLARATION OF  
QUORUM/DIRECTOR  
QUALIFICATIONS/  
DISCLOSURE MATTERS

A quorum was declared present. No new conflicts were disclosed.

APPROVE AGENDA

Following review, upon a motion duly made by Director Glass, seconded by Director Cook and, upon vote, unanimously carried, the Board approved the agenda, as presented.

PUBLIC COMMENT and/or  
GUESTS

Mark Rubic, resident, addressed the Board.

CONSENT AGENDA

**October 19, 2021 and October 21, 2021 Special Meeting Minutes:**

**Cash Position and Property Tax Schedule for October:**

**Current Claims, Approve Transfer of Funds, Ratify Payment of Autopay Claims and Ratify Approval of Previous Claims:**

**Review Bailey Tree Update:**

**Review Metco Landscaping Update:**

**2022 Insurance Renewal**

Ms. Jones reviewed the Consent Agenda with the Board. Following discussion, upon a motion duly made by Director Glass, seconded by Director Cook and, upon vote, unanimously carried, the Board approved the Consent Agenda, as presented.

**FINANCIAL MATTERS**

**Public Hearing to Consider Amendment of 2021 Budget:**

No amendment is needed.

**Public Hearing to Consider Adoption of 2022 Budget; Appropriate Sums of Money and Set Mill Levy; Consider Approval of Resolution No. 2021-11-01 Resolution to Adopt 2022 Budget, Resolution No. 2021-11-02 Resolution to Appropriate Sums of Money, and Resolution No. 2021-11-03 Resolution to Set Mill Levy:**

Upon a motion duly made by Director Brown, the Board opened the public hearing on the proposed 2022 Budget at 6:17 p.m.

It was noted that Notice stating that the Board would consider adoption of the 2022 budget and the date, time and place of the public hearing was published pursuant to statute. No written objections were received prior to the public hearing.

Mark Rubic, resident, spoke about the playground to be constructed.

Upon a motion duly made by Director Brown, the Board closed the public hearing at 6:20 p.m.

Ms. Soendker reviewed the 2022 Budget with the Board and noted the post packet budget has a minor tax abatement adjusted. Ms. Soendker reviewed the tax abatement adjustment with the Board. The Board asked questions regarding the Capital Budget Master Plan line item. The Board also discussed and celebrated the debt retirement.

Following review and discussion, upon a motion duly made by Director Glass, seconded by Director Wagner and, upon vote, unanimously carried, the Boards approved the Resolution No. 2021-11-01 Resolution to Adopt 2022 Budget, Resolution No. 2021-11-02 Resolution to Appropriate Sums of Money, and Resolution No. 2021-11-03 Resolution to Set Mill Levy.

**Other:** None.

## ACTION ITEMS

### **Resolution No. 2021-11-04 Resolution 2021 Audit Engagement Letter with Wipfli in the amount of \$5,250:**

Attorney James reviewed the Resolution with the Board. Following review, upon a motion duly made by Director Glass, seconded by Director Wagner and, upon vote, unanimously carried, the Board approved of Resolution No. 2021-11-04 Resolution 2021 Audit Engagement Letter with Wipfli in the amount of \$5,250.

### **Resolution No. 2021-11-05, 2022 Annual Administrative Matters Resolution:**

Attorney James reviewed the Resolution with the Board. Following review, upon a motion duly made by Director Glass, seconded by Director Prysby and, upon vote, unanimously carried, the Board approved of Resolution No. 2021-11-05, 2022 Annual Administrative Matters Resolution.

### **CliftonLarsonAllen LLP Master Services Agreement and Related Statement(s) of Work:**

Attorney James reviewed the agreement with the Board. Following review, upon a motion duly made by Director Glass, seconded by Director Wagner and, upon vote, unanimously carried, the Board approved of CliftonLarsonAllen LLP Master Services Agreement and Related Statements of Work.

### **Resolution No. 2021-11-08 Engagement Letter with Folkestad Fazekas Barrick and Patoile, P.C. for 2022 Legal Services:**

Attorney James reviewed the Resolution with the Board. Following review, upon a motion duly made by Director Glass, seconded by Director Wagner and, upon vote, unanimously carried, the Board approved of Resolution No. 2021-11-06 Engagement Letter with Folkestad Fazekas Barrick and Patoile, P.C. for 2022 Legal Services.

### **Resolution No. 2021-11-09, Approving Renewal of Foothills Intergovernmental Agreement for Roxborough Village District use of Foothills recreation Amenities for 2022:**

Attorney James reviewed the Resolution with the Board. Following review, upon a motion duly made by Director Prysby,

seconded by Director Glass and, upon vote, unanimously carried, the Board approved of Resolution No. 2021-11-07, Approving Renewal of Foothills Intergovernmental Agreement for Roxborough Village District use of Foothills recreation Amenities for 2022.

**Resolution No. 2021-11-10, Approving 2022 Maintenance Agreement with Bailey Tree, LLC:** This item was deferred until the December meeting.

**Bailey Tree Proposal for Cottonwood Removal and Stump Grind in the amount of \$1,200:** Ms. Jones and Attorney James reviewed the proposal with the Board. Following review, upon a motion duly made by Director Cook, seconded by Director Wagner and, upon vote, unanimously carried, the Board approved the Bailey Tree Proposal for Cottonwood Removal and Stump Grind in the amount of \$1,200. Director Glass noted the address on the proposal was incorrect and asked for a photo and map on all proposals.

**Code of Conduct at District Board Meetings:** Attorney James reviewed the Code of Conduct with the Board. The Board discussed and members of the public expressed their opinions. Following discussion, upon a motion duly made by Director Brown, seconded by Director Cook, the Board approved the Code of Conduct at District Board Meetings. Director Glass abstained.

**Requests by Resident to Review Softball and Soccer Field Permits and Fees:** Attorney James reviewed with the Board. Director Prysby inquired about the permitting system and asked if it is intended to provide a management and scheduling tool and whether the fees are intended to offset maintenance fees or generate revenues. The Board discussed and agreed the fees are intended to provide a scheduling and logistics tool.

**Metco Proposal for Rut Repair at Community Park:** Mr. Barr reviewed the proposal with the Board. Director Glass discussed replacing bollards. It was noted the excess boulders from the spillway can be utilized to restrict access and a bollard can be replaced by the contractors currently on site. Following discussion, upon a motion duly made by Director Prysby, seconded by Director Wagner and, upon vote unanimously carried, the Board approved the Metco Proposal for Rut Repair at Community Park as amended to include using existing rocks and to adjust the dollar amount to reflect the reduction of the costs of boulder and increase cost of labor to move rocks.

**Rampart Transmission Main Replacement Project Agreement:** Attorney James reviewed the agreement with the Board. Following review, upon a motion duly made by Director Prysby, seconded by Director Glass and, upon vote, unanimously carried, the Board ratified approval of the Rampart Transmission Main Replacement Project Agreement.

DIRECTOR MATTERS

**Environmental Committee:** Director Glass provided and update regarding greenhouse construction. Director Prysby discussed the spreadsheet outlining all of the items identified in the landscape walk items and asked the Board for approval for the Environmental Committee to price and establish potential timeframes for various projects with the support of Mr. Barr, Mr. Barnett, Ms. Jones, and others as needed. The Board agreed with that direction. Director Glass indicated this could change the Metco contract.

**Other:** None.

MANAGER MATTERS

**Other:** None.

LEGAL MATTERS

**Final Water Due Diligence Filing and Executive Session Pursuant to C.R.S. Section 24-6-402(4)(B) and for the Purpose of Receiving Legal Advice on Special Legal Questions, if requested:** No action taken.

**Other:** None.

ENGINEERING MATTERS

**Spillway Follow-Up:**

**Spillway Construction Status Update:** Mr. Barnett updated the Board.

**North Spillway Improvements:** Mr. Barnett provided an update to the Board.

**Concrete Trail Repairs Update:** Mr. Barnett reported the concrete trail repairs are underway.

**Other:** None.

LANDSCAPING MATTERS

**Other:** Mr. Barr provided an update for the Board.

OTHER BUSINESS

**Other:** Resident Shawn Benson discussed the mulch placed on the trails without consent of the District and his efforts to remove the same. Following discussion, upon a motion duly made by Director Wagner, seconded by Director Glass and, upon vote,

unanimously carried, the Board approved Mr. Barr to finish the cleanup of the excess mulch.

Upon a motion duly made by Director Brown, seconded by Director Wagner and, upon vote, unanimously carried, the Board authorized reimbursement of \$80 dump fee to resident Shawn Benson.

**Quorum for December 7, 2021 Regular Meeting via Zoom:** A quorum was confirmed.

EXECUTIVE SESSION

**Executive Session Pursuant to C.R.S. Section 24-6-402(4)(B) for the Purposes of Receiving Legal Advice on the Specific Legal Question of CORA Requests and Responses by District Custodian**

An Executive Session was not needed.

ADJOURNMENT

There being no further business to come before the Board, upon a motion duly made by Director Prysby, seconded by Director Wagner and, upon vote, unanimously carried, the Board adjourned the meeting at 8:21 p.m.

Respectfully submitted,

By: \_\_\_\_\_  
Calvin Brown, President

Attest:

By: \_\_\_\_\_  
Ed Wagner, Secretary

**ROXBOROUGH VILLAGE METROPOLITAN DISTRICT**  
**Schedule of Cash Position**  
**September 30, 2021**  
**Updated as of December 2, 2021**

	<u>General Fund</u>	<u>Debt Service Fund</u>	<u>Capital Projects Fund</u>	<u>Total</u>
<b><u>FirstBank - Checking Account</u></b>				
Balance as of 09/30/21	\$ 50,878.95	\$ -	\$ -	\$ 50,878.95
Subsequent activities:				-
10/07/21 - CORE Payment	(991.20)	-	-	(991.20)
10/12/21 - CORE Payment	(710.23)	-	-	(710.23)
10/12/21- Transfer from Colotrust	102,178.45	-	7,821.55	110,000.00
10/19/21- Bill.com Payment	(74,820.38)	-	(7,821.55)	(82,641.93)
10/19/21- Roxborough Water Payment September	(17,563.88)	-	-	(17,563.88)
10/21/21- ADP Payroll/Taxes	(538.25)	-	-	(538.25)
10/22/21 - CORE Payment	(67.50)	-	-	(67.50)
10/27/21- Xcel Energy September	(19.02)	-	-	(19.02)
10/27/21- Void Payment	1,697.55	-	-	1,697.55
10/29/21- Bill.com Payment	(1,697.55)	-	-	(1,697.55)
11/05/21 - CORE Payment	(1,476.79)	-	-	(1,476.79)
11/12/21- Transfer from Colotrust	37,212.50	1,500.00	107,287.50	146,000.00
11/16/21 - CORE Payment	(21.00)	-	-	(21.00)
11/19/21- Roxborough Water Payment September	(10,438.19)	-	-	(10,438.19)
11/19/21- Bill.com Payment	(31,631.36)	(1,500.00)	(107,287.50)	(140,418.86)
11/19/21- ADP Payroll/Taxes	(538.25)	-	-	(538.25)
11/22/21 - CORE Payment	(67.50)	-	-	(67.50)
11/29/21- Xcel Energy October	(18.42)	-	-	(18.42)
<i>Anticipated ADP Payroll/taxes - November</i>	<i>(538.25)</i>	<i>-</i>	<i>-</i>	<i>(538.25)</i>
<i>Anticipated Balance</i>	<u>50,829.68</u>	<u>-</u>	<u>-</u>	<u>50,829.68</u>
<b><u>Colotrust - Plus</u></b>				
Balance as of 09/30/21	968,509.28	1,258,102.41	1,304,683.99	3,531,295.68
Subsequent activities:				
10/10/21 - September PTAX	15,624.77	1,633.05	-	17,257.82
10/12/21- Transfer to Checking	(102,178.45)	-	(7,821.55)	(110,000.00)
10/31/21- Interest Income	14.78	34.49	-	49.27
11/10/21 - October PTAX	14,960.10	607.43	-	15,567.53
11/12/21 - Transfer to Checking	(37,212.50)	(1,500.00)	(107,287.50)	(146,000.00)
11/19/21 - Transfer from UMB	-	207,296.43	-	207,296.43
11/24/21- Debt Service Payment	-	(1,469,768.25)	-	(1,469,768.25)
11/30/21- Interest Income	20.04	46.75	-	66.79
<i>Anticipated Transfer from GF</i>	<i>(3,547.69)</i>	<i>3,547.69</i>	<i>-</i>	<i>-</i>
<i>Anticipated Balance</i>	<u>856,190.33</u>	<u>-</u>	<u>1,189,574.94</u>	<u>2,045,765.27</u>
<b><u>UMB - 1993 A &amp; B Bond Fund</u></b>				
Balance as of 09/30/21	-	659,698.01	-	659,698.01
Subsequent activities:				
10/31/21 - Interest Income	-	5.40	-	5.40
11/19/21 - Transfer to ColoTrust	-	(207,296.43)	-	(207,296.43)
11/30/21 - Interest Income	-	5.58	-	5.58
<i>Anticipated December 31 D/S Payment</i>	<i>-</i>	<i>(452,406.98)</i>	<i>-</i>	<i>(452,406.98)</i>
<i>Anticipated Transfer to ColoTrust</i>	<i>-</i>	<i>(5.58)</i>	<i>-</i>	<i>(5.58)</i>
<i>Anticipated Balance</i>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<b><u>Anticipated Balances</u></b>	<u>\$ 907,020.01</u>	<u>\$ -</u>	<u>\$ 1,189,574.94</u>	<u>\$ 2,096,594.95</u>

**Yield information (as of 11/30/21):**

First Bank - 0.0%

Colotrust Plus - 0.0266%

**ROXBOROUGH VILLAGE METRO DISTRICT**  
**Property Taxes Reconciliation**  
**2021**

	Current Year							Prior Year			
	Property Taxes	Delinquent Taxes, Rebates and Abatements	Specific Ownership Taxes	Interest	Treasurer's Fees	Net Amount Received	% of Total Property Taxes Received		Total Cash Received	% of Total Property Taxes Received	
							Monthly	Y-T-D		Monthly	Y-T-D
January	\$ 37,888.63	\$ -	\$ 12,904.78	\$ -	\$ (568.33)	\$ 50,225.08	2.22%	2.22%	\$ 51,417.22	2.04%	2.04%
February	727,901.87	-	11,032.71	-	(10,918.54)	728,016.04	42.56%	44.78%	770,614.81	42.57%	44.61%
March	72,025.94	-	16,751.34	22.81	(1,080.73)	87,719.36	4.21%	48.99%	70,389.11	3.36%	47.97%
April	128,063.20	(356.36)	14,234.93	18.49	(1,921.23)	140,039.03	7.47%	56.45%	151,956.43	7.96%	55.93%
May	128,251.33	-	12,667.58	104.03	(1,925.34)	139,097.60	7.50%	63.95%	136,830.81	7.06%	62.99%
June	595,167.10	-	16,878.35	134.09	(8,929.50)	603,250.04	34.80%	98.75%	649,033.71	35.59%	98.57%
July	11,050.10	-	13,976.17	270.52	(169.81)	25,126.98	0.65%	99.40%	32,201.29	0.91%	99.48%
August	3,974.82	-	13,494.67	133.94	(61.62)	17,541.81	0.23%	99.63%	17,508.76	0.21%	99.69%
September	3,407.85	-	13,720.34	183.50	(53.87)	17,257.82	0.20%	99.83%	15,757.39	0.06%	99.75%
October	1,267.00	-	14,252.05	68.50	(20.02)	15,567.53	0.07%	99.91%	14,808.13	0.06%	99.81%
November	-	-	-	-	-	-	0.00%	99.91%	15,349.36	0.06%	99.87%
December	-	-	-	-	-	-	0.00%	99.91%	14,012.63	0.00%	99.87%
<b>Total</b>	<b>\$ 1,708,997.84</b>	<b>\$ (356.36)</b>	<b>\$ 139,912.92</b>	<b>\$ 935.88</b>	<b>\$ (25,648.99)</b>	<b>\$ 1,823,841.29</b>	<b>99.91%</b>	<b>99.91%</b>	<b>\$ 1,939,879.65</b>	<b>99.87%</b>	<b>99.87%</b>

Taxes Levied	% of Levied	Property Taxes Collected	% Collected to Amount Levied
\$ 971,106	56.78%	\$ 970,186.42	99.91%
739,155	43.22%	738,455.06	99.91%
<b>\$ 1,710,261</b>	<b>100.00%</b>	<b>\$ 1,708,641.48</b>	<b>99.91%</b>

Chatfield Farms	\$ 254,980.51
	-
	<b>\$ 254,980.51</b>

**Property Tax**

General Fund  
 Debt Service Fund

**Specific Ownership Tax**

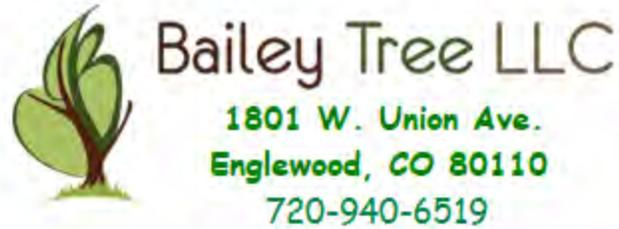
General Fund  
 Debt Service Fund

**Treasurer's Fees**

General Fund  
 Debt Service Fund

**Roxborough Village Metro District**  
**Claims Listing**  
**11/01/21 - 11/30/21**

Vendor	Invoice #	Description	Balance
<b>ACH</b>			
CORE Electric Cooperative	October-21	Utilities	760.81
CORE Electric Cooperative	October-21	Utilities	21.73
CORE Electric Cooperative	October-21	Utilities	101.30
CORE Electric Cooperative	October-21	Utilities	32.29
CORE Electric Cooperative	October-21	Utilities	23.54
CORE Electric Cooperative	October-21	Utilities	21.12
CORE Electric Cooperative	October-21	Utilities	516.00
CORE Electric Cooperative	October-21	Utilities	21.00
CORE Electric Cooperative	October-21	Utilities	49.00
CORE Electric Cooperative	October-21	Utilities	18.50
			<u>1,565.29</u>
*Roxborough Water & Sanitation District	October-21	Nonpotable water purchase usage	8,946.49
*Roxborough Water & Sanitation District	October-21	Nonpotable water purchase usage	849.60
*Roxborough Water & Sanitation District	October-21	Nonpotable water purchase usage	358.30
*Roxborough Water & Sanitation District	October-21	Nonpotable water purchase usage	175.80
*Roxborough Water & Sanitation District	October-21	Nonpotable water purchase usage	108.00
			<u>10,438.19</u>
Xcel Energy	September-21	Utilities	18.42
		<b>Total ACH</b>	<u>\$ 12,021.90</u>
<b>Check or Epayment</b>			
<b>General</b>			
ARK Ecological Services, LLC	3532	Landscape weed control	4,680.26
ARK Ecological Services, LLC	3532	Landscape weed control	4,127.05
Carrie Hanson	2	Miscellaneous	396.05
CliftonLarsonAllen, LLP	3040458	Accounting	4,802.37
Foothills Park & Recreation District	SALES000000034020	Foothills Park and Recreation fees	526.50
Good Plumbing Service	93311	Repairs and maintenance	300.00
Metco Landscape, LLC	5697104	Landscape irrigation maintenance	936.70
Metco Landscape, LLC	5697105	Landscape irrigation maintenance	300.00
Metco Landscape, LLC	5697106	Landscape irrigation maintenance	639.19
Metco Landscape, LLC	5697107	Landscape irrigation maintenance	1,309.18
Metco Landscape, LLC	5697456	Landscape irrigation maintenance	1,152.12
Patriot Pest Control	965619	Mosquito control	1,500.00
Radiant Lighting Services, Inc	9061A	Repairs and maintenance	112.00
Split Rail Fence Company	44437	Repairs and maintenance	10,067.00
United Site Services	114-12496348	Portable restrooms	347.25
United Site Services	114-12496351	Portable restrooms	347.25
Utility Notification Center of Colorado	221101279	Miscellaneous	88.44
			<u>\$ 31,631.36</u>
<b>Debt</b>			
UMB Bank	876018	Paying agent fees	1,200.00
UMB Bank	892978	Paying agent fees	300.00
			<u>\$ 1,500.00</u>
<b>Capital</b>			
Chavez Services LLC	CW-2021-179	Spillway / embankment	35,570.00
Chavez Services LLC	CW-2021-184	Spillway / embankment	69,280.00
Livable Cities Studio, Inc.	1528	Master plan	2,437.50
			<u>\$ 107,287.50</u>
		<b>TOTAL Checks/Epayment</b>	<u><u>\$ 140,418.86</u></u>



December 2021 Roxborough Tree Care Update:

It is now winter, at least as far as tree biology is concerned, so they are generally in a state of dormancy.

The roots, however, stay metabolizing throughout the winter and will benefit from monthly deep root watering over the winter. (Provided by MetCo)

Winter burn(desiccation) is something that can happen to the conifers in dry winters, so the monthly watering is especially important for them. So far, we have not received any precipitation so this service is highly recommended. If this trend continues more than typical winter watering may be needed.

No new developments or concerns with the trees aside from these things.

We hope everyone has a happy healthy holiday season 😊



**METCO LANDSCAPE, INC.**

# Monthly Maintenance Report for Roxborough Village Metropolitan District

Submitted by: Bill Barr      12/2/2021      Recipients: Anna Jones, Public Manager

## REVIEW OF GANTTED OPERATIONS

**Turf**  
Turf is going into dormancy it has been very dry as we all know, I hope we get any kind of moisture

**Shrub Beds**  
Shrub beds have all been cleaned up. As we go into this winter season we will need to get into some winter water we have been very dry with no moisture

**Trees**  
Trees and shrubs will need some winter water

**Irrigation**  
Irrigation has been blown out for the winter

**Site Policing**  
We continue to police for Trash and service dog stations

**Overall Site**  
We will need to do some winter water if we do not get any moisture soon

Review of Operatons for Upcoming Month:  
*Schedule, Gantt, special Needs, Concerns, Areas of Focus*

**RESOLUTION 2021-12-\_\_**  
**OF THE BOARD OF DIRECTORS OF**  
**ROXBOROUGH VILLAGE METROPOLITAN DISTRICT**  
**DOUGLAS COUNTY, COLORADO**

**A RESOLUTION APPROVING SERVICES AGREEMENT**  
**WITH METCO LANDSCAPE, INC. FOR LANDSCAPE SERVICES**

The Roxborough Village Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), has received a proposal from Metco Landscape, Inc., a Colorado corporation (the “Contractor”), to provide landscaping services, as more specifically described in the Services Agreement attached hereto as Schedule A (the “Agreement”); and

The Contractor will provide such services in accordance with the terms of the Agreement; and

The Board of Directors of the District has determined that it is in the best interest of District residents and property owners to enter into the Agreement.

NOW, THEREFORE, be it resolved by the Board of Directors of Roxborough Village Metropolitan District, Douglas County, Colorado, that:

Section 1. The Agreement, in the form attached hereto as Schedule A, is approved. The officers of the District are authorized to execute the Agreement, and the officers of and consultants to the District are authorized to take any actions that are necessary or appropriate for the District’s performance of the terms of the Agreement.

APPROVED AND ADOPTED this 7<sup>th</sup> day of December, 2021, by a vote of \_\_ for and \_\_ against.

ROXBOROUGH VILLAGE METROPOLITAN  
DISTRICT, a quasi-municipal corporation and  
political subdivision of the State of Colorado

By: \_\_\_\_\_  
Calvin Brown, Vice-President

ATTEST:

By: \_\_\_\_\_  
Edward Wagner, Secretary

**SCHEDULE A**

Services Agreement with Metco Landscape, Inc. for Landscape Services

**AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES**

**AND SERVICES PERFORMED UNDER WORK ORDERS**

*Effective as of January 1, 2022*

**BETWEEN**

ROXBOROUGH VILLAGE METROPOLITAN DISTRICT,  
a quasi-municipal corporation and political subdivision of  
the State of Colorado organized pursuant to Title 32 of  
the Colorado Revised Statutes  
(the “District”)

and

METCO LANDSCAPE, INC.,  
a Colorado corporation  
(the “Contractor”)

## TABLE OF CONTENTS

I.	<u>SCOPE OF SERVICES</u> .....	1
	1.1 <u>Landscape Maintenance</u> .....	1
	1.2 <u>Services Performed Under Work Orders</u> .....	1
II.	<u>TERM</u> .....	1
III.	<u>STANDARD LANDSCAPE SERVICES</u> .....	1
	3.1 <u>Irrigated Turf, Non-Irrigated Turf and Native Grass Care</u> .....	1-2
	a. <u>Mowing of Irrigated Turf Areas</u> .....	2
	b. <u>Mowing of Non-Irrigated Turf and Native Grass Areas</u> .....	2
	c. <u>Trails Through Non-Irrigated Turf and Native Grass Areas</u> .....	2
	d. <u>Trimming</u> .....	2
	e. <u>Edging</u> .....	2
	f. <u>Fertilization</u> .....	2
	g. <u>Aeration</u> .....	2-3
	h. <u>Leaf Removal</u> .....	3
	i. <u>Unusual Conditions</u> .....	3
	3.2 <u>Tree and Shrub Care</u> .....	3
	a. <u>Pruning Trees</u> .....	3
	b. <u>Pruning Shrubs</u> .....	3
	c. <u>Pruning of Conifer Trees</u> .....	3-4
	d. <u>Additional Pruning and Removal of Tree Shrubs</u> .....	4
	e. <u>Dead Plant Materials and Replacement of Plants</u> .....	4
	f. <u>Wrapping</u> .....	4
	3.3 <u>Mulch and Mulch Beds</u> .....	4
	a. <u>Protective Rings</u> .....	4
	b. <u>Application</u> .....	4
	c. <u>Maintenance</u> .....	4
	3.4 <u>Ground Cover and Flower Beds</u> .....	4
	a. <u>Weed Control</u> .....	4
	b. <u>Mow Strip</u> .....	4

c. <a href="#">Flower Care</a> .....	4
<a href="#">3.5 Natural Areas</a> .....	4
a. <a href="#">Trash Pick-up</a> .....	4-5
b. <a href="#">Watering Trees</a> .....	5
<a href="#">3.6 Integrated Pest and Weed Management</a> .....	5
a. <a href="#">Weed Control</a> .....	5
<a href="#">3.7 Irrigation System Operation and Maintenance</a> .....	5-6
a. <a href="#">Activation of Irrigation System</a> .....	6
b. <a href="#">Inspection</a> .....	6
c. <a href="#">Sprinkler Heads</a> .....	6
d. <a href="#">Sprinkler Clock Timing</a> .....	6
e. <a href="#">Drip Irrigation System</a> .....	6
f. <a href="#">System Repairs</a> .....	6
g. <a href="#">Backflow Inspection</a> .....	7
h. <a href="#">Winterization of Sprinkler Systems</a> .....	7
i. <a href="#">Locates</a> .....	7
j. <a href="#">Locates and Accuracy</a> .....	7
k. <a href="#">Pond Depth and Consumption Monitoring</a> .....	7
l. <a href="#">Pump Inspection</a> .....	7
<a href="#">3.8 Facilities Maintenance</a> .....	7
a. <a href="#">Tennis Courts/Basketball Courts</a> .....	7-8
b. <a href="#">Volleyball Courts</a> .....	8
c. <a href="#">Skate Parks</a> .....	8
d. <a href="#">Bicycle Paths</a> .....	8
e. <a href="#">Dog Waste Dispenser Stations</a> .....	8
f. <a href="#">Playground Areas</a> .....	8
g. <a href="#">Trash Pickup</a> .....	8
h. <a href="#">Sidewalks</a> .....	8
g. <a href="#">Ponds</a> .....	8
<a href="#">3.9 Trash Pickup</a> .....	8

	<a href="#"><u>a. Summer (April 1 through October 15)</u></a>	8-9
	<a href="#"><u>b. Winter (January 1 through March 31 and October 16 through December 31)</u></a>	9
	<a href="#"><u>c. Ponds</u></a>	9
	<a href="#"><u>3.10 Contractor Water</u></a>	9
	<a href="#"><u>3.11 Damage to Landscape Improvements</u></a>	9
	<a href="#"><u>3.12 Winter Services</u></a>	9
	<a href="#"><u>a. Winter Watering</u></a>	9-10
	<a href="#"><u>b. Winter Watering Turf</u></a>	10
	<a href="#"><u>c. Deep Root Watering</u></a>	10
	<a href="#"><u>3.13 Changes</u></a>	10
<a href="#"><u>IV.</u></a>	<a href="#"><u>SPECIAL SERVICES</u></a>	10
<a href="#"><u>V.</u></a>	<a href="#"><u>GENERAL PROVISIONS</u></a>	10
	<a href="#"><u>5.1 Attendance at Board Meetings and Reports to District Manager</u></a>	10
	<a href="#"><u>5.2 Contractor’s Duties</u></a>	11
	<a href="#"><u>a. Professional Standards</u></a>	11
	<a href="#"><u>b. Quality Assurance</u></a>	11
	<a href="#"><u>c. Performance During Term</u></a>	11
	<a href="#"><u>d. Compliance with the Law</u></a>	11
	<a href="#"><u>e. Personnel</u></a>	11
	<a href="#"><u>f. Licenses</u></a>	11
	<a href="#"><u>g. Mechanics’ and Materialmen’s Liens</u></a>	11-12
	<a href="#"><u>h. Hours of Operation – Power Equipment</u></a>	12
<a href="#"><u>VI.</u></a>	<a href="#"><u>TERMS OF PAYMENT</u></a>	12
	<a href="#"><u>6.1 Request for Payment</u></a>	12-13
	<a href="#"><u>6.2 Contract Amount</u></a>	13
	<a href="#"><u>6.3 Documentation</u></a>	13
	<a href="#"><u>6.4 Special Services</u></a>	13
	<a href="#"><u>6.5 Chatfield Farms</u></a>	13
	<a href="#"><u>6.6 Service Charges</u></a>	13
<a href="#"><u>VII.</u></a>	<a href="#"><u>TERMINATION/CANCELLATION</u></a>	13

7.1	<a href="#">Termination by the District</a>	13-14
7.2	<a href="#">Termination by Contractor</a>	14
7.3	<a href="#">Attorneys' Fees</a>	14
7.4	<a href="#">Remedies Cumulative</a>	14
7.5	<a href="#">Survival of Provisions</a>	14
VIII.	<a href="#">INDEPENDENT CONTRACTOR</a>	14-15
IX.	<a href="#">ILLEGAL ALIENS</a>	15
9.1	<a href="#">Employment or Contracting With Illegal Aliens</a>	15
9.2	<a href="#">Verification Regarding Illegal Aliens</a>	15
9.3	<a href="#">Limitation Regarding Verification Programs</a>	15
9.4	<a href="#">Duty to Terminate a Subcontract</a>	15
9.5	<a href="#">Duty to Comply with Investigation</a>	16
9.6	<a href="#">Damages for Breach of Agreement</a>	16
9.7	<a href="#">Notification</a>	16
9.8	<a href="#">Participation in Employment Verification Program</a>	16
X.	<a href="#">INDEMNITIES AND WAIVERS</a>	16
10.1	<a href="#">Definitions</a>	16
	<a href="#">a. Parties</a>	16
	<a href="#">b. Claims</a>	16
	<a href="#">c. Indemnify, Waive and Defend</a>	16
10.2	<a href="#">Indemnities as to Performance</a>	17
10.3	<a href="#">Repair Indemnities as to Property Damage</a>	17
10.4	<a href="#">Scope of Indemnities and Waivers</a>	17
10.5	<a href="#">District's Reliance</a>	17
10.6	<a href="#">District's Liability</a>	17
XI.	<a href="#">CONTRACTOR'S INSURANCE</a>	17
11.1	<a href="#">Coverages</a>	17-18
	<a href="#">a. Employee Insurance</a>	18
	<a href="#">b. Liability Insurance</a>	18
	<a href="#">c. Vehicle Insurance</a>	18

<u>d. Umbrella Liability Insurance</u> .....	18
<u>11.2 Policies</u> .....	18-19
<u>11.3 Evidence of Coverage</u> .....	19
<u>XII. MISCELLANEOUS</u> .....	19
<u>12.1 Notice</u> .....	20
<u>12.2 Entire Agreement</u> .....	20
<u>12.3 Governing Law/Venue</u> .....	20
<u>12.4 Interpretation/Severability</u> .....	20
<u>12.5 Construction</u> .....	20
<u>12.6 Authority</u> .....	20
<u>12.7 Successors and Assigns</u> .....	20-21

EXHIBITS ATTACHED:

EXHIBIT A: Map-Landscape Areas-Property  
EXHIBIT B: Property  
EXHIBIT C: Standard Landscape Services  
EXHIBIT D: Landscape Maintenance Map  
EXHIBIT E: Special Services

**AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES  
AND SERVICES PERFORMED UNDER  
WORK ORDERS**

This Agreement for Landscape Maintenance and Services Performed under Work Orders (“Agreement”), effective as of January 1, 2022 (the “Effective Date”), by and between Roxborough Village Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado organized pursuant to Title 32 of the Colorado Revised Statutes (the “District”), and METCO LANDSCAPE, INC., a Colorado corporation (the “Contractor”).

**I. SCOPE OF SERVICES:**

**1.1 Landscape Maintenance:** This Agreement provides for the maintenance, care and repair of certain landscaped areas within the District as shown on **Exhibit A**, and described on **Exhibit B**, attached hereto and incorporated herein by reference (the “Property”). The maintenance, care and repair services to be provided by the Contractor within the Property are described herein, and in **Exhibit C** attached hereto and incorporated herein by reference (collectively the “Standard Landscape Services”). Special landscape services (“Special Services”) are described in Article IV.

**1.2 Services Performed Under Work Orders:** The terms of this Agreement shall apply to any services or work performed by the Contractor pursuant to a Work Order approved by the District (the “Work Order”).

Standard Landscape Services, Special Services and services performed pursuant to any Work Order may be collectively referred to herein as the Services.

**II. TERM:**

The term of this Agreement shall be from January 1, 2022 to December 31, 2022.

**III. STANDARD LANDSCAPE SERVICES:**

The frequency and/or number of times per year that the Contractor is to provide the Standard Landscape Services are set forth in **Exhibit C**. A map depicting the areas to provide the Standard Landscape Services is described in **Exhibit D** (the “Landscape Maintenance Map”). If the District requests that any landscape services be performed more often than set forth in **Exhibit C**, such service shall be performed pursuant at the rates set forth in **Exhibit E** - Special Services, attached hereto and incorporated herein by reference.

**3.1 Irrigated Turf, Non-Irrigated Turf and Native Grass Care.** Turf care consists of mowing, irrigation, fertilization and herbicide application to maintain healthy turf at all times.

a) Mowing of Irrigated Turf Areas. Irrigated turf areas shall be mowed as necessary to maintain a turf height of approximately 2¾ - 3¾ inches during the growing season. All rights-of-way between the back of curb and a fence shall be considered irrigated turf. If a road right-of-way is adjacent to a non-irrigated turf or a native grass area, Contractor shall maintain a four foot strip at the back of curb, as if it were a turf area. Mowing equipment and patterns shall be employed to permit recycling of clippings where possible. Excess clippings shall be removed from sidewalks and drives. Blades on all equipment shall be sharp to prevent tearing of the grass blades. Drought conditions may necessitate less frequent mowing per approval of the District Manager.

b) Mowing of Non-Irrigated Turf and Native Grass Areas. Non-irrigated turf and native grass areas shall be mowed six (6) times per season, or as necessary at the discretion of the Board, to maintain a height of eight inches (8"). Non-irrigated turf and native grass areas shall be left to go to seed at least twice during the calendar year.

c) Trails Through Non-Irrigated Turf and Native Grass Areas. Non-irrigated turf and native grass areas on either side of trails shall be mowed to a width of four feet (4') at a minimum of one (1) time per month or as required to maintain a height of four inches (4").

d) Trimming. All irrigated turf areas shall be trimmed after each mowing to provide a well-groomed appearance. This shall include all fence lines and vertical elements.

e) Edging. During the mowing season, edging shall be performed along all sidewalks, walkways, drainage ways, streets, curbs and planting beds to maintain a well-groomed appearance. Such edging shall be performed at least monthly and at a minimum of seven (7) times per year. Notwithstanding the foregoing, edging shall be performed along all drainage ways and streets at least monthly. Should more frequent edging be required to maintain a well groomed appearance, Contractor shall provide a written proposal for such additional edging to the District Manager.

f) Fertilization. Irrigated turf areas shall be fertilized with a high quality, well-balanced fertilizer three (3) times each season. Non-Phosphorous fertilizer shall be used. The first application shall consist of ½ pound of nitrogen per 1,000 square feet, at least 40% of which shall be slow release nitrogen. This application shall contain a pre-emergent herbicide to control annual grassy weeds. Each subsequent application shall be 1 pound of nitrogen per 1,000 square feet, at least 40% of which shall be slow release nitrogen and shall also contain at least 1% iron. All fertilizer shall be blown from sidewalks to minimize staining.

g) Aeration. The Contractor shall aerate all irrigated turf areas to open the turf for fertilizer, air and water two (2) times each year. The first aeration shall be completed before the first fertilization. Irrigated turf areas will be watered thoroughly prior to aeration and fertilized immediately thereafter with an appropriate fertilizer. The Contractor shall use only a closed coring tine. Prior to aeration the Contractor shall flag all sprinkler heads and valve boxes to minimize damage. Plugs shall be left on irrigated turf areas to assist in

breaking down of thatch. Additionally, the Contractor shall aerate selective areas near the end of the growing season. Selective areas shall include south facing slopes, heavy use areas and areas of unusually tight soil.

h) Leaf Removal. The Contractor will collect and remove large accumulations of leaves during the month of November or after 90% leaf drop. Timing of collection and removal shall be weather dependent.

i) Unusual Conditions. Whenever the Contractor observes any condition which Contractor believes may be detrimental to healthy turf growth, such conditions shall be immediately reported to the District Manager along with a recommendation of corrective action.

**3.2 Tree and Shrub Care.** The Contractor shall familiarize themselves with the numbers, locations and types of trees and shrubs within the District. Tree and shrub care shall maintain and promote healthy growing conditions and shall include pruning and wound repair, fertilization, insect control, disease control, and other maintenance measures as necessary. The maximum overall tree/shrub height for pruning and removal shall be ten (10) feet.

a) Pruning Trees. The Contractor will not prune trees unless the Contract is amended to include such work.

b) Pruning Shrubs. The objective of shrub pruning is the same as for trees, to promote healthy plants and a pleasing appearance. Shrubs shall not be shaped into a box or ball-like appearance. Shrubs will be thinned as necessary to retain dense foliage, quality flowers, and a healthy natural appearance.

c) Pruning of Conifer Trees. Conifer trees shall be thinned and shaped as necessary in accordance with the provisions of Section 3.2 (a).

d) Additional Pruning and Removal of Trees or Shrubs. Pruning of trees or shrubs having a height in excess of 10 feet, or removal of any trees or shrubs shall be a Special Service to be approved by the District Manager.

e) Dead Plant Materials and Replacement of Plants. All dead plant materials shall be removed and properly disposed off-site within one (1) week of determination of death. Contractor shall immediately provide a quote to the District Manager to replace such plants.

f) Wrapping. Trees having equal to or less than 6" caliper shall be wrapped in the fall and unwrapped in the spring.

**3.3 Mulch and Mulch Beds.** Organic mulches, including wood and bark chips shall be utilized in non-turf flower bed areas.

a) Protective Rings. All trees and shrub beds shall be protected from maintenance equipment by use of a mulch bed and/or other protection, as approved by the District

Manager.

b) Application. Certified weed-free shredded wood mulch shall be reapplied each season after the first herbicide application. This shall include all tree protection rings, shrub beds, ground covers, annual and perennial beds.

c) Maintenance. All mulched areas shall be edged or re-edged prior to application of mulch to provide natural containment.

**3.4 Ground Cover and Flower Beds**. The appearance and health of ground cover shall be maintained by adhering to the following practices:

a) Weed Control. Weeds shall be controlled by use of a pre-emergent herbicide or selective systemic herbicide. The manufacturer and formulation of herbicides will be coordinated with the District before use. Weeds shall be hoed as little as possible to minimize damage to plant root systems.

b) Mow Strips. Hand weed four (4) times per season, and spray Round-up herbicide two (2) times per season.

c) Flower Care. Pinch back dead blooms as required and hand weed as required to maintain beds in a weed-free condition.

**3.5 Natural Areas**. Non-irrigated natural areas such as Willow Creek and Little Willow Creek shall be mowed as needed (but not less than five (5) times per season) to maintain vegetation height of less than 8 inches. All portions of the natural areas that can be reasonably accessed by equipment shall be mowed. Particular attention shall be paid to controlling vegetation height and weed growth boarding adjacent residential properties.

a) Trash Pick-up. Trash in non-irrigated natural areas shall be picked-up weekly, as set forth in **Exhibit C**.

b) Watering Trees. Trees in non-irrigated natural areas shall be watered when natural moisture is not adequate to sustain healthy conditions.

**3.6 Integrated Pest and Weed Management**. If requested, the Contractor shall assist the Board of Directors of the District (the "Board") to develop policies to apply the principles of Integrated Pest Management (IPM). This includes informing the Board of modifications and additions to the prevention strategy and schedule of regular cleaning and maintenance; regular monitoring to detect problems early; choosing the most effective options with the least risk to people and the environment; using biological methods that will result in long-term solutions; and minimizing the use of pesticides and insecticides. The Contractor is to provide the Standard Landscape Services described in this Agreement but is to alert the Board of all effective alternatives to chemical applications available. Control and/or elimination of, but not limited to, Canada thistle, musk thistle, scotch thistle and knapweed is of particular concern and shall be included with the IPM.

a) Weed Control. The Contractor shall spray all irrigated turf with a broad-spectrum broadleaf herbicide two (2) times per season with follow-up spot application as required. Prior to such application, the Contractor shall submit the proposed herbicide to the District for approval. Application of pre-emergent herbicide shall be completed before May 1 of each year; second application of pre-emergent or application of post-emergent control of broadleaf weeds will be performed if necessary and is to occur late June to first week of July of each year. The Contractor shall perform manual removal of weeds as needed. Any non-irrigated turf and native grass areas shall be sprayed with broadleaf herbicide-approved for such use by the Colorado Department of Agriculture by the 15th of May each year, with follow-up spot applications as required. Spot treatment of weeds emerging from paved and pebbled walks will be performed as necessary.

**3.7 Irrigation System Operation and Maintenance.** The Contractor will provide one (1) on-site Maintenance Technician on the Property to monitor and check the irrigation system, as well as make all repairs for twenty (20) hours a week for twenty-eight (28) weeks beginning April 1, 2021. The Maintenance Technician's main duty will be to check the operation of each sprinkler zone on a weekly basis, to verify that all control valves and heads are functioning properly and that there are no leaks or other conditions, which may require repair, to make adjustments, and clean nozzles as described in paragraph 3.7 (b). All controller enclosures shall be opened and visually inspected. The Technician is also responsible for making all repairs and control system adjustments.

The Contract price includes all twenty (20) hours of weekly maintenance services. Contractor agrees that the irrigation hours provided by Contractor, up to eighty (80) hours per month, will be applied by Contractor to any irrigation work performed for the District. Once all irrigation hours have been applied, additional irrigation hours shall be billed in accordance with **Exhibit D** and submitted to District for approval in accordance with the terms of this agreement. If any of the eighty (80) hours per month remain unused at the end of the month under the terms of this agreement, Contractor will credit the District any remaining hours on the next and subsequent work orders submitted for irrigation services. Contractor and District intend that District shall receive the benefit of all eighty (80) hours per month whether or not such benefit is realized within the month of service, or within subsequent months.

Damage to heads caused by mowing operations shall be repaired at Contractor's expense. Operation and maintenance of the irrigation system shall include the following:

a) Activation of Irrigation System. System damages caused by other than system shutdowns will be reported to the District and repair estimates shall be approved by the District before initiating repair work. Each spring on a date to be determined by the Contractor, the irrigation system shall be activated. Any system damages which have resulted from improper shutdown the previous fall shall be repaired at the expense of the Contractor. System damages caused by other than system shutdown will be brought to the attention of the District and approved before initiating work. The Contractor shall at all times exercise its best efforts to operate the irrigation system to conserve water resources of the owner.

b) Inspection. Inspection and adjustment of the system will be performed with particular attention paid to irregular water distribution patterns. Control enclosures will be opened and visually inspected between start-up and winterization to ensure water is being distributed as intended.

c) Sprinkler Heads. Plugged sprinkler heads shall be cleaned and pattern adjustments made as necessary.

d) Sprinkler Clock Timing. The Contractor shall make required adjustments in the computer program to optimize the application of water for each individual zone. Further adjustments throughout the watering season shall be performed as needed to adjust for precipitation and fluctuations in the evapo-transpiration rate.

e) Drip Irrigation System. The Contractor shall walk through all planting beds watered with drip irrigation and check for visible signs of plant stress. If stressed plant material is located, the Contractor shall inspect for proper system operation and repair as necessary.

f) System Repairs. The Contractor will check the system at the beginning of the watering season to identify broken equipment and provide a Work Order for the cost of repairs to the District Manager. The Contractor shall be responsible for repairs of all sprinkler system damage, which are the result of Contractor's operations. Minor irrigation system repairs and adjustments such as nozzle replacement, head alignment and clock adjustment shall be performed as part of the basic services and the District shall be billed for materials only. The need for major irrigation system repairs which are not caused by the Contractor shall be approved by the District and billed on a time and material basis. Such work may include clearing of plugged lines, relocation of the system, system additions, locating valves and clock or electrical work. Prior to the initiation of such work, written approval must be obtained from the District Manager or by the Board if deemed necessary by the District Manager.

g) Backflow Inspection. The Contractor shall inspect and certify backflow prevention devices annually. The Contractor shall file all certification forms as required and provide copies to the District Manager.

h) Winterization of Sprinkler Systems. When deemed appropriate by the Contractor, the sprinkler system shall be winterized. Winterization shall include voiding all lines of water using compressed air or other methods approved by the District. The Contractor shall also perform other tasks as necessary to winterize controllers, and other system components.

i) Locates. The District Engineer is the contact person for the UNCC locate service for the District. If the District Engineer requires the irrigation system to be located in a particular area, the Contractor will be notified in writing by email of such requirement. The District shall compensate the Contractor for locates, based on the rates set forth in **Exhibit E - Labor Supervisor Rate**. If a third party requests a locate, the Contractor shall obtain approval from the District Manager before providing same.

j) Locates and Accuracy. If necessary, the Contractor shall be responsible for contacting the local utility location services for underground line locations. The Contractor shall not be responsible for the cost of repairing any underground utilities, and underground service lines which are not located and marked by the local utility location services. These would include, but are not limited to, invisible dog fences, cable TV, security lines, irrigation or lighting systems, gas barbecue lines, and pool equipment lines, of which the Contractor does not have prior knowledge, or which have not been located by the utility location service.

k) Pond Depth and Consumption Monitoring. The Contractor shall inspect irrigation pond (Crystal Lake in Arrowhead Shores) weekly and monitor its depth. Pond depth shall be compared to consumption rates on a monthly basis. The Contractor shall relay monthly consumption to the District Engineer. Water depth must be maintained to a minimum level of two (2) inches above the base of the stone band surrounding the pond. The Contractor shall include this information in its written report to the District Manager that is submitted on the second Tuesday of each month. The District Manager will inform the Contractor as soon as possible if additional water is to be purchased by the District or if modifications to the irrigation schedule are required.

l) Pump Inspections. The District Engineer is responsible for scheduling routine maintenance and upgrades to the Irrigation Pump Station located within the limits of the fence at the site on Crystal Lake. Irrigation pumps shall be inspected weekly during the irrigation season by Contractor and any concerns forwarded to the District Manager and District Engineer as soon as practicable.

**3.8 Facilities Maintenance.** The following Standard Landscape Services shall be performed on the District's facilities during the period from January 1 through December 31, 2022.

a) Tennis Courts/Basketball Courts. Provide a time and materials cost for washings that may be requested by the District. Clean off animal waste weekly. Sweep or blow debris off courts weekly

b) Volleyball Courts. At the beginning of the active season (April/May) inspect the courts for low spots and appropriate depth. Any additional material, if needed to maintain depths, shall be performed by a separate Work Order. Rake smooth sand surfaces. Removal of animal waste weekly.

c) Skate Parks. At the beginning of the maintenance season (April) high-pressure hose wash all surfaces once. Provide a time and materials cost for additional washings that may be requested by the District. Clean off animal waste weekly. Sweep or blow debris off park weekly. Report any damage or graffiti to District Manager immediately.

d) Bicycle Paths. Sweep or blow debris off bicycle paths, as needed.

e) Dog Waste Dispenser Stations. Inspect dog waste dispenser stations a twice weekly basis year around. Fill dispensers as needed.

f) Playground Areas. Pick up trash and remove animal waste weekly. Rake materials to a 9" depth under swings and slide. Report any damage or graffiti to the District Manager immediately.

g) Trash Pickup. Pick up all trash accumulated around courts, play areas, mulch beds, walks and paths, and pond perimeters weekly. Pick up trash in mow areas prior to mowing.

h) Sidewalks. Sweep or blow debris off sidewalks within pavilion area weekly. Provide a proposal for full sidewalk sweepings that may be requested by the District.

i) Ponds. Trash pickup on the edge of the ponds. Trash and debris collecting within the irrigation pond (Crystal Lake in Arrowhead Shores neighborhood) and the detention ponds (Willow Creek drainage) shall be removed with emphasis around storm drain outlets. This may require the use of small non-motorized watercraft.

**3.9 Trash Pickup.** Trash pickup and removal shall be the responsibility of the Contractor. All trash receptacles shall have an internal removable can and a plastic removal liner (trash bag). It shall be Contractor's responsibility to ensure that these are in place. When a trash receptacle has a removable lid, it shall be Contractor's responsibility to ensure that the lid is properly in place and secured with a locking cable. Contractor shall order and stock all materials at Contractor's cost. The Contractor shall pickup and remove trash from the site per the following seasonal schedule and pursuant to the following guidelines:

a) Summer (April 1 through October 15). Each week prior to mowing the Contractor shall pick up trash and litter on the Property and adjacent streets. Trash receptacles shall be emptied twice weekly as set forth in **Exhibit C** with extra pickups the last working day before and the first working day after the following holidays: Memorial Day, Labor Day and Independence Day. Trash shall be disposed of as directed by the District. The Contractor shall provide a fixed price per receptacle for additional trash pickups as required by the District Manager.

b) Winter (January 1 through March 31 and October 16 through December 31). During the winter months the Contractor shall pick up trash on all Property on a weekly basis. Contractor shall pick up all trash accumulated around courts, play areas, mulch beds, walks and paths, and pond perimeters.

c) Ponds. Trash pickup on the edge of the ponds should be considered part of the weekly duties of Contractor outlined above. Trash and debris collecting within the irrigation pond (Crystal Lake in Arrowhead Shores neighborhood) and the detention ponds (Willow Creek drainage) shall be removed twice per year (May and November). This may require the use of small non-motorized watercraft. Contractor shall provide fixed price for additional clean-ups as directed by the Board.

**3.10 Contractor Water.** All water required for application of fertilizers, weed control products and any other products requiring water for application to the Property shall be provided at no cost to the Contractor. The District Manager will designate the location(s) at which the Contractor may obtain water.

**3.11 Damage to Landscape Improvements.** The Contractor shall provide protection to any material, trees, shrubs, fences, or other landscape improvements (collectively, the “Landscape Improvements”) that may be subject to repetitive contact with maintenance equipment.

At all times the Contractor shall be alert for damages to any Landscape Improvements, including but not limited to plant stock, turf, ground cover, benches, trash receptacles, play equipment, shelters, irrigation equipment, regardless of cause, including, but not limited to, fertilization, fungus, disease, irrigation, improper maintenance, storm damage or vandalism. When such is identified, the Contractor shall immediately notify the District Manager of the condition and recommend corrective action. Any Landscape Improvements damaged by Contractor’s operations shall be repaired or replaced at the expense of the Contractor.

Any landscape improvements having sustained damage prior to the commencement of the term of this agreement shall be documented in writing to the District Manager and shall include print or digital photographs where appropriate.

The fences along the major roads (Village Circle East, Village Circle West, Rampart Range Road) are not owned by the District. They are owned and maintained by individual landowners. Fence issues such as fences falling into the Property shall be brought to the attention of the District Manager.

**3.12 Winter Services.** During the winter months of January, February, March, October, November and December, the Contractor shall provide the following services:

a) **Winter Watering.** Should there be extended periods of drought which may lead to plant or tree stress, such plants and trees shall be watered as recommended by the Contractor and approved by the District Manager. Ground cover areas shall be watered lightly if so warranted for a pre-approved additional fee, billed separately.

b) **Winter Watering Turf.** Turf shall be watered as far into the fall as weather will permit. Should there be extended dry periods during the winter, turf shall be watered either by pressurizing the sprinkler system and then re-winterizing or irrigating turf area using hoses attached to fire hydrants for an additional fee, billed separately.

c) **Deep Root Watering.** Four (4) times during non-irrigated season, hand watering of trees and shrubs will be performed with a root feeder to the appropriate depth for the specific plant.

**3.13 Changes.** The District may authorize changes in the Standard Landscape Services, order additional services, or order deletion of certain Standard Landscape Services previously ordered, (the “Changes”). The Contractor will not proceed with any Change without prior written authorization by the District Manager. Promptly after the District Manager informs Contractor of

a requested Change, the Contractor will deliver to the District Manager a written statement setting forth the estimated cost of the requested Change or credit to the District, as applicable. Upon written approval by the District Manager of Contractor's written estimate, the Contractor shall proceed with the Change and Contractor's compensation will be appropriately increased or decreased.

#### IV. **SPECIAL SERVICES:**

From time to time the District may request that the Contractor provide Special Services not included within the scope of the Standard Landscape Services. Prior to providing any Special Services, the Contractor will obtain approval from District. Special Services shall be provided in accordance with the rates and charges listed in **Schedule D**, pursuant to an approved Work Order. In addition, Work Orders may include services not otherwise described in this Agreement.

#### V. **GENERAL PROVISIONS:**

**5.1 Attendance at Board Meetings and Reports to District Manager.** Attendance at Board meetings by the Contractor is mandatory during the term of this Agreement. A summary report of all activities for the prior month shall be submitted to the District Manager by the second Tuesday of the month in a form defined in paragraph 6.1 of this Agreement. An agenda for the upcoming District Meeting shall also be submitted to the District Manager by the second Tuesday of the month. Contractor's employee Randy Morrow shall be the dedicated Account Manager for the District during the term of the Agreement.

If the Contractor cannot resolve questions concerning responsibility for damage, repair, cost and interpretation of the provisions of this Agreement with the District Manager, the Contractor may meet with the Board.

**5.2 Contractor's Duties.** The Contractor will render the Services as follows:

a) **Professional Standards.** The Services will be performed by the Contractor in accordance with the generally accepted standards of care, skill, diligence and professional competence applicable to contractors engaged in providing similar services at the time and place that the Services are rendered. Except as otherwise set forth herein, the Contractor shall be responsible to repair, at its cost, any damage caused by its employees, agents, or subcontractors while performing the Services.

b) **Quality Assurance.** The Contractor shall provide a schedule of all maintenance-related activities planned during the contract period with notations of season requirements. The Contractor shall submit with the maintenance schedule all product data for materials such as fertilizers, pesticides, etc. In order to expedite minor but necessary work and repairs that are not a part of the base contract, the Contractor is authorized to spend a maximum of \$300 per incident without prior authorization. All larger repairs or maintenance items shall be brought to the attention of the District Manager for review and may require Board approval.

c) Performance During Term. The Contractor will commence performing the Standard Landscape Services on the first day of the term of this Agreement, and will thereafter continually and diligently perform the Standard Landscape Services, and the Special Services requested by the District throughout the term of this Agreement.

d) Compliance with the Law. The Contractor will, at its own expense, throughout the term of this Agreement, comply with all federal, state, and local laws, statutes, ordinances, codes, regulation, requirements, guidelines, court rulings and orders of all governmental authorities applicable to services performed by the Contractor under this Agreement, including but not limited to employee safety.

e) Personnel. The Contractor represents that all of its personnel who will perform any services under this Agreement, have received the information, instructions, and training required to provide such services, including training to prevent harm to such personnel, residence and members of the public who may be in the vicinity.

f) Licenses. The Contractor and all of its employees performing tasks that require licensing are licensed to the extent required by all Applicable Law and will, at Contractor's cost, maintain such licensing throughout the term of this Agreement. Such licenses include any requirements set forth by the State of Colorado and Environmental Protection Agency.

g) Mechanics' and Materialmen's Liens. The Contractor will (i) make timely payments to Contractor's employees, subcontractors and/or suppliers, and (ii) be responsible for satisfaction of any liens and encumbrances which are filed or asserted against the District and/or the Property which liens result from the services performed by the Contractor under this Agreement. If any lien is filed claiming by, through or under the Contractor or the services performed by the Contractor, the Contractor will cause such lien to be discharged or bonded within 10 days after its filing. If the Contractor fails to cause such lien to be discharged or bonded within such ten (10) day period, the District, in addition to any other available remedy, may bond or discharge the lien and, at District's discretion, deduct its costs incurred, including attorneys' fees and interest at the rate of twelve (12%) percent per annum from the due date, from any payments due the Contractor or invoice the Contractor for the amounts paid, which invoice shall be due and payable upon ten (10) days after receipt. Contractor's obligations in this subsection shall not apply if the District has not made payment to Contractor for the services performed.

Hours of Operation – Power Equipment. The Contractor shall not use power equipment within one hundred (100) yards of any residence prior to 7:00 a.m. during the week (Monday through Friday) or prior to 8:00 a.m. on weekends (Saturday and Sunday) or on state observed holidays.

## **VI. TERMS OF PAYMENT:**

**6.1 Request for Payment.** During the term of this Agreement the Contractor shall submit to the District Manager by the second Tuesday of the month a standard pay request form attached to a report detailing the following:

- Maintenance log – Standard Landscape Services performed during the previous month including but not limited to:
  - Locations
  - Time and rate per hour of each employee (if applicable)
  - Quantities of materials used in the work performed
  - Reason for work performance
- Detail of problems encountered and corrective action taken or proposed to be taken
- Special Services recommended to be performed during the following month and reason for performance
- If taken, payment requests for Special Services performed and supporting documentation
- Water consumption and pond depth report
- Maintenance inspection report discussing (but not limited to) the following:
  - Turf
  - Planting beds
  - Trees
  - Shrubs
  - Water management
  - Safety conditions
  - Appearance
  - Follow up items for the following month
  - Irrigation System Operation
- Services performed during the previous month pursuant to an approved Work Order.

Any failure to timely provide the foregoing detailed pay request form and report may delay payment up to the next monthly District Meeting.

**6.2 Contract Amount.** All labor, equipment and material necessary to perform the Standard Landscape Services for the District’s fiscal year shall be provided for the sum as referenced in **Exhibit C** and be paid in 12 equal monthly installments beginning in January. Each subsequent payment shall be made on the first business day of each successive month through December.

**6.3 Documentation.** To the extent that the Contractor performs Special Services pursuant to a Work Order, the Contractor will retain during the term of this Agreement and for the longer of (i) two (2) years after the completion of the Work Order, or (ii) until the final resolution of any outstanding dispute between the District and Contractor, Contractor’s internal books and records pertaining to Special Services and Work Orders, which shall be kept in sufficient detail and condition to permit periodic audits of such books and records by the District and the Contractor. The Contractor will, upon request, provide time records and/or records of services performed under the Work Order shown on any invoice.

**6.4 Special Services.** The Contractor shall submit invoices for all Special Services to the District Manager within thirty (30) days of performing the work. Payments will be made to the Contractor by the last day of the month following the month in which the invoice is approved for payments by the Board of Directors of the District. The District is exempt from Colorado state and local sales and use taxes. Contractor's invoices shall not include any sums for such taxes.

**6.5 Chatfield Farms.** All invoices for the Services performed shall separately identify the cost of any Services performed within the Chatfield Farms areas shown on **Exhibit A**, and described on **Exhibit B**.

**6.6 Service Charges.** A service charge of 1% per month will be added to all balances not paid by the last day of the month following the month in which the invoice is approved for payment by the District Manager. This represents an annual rate of 12%. In addition to all service charges, there shall also be paid the reasonable cost of collection, including attorneys' fees and court costs.

## **VII. TERMINATION/CANCELLATION:**

**7.1 Termination by the District.** Contractor agrees that as partial consideration for the District's entering into this agreement that the District has the right to terminate this agreement as follows:

If the Board determines, in its sole and subjective discretion, that the Contractor has failed or is failing to provide the Services in accordance with the terms of this Agreement, and such failure constitutes a material default by the Contractor of its obligation under this Agreement, the District may terminate this Agreement, upon such terms and within such time period as specified in a Notice of Termination delivered by the District Manager to the Contractor. Such Notice of Termination shall give thirty (30) days notice of such termination to the Contractor.

If the Board determines that the Contractor is in material default of the terms of this Agreement, the notice of termination shall so specify and in such case, no notice is required to be given prior to the Notice of Termination.

Notwithstanding the foregoing, if the District in its sole and subjective discretion determines that it would prefer for Contractor to remedy any failure to provide services, the Board may instead of a Notice of Termination, deliver to the Contractor a Notice of Deficiency. Such Notice of Deficiency shall identify any dissatisfaction by the District with the Contractor's performance of its obligations under this agreement. The Contractor shall have thirty (30) days from the effective date of the Notice of Deficiency, to satisfy the Board that it has or will take appropriate action to address the matter(s) identified in the Notice of Deficiency. Should the Contractor satisfy the Boards dissatisfaction through its correction per the Notice of Deficiency, then this agreement shall remain in full force and effect. At all times the Board shall retain the right to provide Notice of Termination as provided herein. If District terminates this Agreement for any reason, it shall pay Contractor in full for any Services performed pursuant to the Agreement up to the date of termination. Such payment shall be made in accordance with Section 6 herein.

**7.2 Termination by Contractor.** Contractor may terminate this Agreement with 30 days notice to the District for the District's willful breach of Section 6 herein, provided that Contractor is not in default under Section 6.

**7.3 Attorneys' Fees.** If any legal action is brought by either party to enforce the terms of this Agreement, the prevailing party in such action will be entitled to attorneys' fees, and costs in addition to any other relief to which such party is entitled.

**7.4 Remedies Cumulative.** Unless otherwise expressly limited in this Agreement, District's rights and remedies set forth herein will be in addition to, and not in limitation of, any rights and remedies otherwise imposed or available under applicable law.

**7.5 Survival of Provisions.** Termination of this Agreement for any reason will not affect (i) any right or obligation of either party which accrued or vested prior to such termination, or (ii) any continuing obligation, liability or responsibility of the Contractor, including without limitation Contractor's indemnity, and warranty obligation(s) under this Agreement.

#### **VIII. INDEPENDENT CONTRACTOR:**

It is the express intention of the parties that the Contractor is not employed by the District but is an independent contractor. Any agent or employee of the Contractor shall never be deemed to be an employee or agent of the District. The manner and means of providing the Services are under the sole control of the Contractor. The payment or withholding of any federal, state, and local taxes for the Contractor, its employees or agents shall be the responsibility of the Contractor. As an independent contractor, the Contractor shall be responsible for complying with all applicable workers' compensation law concerning itself, its employees, agents and subcontractors. Contractor shall furnish all supervision, labor, materials, tools and equipment necessary to perform its obligations under this agreement.

#### **IX. ILLEGAL ALIENS:**

The Contractor certifies that it shall comply with the provisions of C.R.S. § 8-17.5-101, et seq., or as it may be amended from time to time during the term of this Agreement.

**9.1 Employment or Contracting With Illegal Aliens.** The Contractor hereby certifies that it shall not knowingly employ or contract with an illegal alien who will perform the Services under this Agreement, or knowingly contract with a subcontractor that fails to certify to the Contractor that such subcontractor does not knowingly employ or contract with an illegal alien to perform the Services under this Agreement.

**9.2 Verification Regarding Illegal Aliens.** The Contractor hereby represents, warrants, and agrees that the Contractor will participate in the E-Verify Program or the Department Program established pursuant to the requirements of C.R.S. § 8-17.5-102 (5)(c), which may be collectively referred to as the "Employment Verification Programs", in order to confirm the employment eligibility of all of its employees who are newly hired for employment to perform the

Services ("Newly Hired Employees"). The Contractor represents, warrants, and agrees that Contractor has verified the employment eligibility of its Newly Hired Employees through participation in either of the Employment Verification Programs.

**9.3 Limitation Regarding Verification Programs.** The Contractor is prohibited from using Employment Verification Programs' procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

**9.4 Duty to Terminate a Subcontract.** If the Contractor obtains actual knowledge that a subcontractor performing the Services knowingly employs or contracts with an illegal alien, the Contractor shall:

a) notify the subcontractor and the District within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

b) terminate the subcontract with the subcontractor if, within three (3) days of receiving notice required pursuant to C.R.S. § 8-17.5-102(2)(b)(III)(A) that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien.

The 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.

**9.5 Duty to Comply with Investigation.** The Contractor shall comply with any reasonable request made by the Colorado Department of Labor and Employment made in the course of an investigation pursuant to C.R.S. § 8-17.5-102(5).

**9.6 Damages for Breach of Agreement.** In addition to any other legal or equitable remedy to which the District may be entitled for a breach of this Agreement, if the District terminates this Agreement, in whole or in part, due to Contractor's breach of any requirements of C.R.S. § 8-17.5-101, et seq., the Contractor shall be liable for actual and consequential damages to the District.

**9.7 Notification.** The District shall notify the office of the Colorado Secretary of State if the Contractor violates a provision of this Agreement required pursuant to C.R.S. § 8-17.5-102(2), and the District terminates the Agreement for such breach. The District will notify the Colorado Secretary of State if a court made such a determination.

**9.8 Participation in Employment Verification Program.** If the Contractor participates in the Department Program, it shall (i) notify the District of its participation, and (ii) within twenty (20) days after hiring the Newly Hired Employee, provide a written, notarized copy of the affirmation to the District pursuant to the requirements of C.R.S. § 8-17.5-102(5)(c)(II) stating that the Contractor has examined the legal status of the Newly Hired Employee. The Contractor hereby consents to audits conducted by the Colorado Department of Labor and Employment to review documents required pursuant to C.R.S. § 8-17.5-102(5).

## X. **INDEMNITIES AND WAIVERS:**

### **10.1 Definitions.**

a) **Parties.** The “Contractor Parties” are the Contractor, its officers, members, partners, agents and employees, subcontractors and all other persons and entities over whom the Contractor exercises control or supervision. The “District Parties” are the District, its manager, officers, directors, employees, agents, independent contractors, and consultants. A “Beneficiary” is the intended recipient of the benefits of another party’s indemnity, waiver or obligation to defend.

b) **Claims.** “Claims” means all damages, losses, injuries, liabilities, penalties, disbursements, costs, expenses, charges, assessments and expenses (including attorneys’ fees, experts’ fees, and expenses incurred in investigating, defending or prosecuting any litigation or proceeding), claims, demands, litigation, suits, proceedings, causes of action (whether in tort or contract or in law or at equity) or judgments.

c) **Indemnify, Waive and Defend.** “Indemnify” means to protect a party against potential Claims and/or to compensate a party for Claims actually incurred. “Waive” means to knowingly and voluntarily relinquish a right and/or to release another party from liability in connection with Claims. “Defend” means to provide a legal defense of a Beneficiary against Claims with counsel reasonably acceptable to such Beneficiary and at no cost to the Beneficiary.

**10.2 Indemnities as to Performance.** To the fullest extent permitted by applicable law, the Contractor will Indemnify and Defend the District Parties against all Claims arising out of any intentional, reckless, gross or negligent act or omission by any Contractor Party which Claims arise from or in connection with Contractor’s performance of the Services pursuant to this Agreement, or from the violation of or failure of any Contractor Party to comply with any applicable law.

**10.3 Repair Indemnities as to Property Damage.** Contractor shall be responsible for prompt repair and any indemnification related thereto or any damage to District property caused by Contractor or their personnel. Labor and materials for the repair or replacement of said damages shall be provided and borne by Contractor.

**10.4 Scope of Indemnities and Waivers.** The indemnities, waivers and obligations to defend contained in this Agreement (i) will be enforced for the benefit of the applicable Beneficiary even if the Claim in question is caused by the active or passive negligence or sole, joint, concurrent or comparative negligence of such Beneficiary, and regardless of whether liability without fault or strict liability is imposed upon or alleged against such Beneficiary, but not to the extent that a court of competent jurisdiction holds in a final judgment that a Claim is caused by the intentional or reckless act or omission of such Beneficiary; (ii) are independent of, and shall not be limited by, each other or any insurance obligations in this Agreement until all related Claims against the Beneficiaries are fully and finally barred by any applicable law.

**10.5 District's Reliance.** In reliance on the indemnity, waiver and undertaking to defend contained in herein and the agreement by the Contractor to obtain and maintain in force the insurance policies and endorsements described hereinafter, the District may not carry primary insurance for Claims arising from any Contractor's Parties acts or omissions. The Contractor acknowledges that Contractor is relying not on the District or District's Insurance in order to pay Claims arising from any Contractor Parties acts or omissions, but rather on (A) the insurance required by Section XI of this Agreement and any additional insurance the Contractor has elected to carry; (B) Contractor's own funds, as to deductibles and self-insured retentions under Contractor's insurance and as to Claims which exceed Contractor's insurance limits; and (C) third parties (other than the District Parties), as to Claims arising from the actions of third parties.

**10.6 District's Liability.** District's liability for failure to perform its obligations under this Agreement shall be limited to suit for breach of contract. The Contractor waives all Claims against the District for consequential, special, or punitive damages allegedly suffered by any Contractor Party, including lost profits and business interruption. No provision of this Agreement shall be construed as a waiver by the District of any constitutional, statutory, or other governmental immunity provided by law.

## **XI. CONTRACTOR'S INSURANCE:**

**11.1 Coverages.** The Contractor will, at its sole cost and expense, maintain in effect at all times during the term of this Agreement and as otherwise required hereunder, the following insurance coverages with limits of not less than those set forth below. Contractor further agrees to maintain and supply documentation of any additional public liability or property damage insurance that may be required by the State of Colorado during the term of this agreement.

a) **Employee Insurance.**

<u>Coverage</u>	<u>Minimum Amounts and Limits</u>
Worker's Compensation	\$500,000 (or as required by Colorado law)
Employer's Liability	\$1,000,000 (or as required by Colorado law)

This policy will include a waiver of subrogation in favor of the District Parties.

b) **Liability Insurance.**

<u>Coverage</u>	<u>Minimum Amounts and Limits</u>
Commercial General Liability (Occurrence Basis)	\$1,000,000 combined single limits per occurrence respect to each location

This policy will contain (i) an endorsement including the District Parties as "additional insureds", (ii) cross-liability and severability of interest endorsements, (iii) a waiver of subrogation in favor of the District Parties, and (iv) an aggregate per location endorsement.

c) Vehicle Insurance.

<u>Coverage</u>	<u>Minimum Amounts and Limits</u>
Business Vehicle Liability (Occurrence Basis)	\$1,000,000 combined single limits per occurrence with respect to each location

This policy will be a standard form written to cover all owned, hired and non-owned vehicles owned or operated by the Contractor Parties and contain (i) an endorsement including the District Parties as “additional insureds”, (ii) cross-liability and severability of interest endorsements, (iii) a waiver of subrogation in favor of the District Parties, and (iv) an aggregate per location endorsement.

d) Umbrella Liability Insurance.

<u>Coverage</u>	<u>Minimum Amounts and Limits</u>
Bodily Injury/Property Damage (Occurrence Basis)	\$5,000,000 per occurrence \$5,000,000 aggregate

This policy will be written on an umbrella basis above the coverages described in Section (c) above and contain (i) an endorsement including the District Parties as additional insureds, (ii) a waiver of subrogation in favor of the District Parties, and (iii) an aggregate per location endorsement.

**11.2 Policies.** All policies will be issued by carriers having ratings of Best’s Insurance Guide A/VIII and/or Standard & Poor Insurance Solvency Review A-, or better, and admitted to engage in the business of insurance in the State of Colorado. All policies must be endorsed to be primary with the policies of all District Parties being excess, secondary and non-contributing. All policies shall contain provisions that state that they cannot be cancelled, non-renewed or materially modified without 30 days prior written notice by insurance carrier(s) to the District Manager.

**11.3 Evidence of Coverage.** Evidence of the insurance coverage required to be maintained by the Contractor under this section, represented by certificates of insurance issued by the insurance carrier(s), must specify the additional insured status as well as the waivers of subrogation. Such certificates of insurance will state the amounts of all deductibles and self-insured retentions and that the District Manager will be notified in writing thirty (30) days prior to cancellation, material change or non-renewal of insurance. Upon request, the Contractor will provide to the District Manager a certified copy of any or all insurance policies or endorsements required by this Agreement. The Contractor shall provide the District Manager with copies of the certificates evidencing that the District has been added as an additional insured under the various insurance policies which the Contractor is required to carry.

**XII. MISCELLANEOUS:**

**12.1 Notice.** All notices must be in writing and (a) delivered personally, (b) sent by United States certified mail, postage prepaid, return receipt requested (“US Mail”), (c) placed in the custody of a nationally recognized overnight carrier for next day delivery (“Carrier”), and will be deemed effective (i) when received, if delivered personally, (ii) 4 days after deposit, if sent by

US Mail, and (iii) the next business day after deposited with Carrier during business hours on a business day. All notices shall be delivered to the following addresses, or such other address as is provided by one party to the other in accordance with this section:

Notices to the District:

Roxborough Village Metropolitan District  
c/o CliftonLarsonAllen LLP  
Attn: Anna Jones, District Manager  
8390 East Crescent Parkway, Suite 500  
Greenwood Village, CO 80111-2814

Copy to:

Folkestad Fazekas Barrick & Patoile, P.C.  
Attn: Katie James  
18 South Wilcox Street, Suite 200  
Castle Rock, CO 80104

Notices to the Contractor:

METCO LANDSCAPE, INC.  
Attn.: Judy Mcnew  
2200 Rifle Street  
Aurora, CO 80011

**12.2 Entire Agreement.** This Agreement will constitute the entire agreement between the parties with respect to performance of the Services, and no oral statements or prior written agreements not specifically incorporated herein will be of any force or effect. The District will not be bound by any purported modification or amendment of this Agreement and will not be deemed to have waived any provision of the Agreement, unless such modification, amendment or waiver is set forth in writing and signed by the District. No waiver by the District of Contractor's compliance with provisions or conditions of the Agreement on one occasion will be deemed to be a waiver of similar or dissimilar provisions or conditions at the same or any prior or subsequent time with respect to this Agreement.

**12.3 Governing Law/Venue.** This Agreement will be governed by and construed in accordance with Colorado law, and venue for any actions brought under this Agreement will be in Douglas County, Colorado.

**12.4 Interpretation/Severability.** If any provision of this Agreement is held illegal, invalid or unenforceable under present or future applicable law, such provision will be fully severable and this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision were not a part hereof. All headings in this Agreement are for convenience of reference only, are not part of this Agreement, and no construction or inference will be derived there from. This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which taken together will be deemed one and the same document.

**12.5 Construction.** The parties acknowledge that each party has reviewed this Agreement and had an opportunity to have legal counsel review this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

**12.6 Authority.** Each of the parties represents to the other that such party has full power and authority to execute, deliver, and perform this Agreement; that the individuals executing this Agreement on behalf of said party are fully empowered and authorized by all requisite action to do so; that this Agreement constitutes a valid and legally binding obligation of such party enforceable against such party in accordance with its terms; that such execution, delivery, and performance will not contravene any legal or contractual restriction binding upon such party; and that there is no legal action, proceeding, or investigation of any kind now pending or to the knowledge of such parties threatened against or affecting such party or the execution, delivery, or performance of this Agreement.

**12.7 Successors and Assigns.** This Agreement will inure to the benefit of, and be binding upon, the Contractor, the District and their respective legal representatives, successors and permitted assigns. The Contractor may not assign or delegate the benefits and/or obligations under this Agreement without a prior written consent of the District; provided, however, the Contractor may subcontract certain tasks included in the Services as deemed appropriate by the Contractor. Notwithstanding the foregoing, consent shall not be required to assign this Agreement to any company which controls, is controlled by, or is under common control with Service Contractor or in connection with assignment to an affiliate or pursuant to the merger, sale of all or substantially all of its assets or equity securities, consolidation, change of control or corporate reorganization. Notice of any permitted assignment shall be given by Contractor to the District within 7 days of such Assignment.



**EXHIBIT A**

*MAP – LANDSCAPE AREAS - PROPERTY*

## EXHIBIT B

### *PROPERTY*

#### **Roxborough Village:**

- a) Four parcels formerly known as 99 year parcels, which include the Roxborough Community Park, Little Willow Creek from Rampart Range Road to the northern boundary of Roxborough Village Filing No. 12B and open space.
- b) Imperial Park - the small pocket part on the west side of Village Circle West at Stacy Place (Tract A, Imperial Homes at Roxborough Village Filing No. 1)
- c) The 7-acre pond (AKA Crystal Lake, Tract K-2, Roxborough Village Filing No. 16A) - the source of irrigation water. Tract K, Roxborough Village Filing No. 16A, grass area between the wall and the perimeter sidewalk.
- d) Power-line easement - entirety from Rampart Range Road to Village Circle West.
- e) Rampart Range Road.
  - i) West from Waterton Road to the intersection of Rampart Range Road and Village Circle East and West.
  - ii) West side and medians only from power-line easement to approximately 300' south of the last lot on Blue Mesa Way.
  - iii) The open space on the east side of Rampart Range Road south of Village Circle East (yellow area only)
- f) Village Circle East
  - i) West/south side of road from fence line to back of curb - Rampart Range Road to the east-west utility easement separating Filing 16A from Pulte Homes area.
  - ii) North/east side of road from fence line to back of curb - Rampart Range Road to Ptarmigan Lane (Labeled in red as Tract A).
- g) Village Circle West - the entire right-of-way from fence-line to back of curb on both sides with the following exceptions:
  - i) Elementary School site excluded.
  - ii) Tract D (Labeled in red, see Canvasback Circle) - maintain from back of curb to walk only.
  - iii) On the west side, beginning at the fifth house north of Red Mesa Way, continuing to the fourth (4<sup>th</sup>) house south of Red Mesa Way, mow as turf to the fence line. After the fourth (4<sup>th</sup>) house south of Red Mesa Way, continuing to Rampart Range Road, mow as described in paragraph 3.1.c of the Agreement - "Trails Through Native Turf and Grass Areas."

## EXHIBIT B

### *PROPERTY*

- iv) Filing 15 - west side of Red Mesa Drive from last lot south to the cul-de-sac, the connector trail to Blue Mesa Drive, west side of Blue Mesa Drive from cul-de-sac to the first lot, west side of Blue Mesa Way from last lot south to cul-de-sac.
- h) Roxborough Village Filing No. 16A: Tract A-A, Tract B, Tract B-1, Tract C, Tract C-C, Tract D-1, Tract D-D, Tract E-E, Tract F, Tract G, Tract H, Tract I, Tract J, Tract K, Tract K2, Tract L, Tract M, Tract N, Tract O, Tract O-1, Tract P, Tract P-1, Tract Q, Tract R, Tract S, Tract U, Tract V, Tract T, Tract W, Tract X, Tract Y, Tract Z.
- i) Roxborough Village Filing No. 16A, 1<sup>st</sup> Amendment: Tract E-1, Tract B-2, Tract B-B-1.
- j) Roxborough Village Commercial Subdivision – Third Amendment – Tract E-1, Tract C and Tract F.

### **Chatfield Farms:**

- a. Little Willow Creek- entire open space corridor, excepting out detention ponds, from the north line of Executive Homes at Roxborough Village Filing No. 3 north to Waterton Road including the open space south of Chatfield Marketplace (Tract A, Chatfield Farms Filing No. 1-A; Tract A1, Chatfield Farms Filing No. 1-A, 1<sup>st</sup> Amendment; Tract C, Chatfield Farms Filing No. 1-B), the open space corridor of Chatfield Farms Filing 1-B that is west of the Roxborough Village Filing No. 12-A and north of the Roxborough Village Filing No. 12-B (Tract E, Chatfield Farms Filing No. 1-B), the sloped area west of Campfire Drive to the District boundary (Tract A, Chatfield Farms Filing No. 1-B) excepting out the emergency access road located within Tract A, Chatfield Farms Filing No. 1-B.
- b. Chatfield Park (Active Park - Tract B, Chatfield Farms Filing No. 1-A) - the park on the west side of Liverpool Circle and adjacent to Tract A, Chatfield Farms Filing 1-A of the Little Willow Creek open space.
- c. Un-named Park (Active Park - Tract E-1, Chatfield Farms Filing No. 1A, 2<sup>nd</sup> Amend.) - the small pocket park on the south side Waterton Road and on the west side of the entry to the Chatfield Marketplace.
- d. Waterton Road: South right-of-way from the entry to Liverpool Circle to Chatfield Marketplace including entire streetscape from back of curb to fence line (Tract F, Chatfield Farms Filing No. 1-A).
- e. Irrigated Parkway/Medians:
  - i. Median located at Campfire Street.

**EXHIBIT C***STANDARD LANDSCAPE SERVICES***SERVICE** **FREQUENCY/TIMES PER YEAR**

Irrigated turf area mowing (mow, trim, blow)	28	April - October
Litter pick-up-Landscaped Area (Summer)	26	April - October
Litter pick-up-Landscaped Area (Winter)	24	October - April
Edging-Irrigated Turf Areas (Bi-Weekly)	14	April - October
Fertilization-Irrigated turf areas	3	April/May, July & Sept
Core Aeration-Irrigated turf areas	2	April/October
Broadleaf Weed Spray-Irrigated Turf Areas	3	April/May, July & Sept
Manual Weed Control-Landscaped Beds	28	April – October
Chemical Weed Control-Landscaped Beds. Sidewalks and Curb/Gutter	7	April – October
Irrigation Winterization	1	October
Spring Clean Up-Landscaped areas (includes cutting back perennial grasses)	1	April
Fall Clean Up-Landscaped areas (includes cutting back perennial flowers)	1	November
Pre-Emergent Application-Mulch and rock beds, irrigated turf areas as needed	1	April
Tree Well Maintenance (Chemical Application)	2	April - October
Shrub/Tree Pruning (under 10’)-Aesthetic	2	June & September
Irrigation Activation	1	April
Irrigation System Checks	28	April - October
Site Inspections	12	January - December

**Totals**

<b>Total Contract Price</b>	<b>\$ 179,052.00</b>
<b>Monthly Payment Amount (January – December)</b>	<b>\$ 14,921.00</b>

**Additional Services Not Included in Base Price**

Fall Aeration	Upon Approval	Included
Native Area Maintenance (Mowing, Trash)	Upon Approval	Included
Native Area Weed Control	Upon Approval	T & M
Annual Flower Installation and Maintenance	Upon Approval	T & M
Irrigation System Repair	Upon Approval	T & M
Insect and Disease Control	Upon Approval	T & M
Tree Wrap/Unwrap	Upon Approval	T & M
Winter Watering Each	Upon Approval	T & M
Large Debris Removal	Upon Approval	T & M

## 2022 Extra Work Rates

---

\$49.85	Per hour, foreman with truck
\$45.35	Per hour, laborer, general labor.
\$57.80	Per hour, laborer with equipment.
\$100.85	Per hour, native area mowing.
\$73.65	Per hour, irrigation technician.
\$119.00	Per backflow plus applicable fees— backflow testing.
\$57.80	Per hour, irrigation helper.
\$97.90	Per hour, hand watering.
\$107.65	Per hour, emergency call. (2 Hour Minimum)
\$100.85	Per hour, chemical application
\$89.50	Per hour, landscape consultation.

- One hour minimum charge per service provided. Billable time will be rounded to nearest  $\frac{1}{2}$  hour.
- Mobilization costs, portal to portal, will be included in the hourly services for each visit.
- Dump fees, material costs, and equipment fees will be added to invoices as applicable.
- A proposal for landscape projects is available upon request.
- Landscape consultation charges may be removed upon approved proposal.
- Emergency Calls should only be made to prevent damage to persons or property (including but not limited to continuously running water). An Emergency Call is defined as a call for service outside of normal business hours, Monday through Friday 8:00 am to 5:00 pm, and holidays.

**\*\*Holiday time is applicable on the following days: Thanksgiving Day, Friday after Thanksgiving, Christmas Eve Day, Christmas Day, New Year's Eve Day and New Year's Day, and Easter.**

**EXHIBIT D**

*LANDSCAPE MAINTENANCE MAP*

**EXHIBIT E*****SPECIAL SERVICES***

<b><u>Special Services</u></b>	<b><u>Cost</u></b>
Irrigation repairs (CLIA Technician)	\$73.65 / hr + materials
Junior Technician	\$57.80 / hr + materials
Turf repairs (including removal, prep, sod, straw mulch)	\$T&M / sf (min. 1000 sf) (less per quote)
Tractor-Mower	\$100.85 / hr
Walk-Behind Mower	\$56.10 / hr
Hydro mulch (including seed)	\$T&M / sf
Notify District if there is a minimum job size	\$
Pesticide spray per hour	\$T&M / hr + materials
Trees and shrubs fertilization	\$T&M / hr
Deep root watering	\$97.90 / hr
Tree wrap - trees with diameter over 4"	\$T&M / tree
Pruning of trees - having height in excess of 10 feet	per separate quote based on time and material
Pruning of shrubs - having height in excess of 10 feet	per separate quote based on time and material
Flowers for beds (preparation, fertilizer, seasonal care)	\$14.85 / sf
Leaf removal	\$T&M / hr
Broom per hour	\$51.00 /hr
Sand application/lbs.	\$T&M / lb.
Tennis court/Basketball court high-pressure wash hard courts	\$56.10 each
Baseball infield – inspection and correction of low spots in turf areas	per separate quote based on time and material
Baseball infield – edging, compaction, and rake smooth	\$T&M
Baseball infield – inspection of backstop fence	\$45.35/hr
Sidewalks and trails – power sweep	\$56.10/hr

**Labor Rates**

General laborer	\$45.35 / hr
Supervisor	\$86.90 / hr
Emergency calls	\$92.40 / hr

**Miscellaneous**

Trash removal - additional pick-ups	
Trash receptacles	\$22.00 / receptacle
Ponds and drainages	\$T&M / occurrence
Wood mulch	\$58.25/ CY
Top dressing - top soil	\$T&M / CY
Top dressing - infield mix	\$T&M / CY

**RESOLUTION 2021-12-\_\_\_\_**  
**OF THE BOARD OF DIRECTORS OF**  
**ROXBOROUGH VILLAGE METROPOLITAN DISTRICT**  
**DOUGLAS COUNTY, COLORADO**

**A RESOLUTION APPROVING SERVICES AGREEMENT**  
**WITH METCO LANDSCAPING, INC. FOR SNOW REMOVAL SERVICES**

The Roxborough Village Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), has received a proposal from Metco Landscape, Inc., a Colorado corporation (the “Contractor”), to provide snow removal services, as more specifically described in the Services Agreement attached hereto as Schedule A (the “Agreement”); and

The Contractor will provide such services in accordance with the terms of the Agreement; and

The Board of Directors of the District has determined that it is in the best interest of District residents and property owners to enter into the Agreement.

NOW, THEREFORE, be it resolved by the Board of Directors of Roxborough Village Metropolitan District, Douglas County, Colorado, that:

Section 1. The Agreement, in the form attached hereto as Schedule A, is approved. The officers of the District are authorized to execute the Agreement, and the officers of and consultants to the District are authorized to take any actions that are necessary or appropriate for the District’s performance of the terms of the Agreement.

APPROVED AND ADOPTED this 7<sup>th</sup> day of December, 2021, by a vote of \_\_\_\_ for and \_\_\_\_ against.

ROXBOROUGH VILLAGE METROPOLITAN  
DISTRICT, a quasi-municipal corporation and  
political subdivision of the State of Colorado

By: \_\_\_\_\_  
Calvin Brown, Vice-President

ATTEST:

By: \_\_\_\_\_  
Edward Wagner, Secretary

**SCHEDULE A**

Services Agreement with Metco Landscape, Inc. for Snow Removal Services

**AGREEMENT FOR SNOW REMOVAL  
AND SERVICES PERFORMED UNDER WORK ORDERS**

*Effective as of January 1, 2022*

**BETWEEN**

ROXBOROUGH VILLAGE METROPOLITAN DISTRICT,  
a quasi-municipal corporation and political subdivision of  
the State of Colorado organized pursuant to Title 32 of  
the Colorado Revised Statutes  
(the “District”)

and

METCO LANDSCAPE, INC,  
a Colorado corporation  
(the “Contractor”)

## TABLE OF CONTENTS

<u>I.</u>	<u>SCOPE OF SERVICE</u>	
	<u>1.1 Snow Removal Service</u> .....	1
	<u>a. Timing and Extent of Services</u> .....	1
	<u>b. Rates</u> .....	1
	<u>c. Ice Melting Chemicals</u> .....	1
	<u>d. Damage to Snow Removal Areas</u> .....	1
	<u>1.2 Services Performed Under Work Orders</u> .....	2
<u>II.</u>	<u>TERMS</u> .....	2
<u>III.</u>	<u>GENERAL PROVISIONS</u> .....	2
	<u>3.1 Attendance at Board Meetings and Reports to District Manager</u> .....	
	<u>3.2 Contractor’s Duties</u> .....	2
	<u>a. Professional Standards</u> .....	2
	<u>b. Quality Assurance</u> .....	2
	<u>c. Performance During Term</u> .....	3
	<u>d. Compliance with the Law</u> .....	3
	<u>e. Personnel</u> .....	3
	<u>f. Licenses</u> .....	3
	<u>g. Mechanics’ and Materialmen’s Liens</u> .....	3
	<u>h. Hours of Operation – Power Equipment</u> .....	3
<u>IV.</u>	<u>TERMS OF PAYMENT</u> .....	4
	<u>4.1 Request for Payment</u> .....	4
	<u>4.2 Documentation</u> .....	4
	<u>4.3 Special Services</u> .....	4
	<u>4.4 Chatfield Farms</u> .....	5
	<u>4.5 Service Charges</u> .....	5
<u>V.</u>	<u>TERMINATION/CANCELLATION</u> .....	5
	<u>5.1 Termination by the District</u> .....	5
	<u>5.2 Termination by Contractor</u> .....	5
	<u>5.3 Attorneys’ Fees</u> .....	6
	<u>5.4 Remedies Cumulative</u> .....	6

	<a href="#">5.5 Survival of Provisions</a> .....	6
<a href="#">VI.</a>	<a href="#">INDEPENDENT CONTRACTOR</a> .....	6
<a href="#">VII.</a>	<a href="#">ILLEGAL ALIENS</a> .....	6
	<a href="#">7.1 Employment or Contracting With Illegal Aliens</a> .....	6
	<a href="#">7.2 Verification Regarding Illegal Aliens</a> .....	6
	<a href="#">7.3 Limitation Regarding Verification Programs</a> .....	7
	<a href="#">7.4 Duty to Terminate a Subcontract</a> .....	7
	<a href="#">7.5 Duty to Comply with Investigation</a> .....	7
	<a href="#">7.6 Damages for Breach of Agreement</a> .....	7
	<a href="#">7.7 Notification</a> .....	7
	<a href="#">7.8 Participation in Employment Verification Program</a> .....	7
<a href="#">VIII.</a>	<a href="#">INDEMNITIES AND WAIVERS</a> .....	8
	<a href="#">8.1 Definitions</a> .....	8
	<a href="#">a. Parties</a> .....	8
	<a href="#">b. Claims</a> .....	8
	<a href="#">c. Indemnify, Waive and Defend</a> .....	8
	<a href="#">8.2 Indemnities as to Performance</a> .....	8
	<a href="#">8.3 Repair Indemnities as Property Damage</a> .....	8
	<a href="#">8.4 Scope of Indemnities and Waivers</a> .....	8
	<a href="#">8.5 District’s Reliance</a> .....	9
	<a href="#">8.6 District’s Liability</a> .....	9
<a href="#">IX.</a>	<a href="#">CONTRACTOR’S INSURANCE</a> .....	9
	<a href="#">9.1 Coverages</a> .....	9
	<a href="#">a. Employee Insurance</a> .....	9
	<a href="#">b. Liability Insurance</a> .....	9
	<a href="#">c. Vehicle Insurance</a> .....	10
	<a href="#">d. Umbrella Liability Insurance</a> .....	10
	<a href="#">9.2 Policies</a> .....	10
	<a href="#">9.3 Evidence of Coverage</a> .....	10
<a href="#">X.</a>	<a href="#">MISCELLANEOUS</a> .....	11
	<a href="#">10.1 Notice</a> .....	11

<a href="#"><u>10.2 Entire Agreement</u></a> .....	11
<a href="#"><u>10.3 Governing Law/Venue</u></a> .....	11
<a href="#"><u>10.4 Interpretation/Severability</u></a> .....	11-12
<a href="#"><u>10.5 Construction</u></a> .....	12
<a href="#"><u>10.6 Authority</u></a> .....	12
<a href="#"><u>10.7 Successors and Assigns</u></a> .....	12

EXHIBIT A: Snow Removal Areas Map

EXHIBIT B: Snow Removal Rate

EXHIBIT C: Emergency Snow Removal Rates

**AGREEMENT FOR LANDSCAPE MAINTENANCE SERVICES,  
SNOW REMOVAL SERVICES, AND SERVICES PERFORMED UNDER  
WORK ORDERS**

This Agreement for Landscape Maintenance and Snow Removal Services, and Services Performed under Work Orders (“Agreement”), effective as of January 1, 2022 (the “Effective Date”), by and between Roxborough Village Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado organized pursuant to Title 32 of the Colorado Revised Statutes (the “District”), and Metco Landscape, Inc. a Colorado corporation (the “Contractor”).

**I. SCOPE OF SERVICES:**

**1.1 Snow Removal Services:** The Contractor shall provide the Snow Removal Services on sidewalks, and pedestrian entryways and exits within the District as shown on **Exhibit A** attached hereto and incorporated herein by reference (the “Snow Removal Areas”). The services to be provided by the Contractor within the Snow Removal Areas are described herein, and in **Exhibit B** attached hereto and incorporated herein by reference (collectively the “Snow Removal Services”).

a) Timing and Extent of Services. The District’s intention is to facilitate the use of sidewalks to access schools, as reflected in the designation of Priority 1 and Priority 2 walkways as shown on **Exhibit A**. The Contractor shall exercise its best efforts to remove snow from school access sidewalks prior to 8:00 a.m. on school days. The Contractor will perform snow removal on Priority 1 and Priority 2 walkways as shown on **Exhibit A**. When two-thirds of the snow removal budget for District for each year is expended, snow removal for the remainder of the current budget year will be limited to Priority 1 walkways, unless otherwise directed by the Board of Directors on a case by case basis. The Contractor shall exercise its judgment to determine the extent to which it provides Snow Removal Services, based on snow accumulation of two (2) inches or more, or due to icy or other related conditions.

b) Rates. Snow Removal Services shall be performed on a time and material basis, at the rates set forth in **Exhibit B and Exhibit C** (the “Snow Removal Rates”). The rates specified in **Exhibit B and Exhibit C** include the equipment and labor to operate such equipment on a per hour basis. The Contractor and the District agree that the Snow Removal Rates do not include state sales tax and that the District is exempt from payment of state sales tax.

c) Ice Melting Chemicals. The Contractor shall exercise its judgment regarding the application of ice melting chemicals. The District acknowledges that ice melting chemicals may cause damage to plants and turf, and that the Contractor assumes no liability for any damage which results from the proper application of such ice melting chemicals.

d) Damage to Snow Removal Areas. Except for extraordinary snowfalls, any repair or replacement of damaged vegetation or landscape improvements resulting from Contractor's Snow Removal Services shall be at the expense of the Contractor.

**1.2 Services Performed Under Work Orders:** The terms of this Agreement shall apply to any services or work performed by the Contractor pursuant to a Work Order approved by the District (the "Work Order").

Snow Removal Services and services performed pursuant to any Work Order may be collectively referred to herein as the Services.

**II. TERM:**

The term of this Agreement shall be from January 1, 2022 to December 31, 2022.

**III. GENERAL PROVISIONS:**

**3.1 Attendance at Board Meetings and Reports to District Manager.** Attendance at Board meetings by the Contractor is mandatory during the winter months for the term of this Agreement. A summary report of all activities for the prior month shall be submitted to the District Manager by the second Tuesday of the month in a form defined in paragraph 4.1 of this Agreement. An agenda for the upcoming District Meeting shall also be submitted to the District Manager by the second Tuesday of the month. Contractor's employee shall be the dedicated Account Manager for the District during the term of the Agreement.

If the Contractor cannot resolve questions concerning responsibility for damage, repair, cost and interpretation of the provisions of this Agreement with the District Manager, the Contractor may meet with the Board.

**3.2 Contractor's Duties.** The Contractor will render the Services as follows:

a) Professional Standards. The Services will be performed by the Contractor in accordance with the generally accepted standards of care, skill, diligence and professional competence applicable to contractors engaged in providing similar services at the time and place that the Services are rendered. Except as otherwise set forth herein, the Contractor shall be responsible to repair, at its cost, any damage caused by its employees, agents, or subcontractors while performing the Services.

b) Quality Assurance. All larger repairs or items outside the scope of the services shall be brought to the attention of the District Manager for review and may require Board approval.

c) Performance During Term. The Contractor will commence performing the Standard Landscape Services and the Snow Removal Services on the first day of the term of this Agreement, and will thereafter continually and diligently perform the Standard Landscape Services and the Snow Removal Services, and the Special Services requested

by the District throughout the term of this Agreement.

d) Compliance with the Law. The Contractor will, at its own expense, throughout the term of this Agreement, comply with all federal, state, and local laws, statutes, ordinances, codes, regulation, requirements, guidelines, court rulings and orders of all governmental authorities applicable to services performed by the Contractor under this Agreement, including but not limited to employee safety.

e) Personnel. The Contractor represents that all of its personnel who will perform any services under this Agreement, have received the information, instructions, and training required to provide such services, including training to prevent harm to such personnel, residence and members of the public who may be in the vicinity.

f) Licenses. The Contractor and all of its employees performing tasks that require licensing are licensed to the extent required by all Applicable Law and will, at Contractor's cost, maintain such licensing throughout the term of this Agreement. Such licenses include any requirements set forth by the State of Colorado and Environmental Protection Agency.

g) Mechanics' and Materialmen's Liens. The Contractor will (i) make timely payments to Contractor's employees, subcontractors and/or suppliers, and (ii) be responsible for satisfaction of any liens and encumbrances which are filed or asserted against the District and/or the Property which liens result from the services performed by the Contractor under this Agreement. If any lien is filed claiming by, through or under the Contractor or the services performed by the Contractor, the Contractor will cause such lien to be discharged or bonded within 10 days after its filing. If the Contractor fails to cause such lien to be discharged or bonded within such ten (10) day period, the District, in addition to any other available remedy, may bond or discharge the lien and, at District's discretion, deduct its costs incurred, including attorneys' fees and interest at the rate of twelve (12%) percent per annum from the due date, from any payments due the Contractor or invoice the Contractor for the amounts paid, which invoice shall be due and payable upon ten (10) days after receipt. Contractor's obligations in this subsection shall not apply if the District has not made payment to Contractor for the services performed.

h) Hours of Operation – Power Equipment. Snow plowing services, may be performed as necessary under this Agreement.

#### **IV. TERMS OF PAYMENT:**

**4.1 Request for Payment.** During the term of this Agreement the Contractor shall submit to the District Manager by the second Tuesday of the month a standard pay request form attached to a report detailing the following:

- Snow Removal Services performed during the previous month including but not limited to:
  - Locations
  - Time and rate per hour of each employee (if applicable)

- Quantities of materials used in the work performed
- Reason for work performance
- Detail of problems encountered and corrective action taken or proposed to be taken
- Work Orders recommended to be performed in the future and reason for performance
- If taken, payment requests for Work Orders performed and supporting documentation
- Maintenance inspection report discussing (but not limited to) the following:
  - Safety conditions
  - Appearance
  - Follow up items for the following month
- Services performed during the previous month pursuant to an approved Work Order.

Any failure to timely provide the foregoing detailed pay request form and report may delay payment up to the next monthly District Meeting.

**4.2 Documentation.** To the extent that the Contractor performs Special Services pursuant to a Work Order, the Contractor will retain during the term of this Agreement and for the longer of (i) two (2) years after the completion of the Work Order, or (ii) until the final resolution of any outstanding dispute between the District and Contractor, Contractor's internal books and records pertaining to Work Orders, which shall be kept in sufficient detail and condition to permit periodic audits of such books and records by the District and the Contractor. The Contractor will, upon request, provide time records and/or records of services performed under the Work Order shown on any invoice.

**4.3 Special Services.** The Contractor shall submit invoices for all services to the District Manager within thirty (30) days of performing the work. "Special Services" is defined as any additional services performed pursuant to Work Orders. Payments will be made to the Contractor by the last day of the month following the month in which the invoice is approved for payments by the Board of Directors of the District. The District is exempt from Colorado state and local sales and use taxes. Contractor's invoices shall not include any sums for such taxes.

**4.4 Chatfield Farms.** All invoices for the Services performed shall separately identify the cost of any Services performed within the Chatfield Farms areas shown on **Exhibit A**.

**4.5 Service Charges.** A service charge of 1% per month will be added to all balances not paid by the last day of the month following the month in which the invoice is approved for payment by the District Manager. This represents an annual rate of 12%. In addition to all service charges, there shall also be paid the reasonable cost of collection, including attorneys' fees and court costs.

## **V. TERMINATION/CANCELLATION:**

**5.1 Termination by the District.** Contractor agrees that as partial consideration for the District's entering into this agreement that the District has the right to terminate this agreement as follows:

If the Board determines, in its sole and subjective discretion, that the Contractor has failed or is failing to provide the Services in accordance with the terms of this Agreement, and such failure constitutes a material default by the Contractor of its obligation under this Agreement, the District may terminate this Agreement, upon such terms and within such time period as specified in a Notice of Termination delivered by the District Manager to the Contractor. Such Notice of Termination shall give thirty (30) days notice of such termination to the Contractor.

If the Board determines that the Contractor is in material default of the terms of this Agreement, the notice of termination shall so specify and in such case, no notice is required to be given prior to the Notice of Termination.

Notwithstanding the foregoing, if the District in its sole and subjective discretion determines that it would prefer for Contractor to remedy any failure to provide services, the Board may instead of a Notice of Termination, deliver to the Contractor a Notice of Deficiency. Such Notice of Deficiency shall identify any dissatisfaction by the District with the Contractor's performance of its obligations under this agreement. The Contractor shall have thirty (30) days from the effective date of the Notice of Deficiency, to satisfy the Board that it has or will take appropriate action to address the matter(s) identified in the Notice of Deficiency. Should the Contractor satisfy the Boards dissatisfaction through its correction per the Notice of Deficiency, then this agreement shall remain in full force and effect. At all times the Board shall retain the right to provide Notice of Termination as provided herein. If District terminates this Agreement for any reason, it shall pay Contractor in full for any Services performed pursuant to the Agreement up to the date of termination. Such payment shall be made in accordance with Section 6 herein.

**5.2 Termination by Contractor.** Contractor may terminate this Agreement with 30 days notice to the District for the District's willful breach of Section 4 herein, provided that Contractor is not in default under Section 4.

**5.3 Attorneys' Fees.** If any legal action is brought by either party to enforce the terms of this Agreement, the prevailing party in such action will be entitled to attorneys' fees, and costs in addition to any other relief to which such party is entitled.

**5.4 Remedies Cumulative.** Unless otherwise expressly limited in this Agreement, District's rights and remedies set forth herein will be in addition to, and not in limitation of, any rights and remedies otherwise imposed or available under applicable law.

**5.5 Survival of Provisions.** Termination of this Agreement for any reason will not affect (i) any right or obligation of either party which accrued or vested prior to such termination, or (ii) any continuing obligation, liability or responsibility of the Contractor, including without limitation Contractor's indemnity, and warranty obligation(s) under this Agreement.

## **VI. INDEPENDENT CONTRACTOR:**

It is the express intention of the parties that the Contractor is not employed by the District but is an independent contractor. Any agent or employee of the Contractor shall never be deemed to be an employee or agent of the District. The manner and means of providing the Services are under

the sole control of the Contractor. The payment or withholding of any federal, state, and local taxes for the Contractor, its employees or agents shall be the responsibility of the Contractor. As an independent contractor, the Contractor shall be responsible for complying with all applicable workers' compensation law concerning itself, its employees, agents and subcontractors. Contractor shall furnish all supervision, labor, materials, tools and equipment necessary to perform its obligations under this agreement.

## **VII. ILLEGAL ALIENS:**

The Contractor certifies that it shall comply with the provisions of C.R.S. § 8-17.5-101, et seq., or as it may be amended from time to time during the term of this Agreement.

**7.1 Employment or Contracting With Illegal Aliens.** The Contractor hereby certifies that it shall not knowingly employ or contract with an illegal alien who will perform the Services under this Agreement, or knowingly contract with a subcontractor that fails to certify to the Contractor that such subcontractor does not knowingly employ or contract with an illegal alien to perform the Services under this Agreement.

**7.2 Verification Regarding Illegal Aliens.** The Contractor hereby represents, warrants, and agrees that the Contractor will participate in the E-Verify Program or the Department Program established pursuant to the requirements of C.R.S. § 8-17.5-102 (5)(c), which may be collectively referred to as the "Employment Verification Programs", in order to confirm the employment eligibility of all of its employees who are newly hired for employment to perform the Services ("Newly Hired Employees"). The Contractor represents, warrants, and agrees that Contractor has verified the employment eligibility of its Newly Hired Employees through participation in either of the Employment Verification Programs.

**7.3 Limitation Regarding Verification Programs.** The Contractor is prohibited from using Employment Verification Programs' procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

**7.4 Duty to Terminate a Subcontract.** If the Contractor obtains actual knowledge that a subcontractor performing the Services knowingly employs or contracts with an illegal alien, the Contractor shall:

a) notify the subcontractor and the District within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

b) terminate the subcontract with the subcontractor if, within three (3) days of receiving notice required pursuant to C.R.S. § 8-17.5-102(2)(b)(III)(A) that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien.

The 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.

**7.5 Duty to Comply with Investigation.** The Contractor shall comply with any reasonable request made by the Colorado Department of Labor and Employment made in the course of an investigation pursuant to C.R.S. § 8-17.5-102(5).

**7.6 Damages for Breach of Agreement.** In addition to any other legal or equitable remedy to which the District may be entitled for a breach of this Agreement, if the District terminates this Agreement, in whole or in part, due to Contractor's breach of any requirements of C.R.S. § 8-17.5-101, et seq., the Contractor shall be liable for actual and consequential damages to the District.

**7.7 Notification.** The District shall notify the office of the Colorado Secretary of State if the Contractor violates a provision of this Agreement required pursuant to C.R.S. § 8-17.5-102(2), and the District terminates the Agreement for such breach. The District will notify the Colorado Secretary of State if a court made such a determination.

**7.8 Participation in Employment Verification Program.** If the Contractor participates in the Department Program, it shall (i) notify the District of its participation, and (ii) within twenty (20) days after hiring the Newly Hired Employee, provide a written, notarized copy of the affirmation to the District pursuant to the requirements of C.R.S § 8-17.5-102(5)(c)(II) stating that the Contractor has examined the legal status of the Newly Hired Employee. The Contractor hereby consents to audits conducted by the Colorado Department of Labor and Employment to review documents required pursuant to C.R.S § 8-17.5-102(5).

## **VIII. INDEMNITIES AND WAIVERS:**

### **8.1 Definitions.**

a) **Parties.** The "Contractor Parties" are the Contractor, its officers, members, partners, agents and employees, subcontractors and all other persons and entities over whom the Contractor exercises control or supervision. The "District Parties" are the District, its manager, officers, directors, employees, agents, independent contractors, and consultants. A "Beneficiary" is the intended recipient of the benefits of another party's indemnity, waiver or obligation to defend.

b) **Claims.** "Claims" means all damages, losses, injuries, liabilities, penalties, disbursements, costs, expenses, charges, assessments and expenses (including attorneys' fees, experts' fees, and expenses incurred in investigating, defending or prosecuting any litigation or proceeding), claims, demands, litigation, suits, proceedings, causes of action (whether in tort or contract or in law or at equity) or judgments.

c) **Indemnify, Waive and Defend.** "Indemnify" means to protect a party against potential Claims and/or to compensate a party for Claims actually incurred. "Waive" means

to knowingly and voluntarily relinquish a right and/or to release another party from liability in connection with Claims. “Defend” means to provide a legal defense of a Beneficiary against Claims with counsel reasonably acceptable to such Beneficiary and at no cost to the Beneficiary.

**8.2 Indemnities as to Performance.** To the fullest extent permitted by applicable law, the Contractor will Indemnify and Defend the District Parties against all Claims arising out of any intentional, reckless, gross or negligent act or omission by any Contractor Party which Claims arise from or in connection with Contractor’s performance of the Services pursuant to this Agreement, or from the violation of or failure of any Contractor Party to comply with any applicable law.

**8.3 Repair Indemnities as to Property Damage.** Contractor shall be responsible for prompt repair and any indemnification related thereto or any damage to District property caused by Contractor or their personnel. Labor and materials for the repair or replacement of said damages shall be provided and borne by Contractor.

**8.4 Scope of Indemnities and Waivers.** The indemnities, waivers and obligations to defend contained in this Agreement (i) will be enforced for the benefit of the applicable Beneficiary even if the Claim in question is caused by the active or passive negligence or sole, joint, concurrent or comparative negligence of such Beneficiary, and regardless of whether liability without fault or strict liability is imposed upon or alleged against such Beneficiary, but not to the extent that a court of competent jurisdiction holds in a final judgment that a Claim is caused by the intentional or reckless act or omission of such Beneficiary; (ii) are independent of, and shall not be limited by, each other or any insurance obligations in this Agreement until all related Claims against the Beneficiaries are fully and finally barred by any applicable law.

**8.5 District’s Reliance.** In reliance on the indemnity, waiver and undertaking to defend contained in herein and the agreement by the Contractor to obtain and maintain in force the insurance policies and endorsements described hereinafter, the District may not carry primary insurance for Claims arising from any Contractor’s Parties acts or omissions. The Contractor acknowledges that Contractor is relying not on the District or District’s Insurance in order to pay Claims arising from any Contractor Parties acts or omissions, but rather on (A) the insurance required by Section XI of this Agreement and any additional insurance the Contractor has elected to carry; (B) Contractor’s own funds, as to deductibles and self-insured retentions under Contractor’s insurance and as to Claims which exceed Contractor’s insurance limits; and (C) third parties (other than the District Parties), as to Claims arising from the actions of third parties.

**8.6 District’s Liability.** District’s liability for failure to perform its obligations under this Agreement shall be limited to suit for breach of contract. The Contractor waives all Claims against the District for consequential, special, or punitive damages allegedly suffered by any Contractor Party, including lost profits and business interruption. No provision of this Agreement shall be construed as a waiver by the District of any constitutional, statutory, or other governmental immunity provided by law.

## IX. CONTRACTOR'S INSURANCE:

**9.1 Coverages.** The Contractor will, at its sole cost and expense, maintain in effect at all times during the term of this Agreement and as otherwise required hereunder, the following insurance coverages with limits of not less than those set forth below. Contractor further agrees to maintain and supply documentation of any additional public liability or property damage insurance that may be required by the State of Colorado during the term of this agreement.

a) Employee Insurance.

<u>Coverage</u>	<u>Minimum Amounts and Limits</u>
Worker's Compensation	\$500,000 (or as required by Colorado law)
Employer's Liability	\$1,000,000 (or as required by Colorado law)

This policy will include a waiver of subrogation in favor of the District Parties.

b) Liability Insurance.

<u>Coverage</u>	<u>Minimum Amounts and Limits</u>
Commercial General Liability (Occurrence Basis)	\$1,000,000 combined single limits per occurrence respect to each location

This policy will contain (i) an endorsement including the District Parties as "additional insureds", (ii) cross-liability and severability of interest endorsements, (iii) a waiver of subrogation in favor of the District Parties, and (iv) an aggregate per location endorsement.

c) Vehicle Insurance.

<u>Coverage</u>	<u>Minimum Amounts and Limits</u>
Business Vehicle Liability (Occurrence Basis)	\$1,000,000 combined single limits per occurrence with respect to each location

This policy will be a standard form written to cover all owned, hired and non-owned vehicles owned or operated by the Contractor Parties and contain (i) an endorsement including the District Parties as "additional insureds", (ii) cross-liability and severability of interest endorsements, (iii) a waiver of subrogation in favor of the District Parties, and (iv) an aggregate per location endorsement.

d) Umbrella Liability Insurance.

<u>Coverage</u>	<u>Minimum Amounts and Limits</u>
Bodily Injury/Property Damage (Occurrence Basis)	\$5,000,000 per occurrence \$5,000,000 aggregate

This policy will be written on an umbrella basis above the coverages described in Section 11.1 (c) above and contain (i) an endorsement including the District Parties as additional insureds, (ii) a waiver of subrogation in favor of the District Parties, and (iii) an aggregate per location endorsement.

**9.2 Policies.** All policies will be issued by carriers having ratings of Best's Insurance Guide A/VIII and/or Standard & Poor Insurance Solvency Review A-, or better, and admitted to engage in the business of insurance in the State of Colorado. All policies must be endorsed to be primary with the policies of all District Parties being excess, secondary and non-contributing. All policies shall contain provisions that state that they cannot be cancelled, non-renewed or materially modified without 30 days prior written notice by insurance carrier(s) to the District Manager.

**9.3 Evidence of Coverage.** Evidence of the insurance coverage required to be maintained by the Contractor under this section, represented by certificates of insurance issued by the insurance carrier(s), must specify the additional insured status as well as the waivers of subrogation. Such certificates of insurance will state the amounts of all deductibles and self-insured retentions and that the District Manager will be notified in writing thirty (30) days prior to cancellation, material change or non-renewal of insurance. Upon request, the Contractor will provide to the District Manager a certified copy of any or all insurance policies or endorsements required by this Agreement. The Contractor shall provide the District Manager with copies of the certificates evidencing that the District has been added as an additional insured under the various insurance policies which the Contractor is required to carry.

**X. MISCELLANEOUS:**

**10.1 Notice.** All notices must be in writing and (a) delivered personally, (b) sent by United States certified mail, postage prepaid, return receipt requested ("US Mail"), (c) placed in the custody of a nationally recognized overnight carrier for next day delivery ("Carrier"), and will be deemed effective (i) when received, if delivered personally, (ii) 4 days after deposit, if sent by US Mail, and (iii) the next business day after deposited with Carrier during business hours on a business day. All notices shall be delivered to the following addresses, or such other address as is provided by one party to the other in accordance with this section:

Notices to the District:

Roxborough Village Metropolitan District  
c/o CliftonLarsonAllen LLP  
Attn: Anna Jones, District Manager  
8390 East Crescent Parkway, Suite 500  
Greenwood Village, CO 80111-2814

Copy to:

Folkestad Fazekas Barrick & Patoile, P.C.  
Attn: Katie James  
18 South Wilcox Street, Suite 200  
Castle Rock, CO 80104

Notices to the Contractor:  
METCO LANDSCAPE, INC.  
Attn.: Judy Mcnew  
2200 Rifle Street  
Aurora, CO 80011

**10.2 Entire Agreement.** This Agreement will constitute the entire agreement between the parties with respect to performance of the Services, and no oral statements or prior written agreements not specifically incorporated herein will be of any force or effect. The District will not be bound by any purported modification or amendment of this Agreement and will not be deemed to have waived any provision of the Agreement, unless such modification, amendment or waiver is set forth in writing and signed by the District. No waiver by the District of Contractor's compliance with provisions or conditions of the Agreement on one occasion will be deemed to be a waiver of similar or dissimilar provisions or conditions at the same or any prior or subsequent time with respect to this Agreement.

**10.3 Governing Law/Venue.** This Agreement will be governed by and construed in accordance with Colorado law, and venue for any actions brought under this Agreement will be in Douglas County, Colorado.

**10.4 Interpretation/Severability.** If any provision of this Agreement is held illegal, invalid or unenforceable under present or future applicable law, such provision will be fully severable and this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision were not a part hereof. All headings in this Agreement are for convenience of reference only, are not part of this Agreement, and no construction or inference will be derived there from. This Agreement may be executed in any number of counterparts, each of which will be deemed an original and all of which taken together will be deemed one and the same document.

**10.5 Construction.** The parties acknowledge that each party has reviewed this Agreement and had an opportunity to have legal counsel review this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

**10.6 Authority.** Each of the parties represents to the other that such party has full power and authority to execute, deliver, and perform this Agreement; that the individuals executing this Agreement on behalf of said party are fully empowered and authorized by all requisite action to do so; that this Agreement constitutes a valid and legally binding obligation of such party enforceable against such party in accordance with its terms; that such execution, delivery, and performance will not contravene any legal or contractual restriction binding upon such party; and that there is no legal action, proceeding, or investigation of any kind now pending or to the knowledge of such parties threatened against or affecting such party or the execution, delivery, or performance of this Agreement.



**EXHIBIT A**

*SNOW REMOVAL AREAS MAP*

**EXHIBIT B***SNOW REMOVAL RATES*

<b>Service or Equipment Item</b>	<b>Billing Unit</b>	<b>Non-holiday Weekday Rate (includes weekends)</b>	<b>Holiday Rate** 1.5X</b>
4x4 Pick-Up with 7.5 Foot Plow	Per hour	\$111.40	\$167.10
Stakebody with Plow	Per hour		
Tandem with Plow	Per hour		
Dump Truck - 15 yard	Per hour	\$190.96	\$286.44
Sand Truck	Per hour		
Backhoe	Per hour		
Loader	Per hour		
ATV/Tool Cat with blade	Per hour	\$84.88	\$127.32
Skid Steer with Pusher/plow	Per hour	\$164.44	\$246.66
Skid Steer with Bucket	Per hour	\$164.44	\$246.66
Front End Loader (2-hr minimum)	Per hour	\$265.22	\$397.83
Front End Loader with Pusher/Box (2-hr minimum)	Per hour	\$265.22	\$397.83
Snow Blower	Per hour	\$68.95	\$103.43
Supervisor	Per hour		
Laborer/Shoveling	Per hour	\$58.35	\$87.53
Ice Slicer (plus \$135.00 per hour for application)	\$244 Per Ton	\$135.00	\$202.50
Ice Melt (plus \$60.00 per hour for application)	\$.89Per lb	\$60.00	\$90.00
Liquid Magnesium	Per gallon		
Standby Rate, Ice Watch Rate	Per hour		
Obstacle Identification service plus \$3.60 per stake	Per hour	\$77.25	\$115.88

- All services to be invoiced per hour, with a one-hour minimum charge per service and job site.
- All material to be invoiced per pound or per ton.
- Mobilization costs, portal to portal, will be included in hourly services for each visit.

\*\* Holiday rate is applicable on the following days: Thanksgiving Day, Christmas Day, New Year's Day and Easter. Holiday rate is 1.5 times the normal rate.

**EXHIBIT C****EMERGENCY SNOW REMOVAL RATES**

For use in extreme snow/blizzard events, of 12 inches or greater accumulation  
in one 24-hour period.

<b>Service or Equipment Item</b>	<b>Billing Unit</b>	<b>Non-holiday Weekday Rate (includes weekends)</b>	<b>Holiday Rate** 1.5X</b>
Mobilization time, portal to portal	Per hour	\$260.00	\$390.00
Fueling Heavy Equipment	Per hour	\$75.00	\$112.50
Pick-Up Truck with 7.5 Foot Plow	Per hour	\$150.00	\$225.00
Hand Shoveling (per laborer)	Per hour	\$75.00	\$112.50
Snow Blower	Per hour	\$94.00	\$141.00
ATV with Blade	Per hour	\$115.00	\$172.50
Skid Steer with Bucket	Per hour	\$210.00	\$315.00
Skid Steer with Pusher/Plow	Per hour	\$210.00	\$315.00
Front End Loader with Pusher/Box	Per hour	\$345.00	\$517.50
Front End Loader (2 -hr minimum)	Per hour	\$345.00	\$517.50
Dump Truck – 15 yard	Per hour	\$250.00	\$375.00
Ice Melt - \$1.50 per pound	Per hour application	\$65.00	\$97.50
Ice Slicer - \$250.00 per ton	Per hour application	\$315.00	\$472.50
Obstacle Identification Service, \$5.00 per Stake (if requested by client)	Per hour	\$95.00	\$142.50

- One hour minimum charge per service and job site.
- Rental Equipment will be contracted as available upon approval from Client. The Contractor will monitor weather to be prepared in the event of a large storm and have necessary resources available, however assumes no liability for the unavailability of rental equipment and operators.

\*\*Holiday rate is applicable on the following days: Thanksgiving Day, Christmas Day, New Year's Day and Easter. Holiday rate is 1.5 times the normal rate.

**RESOLUTION 2021-12-\_\_\_\_**  
**OF THE BOARD OF DIRECTORS OF**  
**ROXBOROUGH VILLAGE METROPOLITAN DISTRICT**  
**DOUGLAS COUNTY, COLORADO**

**A RESOLUTION APPROVING SERVICES AGREEMENT**  
**WITH MULHERN MRE, INC. FOR 2022**

The Roxborough Village Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), has received a proposal from **MULHERN MRE, INC** (the “Contractor”), to provide the 2022 engineering services to the District, as described in the Services Agreement attached hereto as Schedule A (the “Agreement”); and

The Contractor will provide such services in accordance with the terms of the Agreement; and

The Board of Directors of the District has determined that it is in the best interest of District residents and property owners to enter into the Agreement.

NOW, THEREFORE, be it resolved by the Board of Directors of Roxborough Village Metropolitan District, Douglas County, Colorado, that:

Section 1. The Agreement, in the form attached hereto as Schedule A, is approved. The officers of the District are authorized to execute the Agreement, and the officers of and consultants to the District are authorized to take any actions that are necessary or appropriate for the District’s performance of the terms of the Agreement.

APPROVED AND ADOPTED this \_\_\_\_ day of December, 2021, by a vote of \_\_\_\_ for and \_\_\_\_ against.

ROXBOROUGH VILLAGE METROPOLITAN  
DISTRICT, a quasi-municipal corporation and  
political subdivision of the State of Colorado

By: \_\_\_\_\_  
Calvin Brown, President

ATTEST:

By: \_\_\_\_\_  
Edward Wagner, Secretary

**SCHEDULE A**

Services Agreement Mulhern MRE, Inc.

## SERVICES AGREEMENT

**THIS SERVICES AGREEMENT** (this “Agreement”), is made and entered into this 1<sup>st</sup> day of January, 2022, by and between **ROXBOROUGH VILLAGE METROPOLITAN DISTRICT**, a quasi- municipal corporation and political subdivision of the State of Colorado, whose address is c/o CliftonLarsonAllen LLP, 8390 East Crescent Parkway, Suite 300, Greenwood Village, Colorado 80111-4814 (the “District”), and **MULHERN MRE, INC.** a Colorado corporation, whose address is 188 Inverness Drive West, Suite 150, Englewood, Colorado 80112 (the “Contractor”).

**DISTRICT’S REPRESENTATIVE.** District hereby designates Anna Jones as its representative (“District’s Representative”), who shall be District’s single point of contact during the term of the Agreement and who shall be reasonably available to Contractor. District’s Representative shall provide information and any approvals required to be furnished by District hereunder to permit Contractor to fulfill its obligations under this Agreement.

### CONTRACTOR INFORMATION:

Soc. Sec. or Tax I.D. #:	84-1159076
Telephone Number:	(303) 649-9857
E-mail:	<a href="mailto:scott@mulhernmre.com">scott@mulhernmre.com</a>
Contact Person:	Scott Barnett

### IT IS HEREBY AGREED AS FOLLOWS:

**WORK TO BE PERFORMED.** In accordance with the Terms and Conditions attached hereto, Contractor agrees to furnish all labor, tools, equipment, supervision, supplies, and other items necessary to perform the work (the “Work”) of engineering consultant services at the rates described on Exhibit A, attached hereto and incorporated herein by reference.

#### DISTRICT:

**ROXBOROUGH VILLAGE  
METROPOLITAN DISTRICT**,  
a quasi- municipal corporation and  
political subdivision of the State of Colorado

#### CONTRACTOR:

**MULHERN MRE, INC.**  
a Colorado corporation

---

By: Calvin Brown, President

---

By: Randall S. Warren, President

## TERMS AND CONDITIONS

**1. PAYMENT.** Payment by District will be made within sixty (60) days after receipt by District of Contractor's invoice. Disputed invoices shall be resolved in accordance with the provisions of paragraph 8 hereof.

**2. LAWS AND REGULATIONS.** Contractor, its agents and employees shall at all times comply with all applicable laws, ordinances, statutes, rules, and regulations, federal and state, county and municipal, particularly those relating to wages, hours, fair employment practices, nondiscrimination, and working conditions. Contractor shall procure and pay for all permits, licenses, and inspections required by any governmental authority for any part of the Work under this Agreement, and shall furnish any bonds, security, or deposits required by such authority to permit performance of the Work.

**3. ILLEGAL ALIENS.** The Contractor certifies that it shall comply with the provisions of C.R.S. § 8-17.5-101, et seq., or as it may be amended from time to time during the term of this Agreement.

a. The Contractor shall not knowingly employ or contract with an illegal alien who will perform the Work under this Agreement, or knowingly contract with a subcontractor that fails to certify to Contractor that such subcontractor does not knowingly employ or contract with an illegal alien to perform the Work.

b. The Contractor hereby certifies that it will participate in the E-Verify Program, or the Department Program established pursuant to the requirements of C.R.S. § 8-17.5-102 (5)(c), which may be collectively referred to as the "Employment Verification Programs", in order to confirm the employment eligibility of all of its employees who are newly hired for employment to perform the Work ("Newly Hired Employees").

c. The Contractor represents, warrants, and agrees that Contractor has verified the employment eligibility of its Newly Hired Employees through participation in either of the Employment Verification Programs.

d. The Contractor is prohibited from using Employment Verification Programs' procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

e. If Contractor obtains actual knowledge that a subcontractor performing the Work 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 notice required pursuant to C.R.S. 8-17.5-102(2)(b)(III)(A) that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien. The 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.

iii. comply with any reasonable request made by the Colorado Department of Labor and Employment made in the course of an investigation pursuant to C.R.S § 8-17.5-102(5).

f. If Contractor participates in the Department Program, it shall (i) notify the District of its participation, and (ii) within twenty (20) days after hiring the Newly Hired Employee, provide a written, notarized copy of an affirmation to the District pursuant to the requirements of C.R.S § 8-17.5-102(5)(c)(II) stating that Contractor has examined the legal status of the Newly Hired Employee.

g. The Contractor hereby consents to audits conducted by the Colorado Department of Labor and Employment to review documents required pursuant to C.R.S § 8-17.5-102(5).

h. In addition to any other legal or equitable remedy the District may be entitled to for a breach of this Agreement, if the District terminates this Agreement, in whole or in part, due to Contractor's breach of any requirements of C.R.S 8-17.5-101, et seq., Contractor shall be liable for actual and consequential damages to the District.

i. The District will notify the office of the secretary of state if Contractor violates a provision of the Agreement required pursuant to C.R.S. 8-17.5-102(2), and the District terminates the Agreement for such breach. The District will notify the office of secretary of state if a court made such a determination.

#### 4. INSURANCE.

a. Contractor shall acquire and maintain in full force and effect, during the entire term of this Agreement, including any extensions hereof, statutory workers' compensation insurance coverage, including employer's liability; commercial general liability insurance coverage; and automobile liability insurance coverage in the minimum amounts set forth below. All insurance is to be placed with insurance carriers licensed in the State of Colorado with an A.M. Best and Company rating of no less than A- and/or Standard and Poor's Insurance Solvency Review rating of no less than A- or as otherwise accepted by District's Representative. Each such policy shall include a provision that insurer shall provide District thirty (30) days written notice prior to the cancellation or material modification of any policy of insurance obtained to comply with this paragraph.

b. Required Coverage Amounts.

i. Workers' Compensation Insurance in accordance with applicable law.  
 ii. Commercial general liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each occurrence; \$2,000,000.00 general aggregate.

iii. Commercial automobile liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each accident covering any auto.

c. The policies required hereinabove shall be endorsed to include the District, District's Representative, District's consultants, agents and officers as additional insureds. Every policy required above shall be primary insurance, and insurance carried by the District, if any, shall be in excess and not contributory insurance to that provided by Contractor. The Contractor shall be solely responsible for any deductible losses under any policy required above.

d. During any and all periods in which Contractor shall be performing under the terms of the Agreement, Contractor shall comply in full with the Occupational Safety and Health Act of 1970 and any amendments thereof, hereafter referred to as the Act. Contractor agrees that it will comply with all requests of District which are in furtherance of the Act. Contractor agrees to save and hold harmless District from any responsibility or penalty as a result of Contractor's noncompliance with the Act.

e. The procuring of required policies of insurance shall not be construed to limit Contractor's liability hereunder or to fulfill the indemnification provisions and requirements included in the Contract Documents. Contractor shall be solely responsible for any deductible losses under all policies.

**f. Prior to commencing any Work hereunder, Contractor shall provide District with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to District.**

g. Failure on the part of Contractor to procure and maintain policies providing required coverages, conditions, and minimum limits shall constitute a material breach of the terms of the Contract Documents upon which the District may immediately terminate the Agreement. In the alternative, District may, at District's Representative's sole discretion, elect to procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the District shall be repaid by Contractor to the District upon demand, or the District may offset the cost of the premiums against any monies due to Contractor from the District.

5. **INDEMNIFICATION.** To the fullest extent permitted by law, Contractor shall indemnify and hold harmless District, District's Representative, District's consultants, agents and officers, from and against all claims, damages, losses, and expenses, including attorney fees, arising out of or resulting from performance of the Work under this Agreement, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or

destruction of tangible property, including loss of use resulting therefrom, but only to the extent caused in whole or in part by the negligent acts of Contractor, Contractor's sub-Contractors, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party described in this paragraph. In claims against any person or entity indemnified under this paragraph by an employee of Contractor, Contractor's sub-Contractors, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this paragraph shall not be limited by limitation on amount or type of damages, compensation, or benefits payable by or for Contractor or Contractor's sub-Contractors under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. Notwithstanding any provision to the contrary in any applicable law, District's claim for indemnification by Contractor shall not accrue, and any applicable statute of limitations shall not begin to run, until District's payment of a final judgment, arbitration award, or settlement arising out of any claim that is subject to Contractor's obligation to tender such indemnification.

## **6. SAFETY.**

a. Contractor, its agents and employees shall follow all applicable safety and health laws and requirements pertaining to the Work and the conduct thereof, including all applicable laws, ordinances, rules, regulations, and orders issued by a public authority, whether federal, state or local, including the Federal Occupational Safety and Health Administration, and any safety measures required by District.

b. Safety of Contractor's employees, whether or not in common work areas, is the responsibility of Contractor.

c. Contractor agrees to instruct all of its employees to inform District immediately of any unsafe condition or practice, whether or not in common work areas.

## **7. CHANGE ORDER PROCEDURES.**

a. Contractor shall perform the duties and have the authority specified in Exhibit A. Contractor shall have no right or authority, express or implied, to take any action, expend any sum, incur an obligation, or otherwise obligate District in any manner whatsoever, except to the extent specifically provided in this Agreement or specifically authorized or ratified by the Board of Directors of District.

b. District's Representative may order changes in the Work, and Contractor will perform such changes in the Work. All Change Orders shall be made in writing and signed by the District's Representative and the Contractor. Any change or adjustment to Contractor Price as a result of changes in the Work shall be as specifically stated in the Change Order. If Contractor encounters conditions it considers different from those described in **Exhibit A**, it is required to issue written notice to District before proceeding. Contractor's failure to issue notice shall constitute waiver of any claims for additional compensation. If Contractor and District cannot agree upon a price for the changes in the Work, District may direct Contractor to execute the changes, and Contractor will be paid based on the actual cost to Contractor, plus a reasonable markup, not to exceed twelve percent (12%), for profit and overhead expenses. Change Orders that result in a reduction in the scope or cost of the Work shall reduce the Contract Price to the District. If the Contractor and District cannot agree upon a price for changes in the Work, the District may direct the Contractor to provide a detailed breakdown of the savings to the Contractor. Under these circumstances, the District is entitled to a five (5%) percent further cost reduction for profit on work not performed. The District will forego the five (5%) percent profit withholding if the Change Order suggestion originated with the Contractor and is viewed by the District as a cost-effective savings to the District.

c. No Change Order or other form of order or directive shall be issued by the District that requires additional compensable Work to be performed, which Work causes the aggregate amount payable under this Agreement to exceed the amount appropriated by the District under the original Agreement, unless the Contractor is given written assurance by the District that lawful appropriations to cover the costs of the additional Work have been made or unless such Work is covered under a remedy-granting provision in the Agreement. Contractor shall be responsible for all expenses it incurs

in performance of this Agreement and shall not be entitled to any reimbursement or compensation except unless such expenses are approved as provided herein.

d. Any form of order or directive issued by the District which requires additional compensable Work to be performed shall contain a clause requiring the District to reimburse the Contractor for the actual costs incurred by the Contractor to perform such Work on no less than a bi-monthly basis until a Change Order is finalized; provided, however, that no compensation shall be required until the savings breakdown, if any, required pursuant to the provisions of paragraph 7(a) of these Terms and Conditions has been delivered to the District's Representative or Representative's Designee.

## **8. DISPUTES.**

a. Contractor shall carry on the Work during all disputes or disagreements with District. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as District and Contractor may otherwise agree in writing.

b. All disputes that arise relating to this Agreement that cannot be resolved directly by the parties themselves shall be resolved by binding arbitration. Either party may, upon written notice by such party to the other party ("Notice of Arbitration"), submit the dispute for resolution by binding arbitration in accordance with the Colorado Uniform Arbitration Act, C.R.S. § 13-22-201 *et seq.* (the "CUAA"), the laws of the State of Colorado and the American Arbitration Association Commercial Arbitration Rules for fast track proceedings before the Judicial Arbitrator Group of Denver, Colorado ("JAG") or, if JAG no longer conducts arbitration proceedings in the Denver metropolitan area, before JAMS of Denver, Colorado ("JAMS"), or, if JAMS no longer conducts arbitration proceedings in the Denver metropolitan area, before the American Arbitration Association ("AAA"). The parties shall select a single arbitrator and, if they cannot agree upon the arbitrator within seven (7) days after the Notice of Arbitration is given, JAG, JAMS or AAA, as the case may be, shall select the arbitrator. Subject to any limitations contained in the CUAA, the arbitrator shall have all of the power and authority of a district court judge sitting in the State of Colorado to adjudicate the matter submitted. The parties shall cooperate to achieve an expedited hearing date. The decision of the arbitrator shall be rendered within forty-five (45) days after the Notice of Arbitration is given unless otherwise agreed to in writing by both parties, shall be final and may be filed with the District Court of Douglas County (the "Court") in accordance with the provisions of C.R.S. § 13-22-222. Prior to the appointment of an arbitrator, the Court, upon motion of either party, may enter an order for provisional remedies, including interim awards and temporary restraining orders, to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action. Such orders shall remain in effect until and unless the arbitrator is appointed who vacates or modifies the same. Following the appointment of an arbitrator, the arbitrator may issue such orders for provisional remedies, including interim awards and temporary restraining orders, as the arbitrator deems appropriate to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action in a court of competent jurisdiction.

**9. INDEPENDENT CONTRACTOR.** The relationship between District and Contractor is that of independent Contractor. If Contractor has the status of an employer as defined by applicable Colorado statutes and similar acts of the national government including all Social Security Acts, Contractor will withhold from its payrolls as required by law or government regulation, and shall have full and exclusive liability for the payment of any and all taxes and contributions for unemployment insurance, workers' compensation, and retirement benefits that may be required by federal or state governments.

## **10. TERM.**

a. The term of this Agreement is set forth in Exhibit A; provided, however, that in no event shall the term of this Agreement extend beyond the current fiscal year.

b. This Agreement may be terminated by District for any reason upon 10 days prior written notice of termination, except as set forth in subparagraph c.

c. This Agreement may be terminated by District with immediate effect and without prior notice or recourse to any judicial authority if Contractor:

i. Breaches the terms of this Agreement.  
 ii. Becomes insolvent, is subject to a petition in bankruptcy filed by or against Contractor, or is placed under control of receiver, liquidator, or committee of creditors.  
 iii. Assigns or attempts to assign this Agreement without District's prior written consent.

iv. Ceases to function as a going concern or abandons the Designated Territory.

d. If this Agreement is terminated, District will pay Contractor that portion of the Contract Price actually earned by Contractor through the date of termination, as determined by District's Representative in his reasonable discretion.

e. Upon any termination, Contractor shall transfer title and deliver to District all work product which shall be deemed from and after the effective date of this Agreement to be the property of District. "Work Product" shall consist of all written materials maintained by Contractor in connection with performance of this Agreement, including but not limited to all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form. Contractor shall maintain reproducible drawings of any project drawings which it obtains and shall make them available for District's use, and shall provide such copies to District upon request at commercial printing rates. Contractor shall be entitled to retain copies of all work product at its own expense.

**11. NO WAIVER OF GOVERNMENTAL IMMUNITY.** Notwithstanding any provisions contained herein to the contrary, District does not waive or intend to waive the limitations on liability that are provided to it under the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S. or any other applicable law.

**12. AUTHORITY.** Each party represents to the other that such party has full power and authority to execute, deliver, and perform this Agreement; that the individual executing this Agreement on behalf of said party is fully empowered and authorized to do so; and that this Agreement constitutes a valid and legally binding obligation of said party enforceable against said party in accordance with its terms.

**13. ASSIGNMENT.** Except as set forth herein, neither this Agreement, nor any of the parties' rights, obligations, duties or authority hereunder may be assigned in whole or in part by either party without the prior written consent of the other party which consent shall not be reasonably withheld. Any improper attempt of assignment shall be deemed void and of no force or effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment nor the waiver of any right to consent to such subsequent assignment.

**14. MODIFICATION.** This Agreement may be modified, amended or changed, except as otherwise provided herein, in whole or in part, only by an agreement in writing duly authorized and executed by both parties. Section 7 herein shall govern Change Order procedures hereunder.

**15. INTEGRATION.** This Agreement contains the entire agreement between the parties, and no statement, promise or inducement made by either party or the agent of either party that is not contained in this Agreement shall be valid or binding.

**16. SEVERABILITY.** Invalidation of any of the provisions of this Agreement or of any paragraph, sentence, clause, phrase, or word herein, or the application thereof in any given circumstance, shall not affect the validity of any other provision of this Agreement.

**17. CONFLICTS.** In case of conflicts between the provisions of Exhibit A and this Agreement (including the Terms and Conditions made a part hereof), the provisions of this Agreement shall control.

**18. NOTICES.** All notices must be in writing and (a) delivered personally, (b) sent by United States certified mail, postage prepaid, return receipt requested ("US Mail"), (c) placed in the custody

of a nationally recognized overnight carrier for next day delivery (“Carrier”), and will be deemed effective (i) when received, if delivered personally, (ii) 4 days after deposit, if sent by US Mail, and (iii) the next business day after deposited with Carrier during business hours on a business day. All notices shall be delivered to the addresses for the parties first set forth above, or such other address as is provided by one party to the other in accordance with this paragraph.

**END OF TERMS AND CONDITIONS**

**EXHIBIT A**

**2022 Mulhern MRE, Inc. Billing Rates**



<b>District Services Billing Rates</b>			
<b>Mulhern MRE, Inc. - 2022</b>			
Patrick Mulhern		\$156	
Luis Tovar		\$146	
Scott Barnett		\$136	
Joshua Nougaret		\$126	
Juancarlo Quesada		\$126	
Ron Lambert		\$125	
Laurie Tatlock		\$122	
Whitney Miller		\$115	
Toby Austin		\$110	
Kelly Conover		\$92	
Ellen Buffy		\$86	

**PERIODIC ESTIMATE FOR PARTIAL PAYMENT  
SUMMARY AND APPROVALS**

84  
PAY APP# (

PROJECT: RVMD Spillway Repairs and Seating  
 CONTRACTOR: 53 Corporation, LLC  
 ADDRESS: 5655 Peterson Road  
Sedalia, CO 80135

CONTRACT NO.:  
 ACCOUNT NO.:  
 CHANGE ORDER NO.:  
 PROJECT NO.:

**PARTIAL ESTIMATE NO. 1 FOR PERIOD OCTOBER 11, 2021 THROUGH NOVEMBER 10, 2021**

**1. ANALYSIS OF ADJUSTED CONTRACT AMOUNT TO DATE:**

a. Original Contract Price (column 6)	\$ 39,240.00
b. Total of Change Order Additions or Deductions (column 18)	<u>                    </u>
c. Adjusted Contract Amount To Date	<u>39,240.00</u>

**2. ANALYSIS OF WORK PERFORMED TO DATE:**

a. Cost of Original Contract Work Completed To Date (column 10)	<u>39,240.00</u>
b. Extra Work Performed To Date, Minus Any Deductions	<u>0.00</u>
c. Total Cost of Work Performed To Date (column 22)	<u>39,240.00</u>
d. Retainage Per Contract Terms	<u>0.00</u>
e. Net Amount Earned On Contract Work To Date	<u>39,240.00</u>
f. Add: Materials Stored This Period (column 34)	<u>0.00</u>
g. Subtotal of e. and f.	<u>39,240.00</u>
h. Less Amount of Previous Payments	<u>0.00</u>
i. Less Additional Withholdings Per Contract Documents (Refer to Exhibit ___ Attached)	<u>0.00</u>
j. Less Liquidated Damages (Refer to Exhibit ___ Attached)	<u>0.00</u>
k. <b>BALANCE DUE</b> to Contractor for this Partial Payment or Final Payment	<u><u>\$ 39,240.00</u></u>

✓  
SD  
11/23/2021

**CERTIFICATION OF CONTRACTOR:**

According to the best of my knowledge and belief, I certify that all items and amounts shown on this Partial Payment or Final Payment are correct; that all work has been performed and/or material supplied in full accordance with the requirements of the referenced Contract, and/or duly authorized deviations, substitutions, alterations, and/or additions; that the foregoing is a true and correct statement of the Contract amount up to and including the last day of the period covered by this Partial Payment or Final Payment; that, for Partial Payments, no part of the BALANCE DUE (2, line "k") has been received, and that the undersigned and his subcontractors have no unpaid accounts for labor, material, equipment or subcontract services which have been due and payable for over 60 days except as follows: N/A. That, for Final Payment, no part of the BALANCE DUE amount has been received and that said BALANCE DUE amount is correct and final and that the undersigned has paid in full all amounts due to any of his subcontractors for labor, materials, equipment, or work.

Contractor, upon receipt of the BALANCE DUE set forth above from Owner, acknowledges payment in full of all sums due on account of labor, materials, supplies and other lienable items furnished by Contractor for the project on or prior to the date of this Partial Payment or Final Payment. Further, Contractor hereby waives and releases all claims Contractor may have under applicable law in lieu of the mechanic's lien laws or otherwise, on account of such labor, materials, supplies and other lienable items provided on or prior to the date of this Partial Payment or Final Payment.

By: Stacey Day Title: Corporate Secretary Date: 11/19/2021  
 53 Corporation, LLC

**PERIODIC ESTIMATE FOR PARTIAL PAYMENT  
SUMMARY AND APPROVALS**

**PARTIAL ESTIMATE NO. 1 FOR PERIOD OCTOBER 11, 2021 THROUGH NOVEMBER 10, 2021**

**APPROVALS:**

To the best of our knowledge and belief, the above payment request is a fair estimate of the work completed for the period claimed, and no unauthorized deviation from the drawings and specifications covering the work which the Owner's Representative is under agreement to inspect, is included in the work for which payment is claimed. Recommendation for this payment does not constitute final acceptance of any of the work for which payment is requested and is not a waiver of any right the Owner has under the Contractor's agreement, general conditions, special conditions or technical specifications.

**RECOMMENDED FOR PAYMENT:**

**RECOMMENDED FOR PAYMENT:**

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

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

**APPROVED FOR PAYMENT:**

By: Scott A. Danforth  
Roxborough Village Metropolitan District  
District (Owner)

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

Date: 11/23/2021

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

Initial(s): SD

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

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

# ORIGINAL CONTRACT WORK

RVMD Spillway Repairs and Seating

## PARTIAL ESTIMATE NO. 1 FOR PERIOD OCTOBER 11, 2021 THROUGH NOVEMBER 10, 2021

BID ITEM NO.	DESCRIPTION OF BID ITEM (2)	ORIGINAL CONTRACT WORK					THIS PAY PERIOD			COMPLETED TO DATE	
		QUANTITY (3)	PAY UNIT (4)	UNIT PRICE (5)	TOTAL COST OF BID ITEM (6)	QUANTITY (7)	COST (8)	QUANTITY (9)	TOTAL COST (10)	PERCENT COMPLETE (11)	
1	Siloam Steps	73.00	EA	\$280.00	\$20,440.00	73.00	\$20,440.00	73.00	\$20,440.00	100.00%	
2	Foundation Rock 4" Minus	125.00	TN	\$60.00	7,500.00	125.00	\$7,500.00	125.00	\$7,500.00	100.00%	
3	Foundation/Wing Wall Excavation	1.00	LS	\$2,900.00	2,900.00	1.00	\$2,900.00	1.00	\$2,900.00	100.00%	
4	Dewatering/Drain Pond	1.00	LS	\$2,000.00	2,000.00	1.00	\$2,000.00	1.00	\$2,000.00	100.00%	
5	Mobilization/Traffic Control for Deliveries	1.00	LS	\$6,400.00	6,400.00	1.00	\$6,400.00	1.00	\$6,400.00	100.00%	
		<b>TOTALS:</b>						<b>\$39,240.00</b>		<b>\$39,240.00</b>	<b>100.00%</b>





**RESOLUTION NO. 2021-12-\_\_**

**RESOLUTION OF THE BOARD OF DIRECTORS  
OF ROXBOROUGH VILLAGE METROPOLITAN DISTRICT  
DOUGLAS COUNTY, COLORADO**

**A RESOLUTION REGARDING THE MAY 3, 2022  
REGULAR SPECIAL DISTRICT ELECTION**

WHEREAS, the terms of office of Directors Prysby, Wagner and Cook shall expire after their successors are elected at the regular special District election for Roxborough Village Metropolitan District (the “District”) to be held on May3, 2022 (“Election”), and take office; and

WHEREAS, in accordance with the provisions of the Special District Act (“Act”) and the Colorado Local Government Election Code (“Code”), the Election must be conducted to elect three (3) Directors to serve for a term of three (3) years; and

WHEREAS, pursuant to Section 32-1-804 (2), C.R.S., the Board of the District is authorized to designate a Designated Election Official to exercise the authority of the Board in conducting the Election; and

WHEREAS, pursuant to Section 1-13.5-513, C.R.S., the Board can authorize the Designated Election Official by a resolution to cancel the election upon certain conditions.

NOW THEREFORE, be it resolved by the Board of Directors for the Roxborough Village Metropolitan District in the County of Douglas, State of Colorado that:

1. The regular Election of the eligible electors of the District shall be held on May 3, 2022, between the hours of 7:00 a.m. and 7:00 p.m. pursuant to and in accordance with the Act, Code, and other applicable laws. At that time, three (3) Directors will be elected to serve a three (3) year term.

2. The Board of Directors hereby designates Kathryn T. James as the Designated Election Official of the District, who is hereby authorized and directed to proceed with any action necessary or appropriate to effectuate the provisions of this Resolution and the Act, Code, or other applicable laws. The Election shall be conducted in accordance with the Act, Code, and other applicable laws. Among other matters, the Designated Election Official shall publish the call for nominations, appoint election judges as necessary, appoint the Canvass Board, arrange for the required notices of election and printing of ballots, and direct that all other appropriate actions be accomplished.

3. The Election shall be conducted as a mail ballot election in accordance with all relevant provisions of the Code. The Designated Election Official shall develop a Plan for conducting the mail ballot Election, which will be made available to the public. There shall be no election precinct or polling place. All mail ballots shall be returned to the Designated Election

Official’s office, 18 S. Wilcox Street, Suite 200, Castle Rock, Colorado 80104 -1909.

4. Self-Nomination and Acceptance forms are available at the Designated Election Official’s office located at the above address. All candidates must file a Self-Nomination and Acceptance form with the Designated Election Official no earlier than January 1, 2022 and no later than the close of business, 5:00 p.m., on Friday, February 25, 2022.

5. If the only matter before the electors is the election of Directors of the District and if, at the close of business on March 1, 2022, there are not more candidates than offices to be filled at the Election, including candidates timely filing affidavits of intent no later than February 28, 2022, the Designated Election Official shall cancel the Election and declare the candidates elected. Notice of such cancellation shall be published and posted in accordance with the Code. The Notice and this resolution, signed by the appropriate officers, will be filed with the Division of Local Government.

6. If any part or provision of this Resolution is adjudged to be unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, it being the Board’s intention that the various provisions hereof are severable.

7. Any and all actions previously taken by the Designated Election Official or the Secretary of the Board of Directors or any other persons acting on their behalf pursuant to the Act, the Code or other applicable laws, are hereby ratified and confirmed.

8. All acts, orders, and resolutions, or parts thereof, of the Board which are inconsistent or in conflict with this Resolution are hereby repealed to the extent only of such inconsistency or conflict.

9. The provisions of this Resolution shall take effect immediately.

APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against.

ROXBOROUGH VILLAGE METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado

By: \_\_\_\_\_  
Calvin Brown, President

ATTEST:

By: \_\_\_\_\_  
Ed Wagner, Secretary

**RESOLUTION 2021-12-\_\_\_\_**  
**OF THE BOARD OF DIRECTORS OF**  
**ROXBOROUGH VILLAGE METROPOLITAN DISTRICT**  
**DOUGLAS COUNTY, COLORADO**

**A RESOLUTION APPROVING SERVICES AGREEMENT**  
**WITH BAILEY TREE, LLC FOR TREE MAINTENANCE SERVICES**

The Roxborough Village Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), has received a proposal from Bailey Tree, LLC, a Colorado limited liability company (the “Contractor”), to provide tree maintenance services, as more specifically described in the Services Agreement attached hereto as Schedule A (the “Agreement”); and

The Contractor will provide such services in accordance with the terms of the Agreement; and

The Board of Directors of the District has determined that it is in the best interest of District residents and property owners to enter into the Agreement.

NOW, THEREFORE, be it resolved by the Board of Directors of Roxborough Village Metropolitan District, Douglas County, Colorado, that:

Section 1. The Agreement, in the form attached hereto as Schedule A, is approved. The officers of the District are authorized to execute the Agreement, and the officers of and consultants to the District are authorized to take any actions that are necessary or appropriate for the District’s performance of the terms of the Agreement.

APPROVED AND ADOPTED this \_\_\_\_ day of December, 2021, by a vote of \_\_\_\_ for and \_\_\_\_ against.

ROXBOROUGH VILLAGE METROPOLITAN  
DISTRICT, a quasi-municipal corporation and  
political subdivision of the State of Colorado

By: \_\_\_\_\_  
Calvin Brown, President

ATTEST:

By: \_\_\_\_\_  
Edward Wagner, Secretary

**SCHEDULE A**

2022 Services Agreement with Bailey Tree, LLC

## SERVICES AGREEMENT

**THIS SERVICES AGREEMENT** (this “Agreement”), is made and entered into this 1<sup>st</sup> day of January, 2022, by and between **ROXBOROUGH VILLAGE METROPOLITAN DISTRICT**, a quasi- municipal corporation and political subdivision of the State of Colorado, whose address is c/o CliftonLarsonAllen LLP, 8390 East Crescent Parkway, Suite 500, Greenwood Village, Colorado 80111-4814 (the “District”), and **BAILEY TREE, LLC**, a Colorado limited liability company, whose address is 13165 West Yale Place, Lakewood, Colorado 80228 (the “Contractor”).

**DISTRICT’S REPRESENTATIVE.** District hereby designates Anna Jones as its representative (“District’s Representative”), who shall be District’s single point of contact during the term of the Agreement and who shall be reasonable available to Contractor, District’s Representative shall provide information and any approvals required to be furnished by District hereunder to permit Contractor to fulfill its obligations under this Agreement.

### CONTRACTOR INFORMATION:

Soc. Sec. or Tax I.D. #:	_____
Telephone Number:	(720) 940-6519
E-mail:	baileytreetrimming@gmail.com
Contact Person:	George Biedenstein

### IT IS HEREBY AGREED AS FOLLOWS:

**WORK TO BE PERFORMED.** In accordance with the Terms and Conditions attached hereto, Contractor agrees to furnish all labor, tools, equipment, supervision, supplies, and other items necessary to perform the work (the “Work”) described in proposal dated \_\_\_\_\_, to include \_\_\_\_\_, more specifically described on Exhibit A, attached hereto and incorporated herein by reference.

**ADDITIONAL WORK.** The Terms and Conditions of this Agreement shall apply to any services or work performed by the Contractor pursuant to a Work Order approved by the District during the current fiscal year.

**CONTRACT PRICE.** Subject to the provisions of the Terms and Conditions, District agrees to pay, and Contractor agrees to accept as full compensation for performing the Work a sum not to exceed \_\_\_\_\_ (the “Contract Price”).

#### DISTRICT:

**ROXBOROUGH VILLAGE  
METROPOLITAN DISTRICT**,  
a quasi- municipal corporation and  
political subdivision of the State of Colorado

#### CONTRACTOR:

**BAILEY TREE, LLC**  
a Colorado limited liability company

\_\_\_\_\_  
By: Calvin Brown, President

\_\_\_\_\_  
By: George Biedenstein, PHC Manager

## TERMS AND CONDITIONS

**1. PAYMENT.** Payment by District will be made within sixty (60) days after receipt by District of Contractor's invoice. Disputed invoices shall be resolved in accordance with the provisions of paragraph 8 hereof.

**2. LAWS AND REGULATIONS.** Contractor, its agents and employees shall at all times comply with all applicable laws, ordinances, statutes, rules, and regulations, federal and state, county and municipal, particularly those relating to wages, hours, fair employment practices, nondiscrimination, and working conditions. Contractor shall procure and pay for all permits, licenses, and inspections required by any governmental authority for any part of the Work under this Agreement, and shall furnish any bonds, security, or deposits required by such authority to permit performance of the Work.

**3. ILLEGAL ALIENS.** The Contractor certifies that it shall comply with the provisions of C.R.S. § 8-17.5-101, et seq., or as it may be amended from time to time during the term of this Agreement.

a. The Contractor shall not knowingly employ or contract with an illegal alien who will perform the Work under this Agreement, or knowingly contract with a subcontractor that fails to certify to Contractor that such subcontractor does not knowingly employ or contract with an illegal alien to perform the Work.

b. The Contractor hereby certifies that it will participate in the E-Verify Program, or the Department Program established pursuant to the requirements of C.R.S. § 8-17.5-102 (5)(c), which may be collectively referred to as the "Employment Verification Programs", in order to confirm the employment eligibility of all of its employees who are newly hired for employment to perform the Work ("Newly Hired Employees").

c. The Contractor represents, warrants, and agrees that Contractor has verified the employment eligibility of its Newly Hired Employees through participation in either of the Employment Verification Programs.

d. The Contractor is prohibited from using Employment Verification Programs' procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

e. If Contractor obtains actual knowledge that a subcontractor performing the Work 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 notice required pursuant to C.R.S. 8-17.5-102(2)(b)(III)(A) that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien, the subcontractor does not stop employing or contracting with the illegal alien. The 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.

iii. comply with any reasonable request made by the Colorado Department of Labor and Employment made in the course of an investigation pursuant to C.R.S § 8-17.5-102(5).

f. If Contractor participates in the Department Program, it shall (i) notify the District of its participation, and (ii) within twenty (20) days after hiring the Newly Hired Employee, provide a written, notarized copy of an affirmation to the District pursuant to the requirements of C.R.S § 8-17.5-102(5)(c)(II) stating that Contractor has examined the legal status of the Newly Hired Employee.

g. The Contractor hereby consents to audits conducted by the Colorado Department of Labor and Employment to review documents required pursuant to C.R.S § 8-17.5-102(5).

h. In addition to any other legal or equitable remedy the District may be entitled to for a breach of this Agreement, if the District terminates this Agreement, in whole or in part, due to Contractor's breach of any requirements of C.R.S 8-17.5-101, et seq., Contractor shall be liable for actual and consequential damages to the District.

i. The District will notify the office of the secretary of state if Contractor violates a provision of the Agreement required pursuant to C.R.S. 8-17.5-102(2), and the District terminates the Agreement for such breach. The District will notify the office of secretary of state if a court made such a determination.

#### 4. INSURANCE.

a. Contractor shall acquire and maintain in full force and effect, during the entire term of this Agreement, including any extensions hereof, statutory workers' compensation insurance coverage, including employer's liability; commercial general liability insurance coverage; and automobile liability insurance coverage in the minimum amounts set forth below. All insurance is to be placed with insurance carriers licensed in the State of Colorado with an A.M. Best and Company rating of no less than A- and/or Standard and Poor's Insurance Solvency Review rating of no less than A- or as otherwise accepted by District's Representative. Each such policy shall include a provision that insurer shall provide District thirty (30) days written notice prior to the cancellation or material modification of any policy of insurance obtained to comply with this paragraph.

b. Required Coverage Amounts.

i. Workers' Compensation Insurance in accordance with applicable law.  
 ii. Commercial general liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each occurrence; \$2,000,000.00 general aggregate.

iii. Commercial automobile liability insurance in the amount of \$1,000,000.00 combined single limit bodily injury and property damage, each accident covering any auto.

c. The policies required hereinabove shall be endorsed to include the District, District's Representative, District's consultants, agents and officers as additional insureds. Every policy required above shall be primary insurance, and insurance carried by the District, if any, shall be in excess and not contributory insurance to that provided by Contractor. The Contractor shall be solely responsible for any deductible losses under any policy required above.

d. During any and all periods in which Contractor shall be performing under the terms of the Agreement, Contractor shall comply in full with the Occupational Safety and Health Act of 1970 and any amendments thereof, hereafter referred to as the Act. Contractor agrees that it will comply with all requests of District which are in furtherance of the Act. Contractor agrees to save and hold harmless District from any responsibility or penalty as a result of Contractor's noncompliance with the Act.

e. The procuring of required policies of insurance shall not be construed to limit Contractor's liability hereunder or to fulfill the indemnification provisions and requirements included in the Contract Documents. Contractor shall be solely responsible for any deductible losses under all policies.

**f. Prior to commencing any Work hereunder, Contractor shall provide District with certificates evidencing that (i) all insurance obligations required by the Contract Documents are in full force and in effect and will remain in effect for the duration required by the Contract Documents and (ii) no insurance coverage will be canceled, renewal refused, or materially changed unless at least thirty (30) days prior written notice is given to District.**

g. Failure on the part of Contractor to procure and maintain policies providing required coverages, conditions, and minimum limits shall constitute a material breach of the terms of the Contract Documents upon which the District may immediately terminate the Agreement. In the alternative, District may, at District's Representative's sole discretion, elect to procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the District shall be repaid by Contractor to the District upon demand, or the District may offset the cost of the premiums against any monies due to Contractor from the District.

5. **INDEMNIFICATION.** To the fullest extent permitted by law, Contractor shall indemnify and hold harmless District, District's Representative, District's consultants, agents and officers, from and against all claims, damages, losses, and expenses, including attorney fees, arising out of or resulting from performance of the Work under this Agreement, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or

destruction of tangible property, including loss of use resulting therefrom, but only to the extent caused in whole or in part by the negligent acts of Contractor, Contractor's sub-Contractors, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce other rights or obligations of indemnity which would otherwise exist as to a party described in this paragraph. In claims against any person or entity indemnified under this paragraph by an employee of Contractor, Contractor's sub-Contractors, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this paragraph shall not be limited by limitation on amount or type of damages, compensation, or benefits payable by or for Contractor or Contractor's sub-Contractors under workers' or workmen's compensation acts, disability benefit acts, or other employee benefit acts. Notwithstanding any provision to the contrary in any applicable law, District's claim for indemnification by Contractor shall not accrue, and any applicable statute of limitations shall not begin to run, until District's payment of a final judgment, arbitration award, or settlement arising out of any claim that is subject to Contractor's obligation to tender such indemnification.

## **6. SAFETY.**

a. Contractor, its agents and employees shall follow all applicable safety and health laws and requirements pertaining to the Work and the conduct thereof, including all applicable laws, ordinances, rules, regulations, and orders issued by a public authority, whether federal, state or local, including the Federal Occupational Safety and Health Administration, and any safety measures required by District.

b. Safety of Contractor's employees, whether or not in common work areas, is the responsibility of Contractor.

c. Contractor agrees to instruct all of its employees to inform District immediately of any unsafe condition or practice, whether or not in common work areas.

## **7. CHANGE ORDER PROCEDURES.**

a. Contractor shall perform the duties and have the authority specified in Exhibit A. Contractor shall have no right or authority, express or implied, to take any action, expend any sum, incur an obligation, or otherwise obligate District in any manner whatsoever, except to the extent specifically provided in this Agreement or specifically authorized or ratified by the Board of Directors of District.

b. District's Representative may order changes in the Work, and Contractor will perform such changes in the Work. All Change Orders shall be made in writing and signed by the District's Representative and the Contractor. Any change or adjustment to Contractor Price as a result of changes in the Work shall be as specifically stated in the Change Order. If Contractor encounters conditions it considers different from those described in **Exhibit A**, it is required to issue written notice to District before proceeding. Contractor's failure to issue notice shall constitute waiver of any claims for additional compensation. If Contractor and District cannot agree upon a price for the changes in the Work, District may direct Contractor to execute the changes, and Contractor will be paid based on the actual cost to Contractor, plus a reasonable markup, not to exceed twelve percent (12%), for profit and overhead expenses. Change Orders that result in a reduction in the scope or cost of the Work shall reduce the Contract Price to the District. If the Contractor and District cannot agree upon a price for changes in the Work, the District may direct the Contractor to provide a detailed breakdown of the savings to the Contractor. Under these circumstances, the District is entitled to a five (5%) percent further cost reduction for profit on work not performed. The District will forego the five (5%) percent profit withholding if the Change Order suggestion originated with the Contractor and is viewed by the District as a cost-effective savings to the District.

c. No Change Order or other form of order or directive shall be issued by the District that requires additional compensable Work to be performed, which Work causes the aggregate amount payable under this Agreement to exceed the amount appropriated by the District under the original Agreement, unless the Contractor is given written assurance by the District that lawful appropriations to cover the costs of the additional Work have been made or unless such Work is covered under a remedy-granting provision in the Agreement. Contractor shall be responsible for all expenses it incurs

in performance of this Agreement and shall not be entitled to any reimbursement or compensation except unless such expenses are approved as provided herein.

d. Any form of order or directive issued by the District which requires additional compensable Work to be performed shall contain a clause requiring the District to reimburse the Contractor for the actual costs incurred by the Contractor to perform such Work on no less than a bi-monthly basis until a Change Order is finalized; provided, however, that no compensation shall be required until the savings breakdown, if any, required pursuant to the provisions of paragraph 7(a) of these Terms and Conditions has been delivered to the District's Representative or Representative's Designee.

## **8. DISPUTES.**

a. Contractor shall carry on the Work during all disputes or disagreements with District. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as District and Contractor may otherwise agree in writing.

b. All disputes that arise relating to this Agreement that cannot be resolved directly by the parties themselves shall be resolved by binding arbitration. Either party may, upon written notice by such party to the other party ("Notice of Arbitration"), submit the dispute for resolution by binding arbitration in accordance with the Colorado Uniform Arbitration Act, C.R.S. § 13-22-201 *et seq.* (the "CUAA"), the laws of the State of Colorado and the American Arbitration Association Commercial Arbitration Rules for fast track proceedings before the Judicial Arbitrator Group of Denver, Colorado ("JAG") or, if JAG no longer conducts arbitration proceedings in the Denver metropolitan area, before JAMS of Denver, Colorado ("JAMS"), or, if JAMS no longer conducts arbitration proceedings in the Denver metropolitan area, before the American Arbitration Association ("AAA"). The parties shall select a single arbitrator and, if they cannot agree upon the arbitrator within seven (7) days after the Notice of Arbitration is given, JAG, JAMS or AAA, as the case may be, shall select the arbitrator. Subject to any limitations contained in the CUAA, the arbitrator shall have all of the power and authority of a district court judge sitting in the State of Colorado to adjudicate the matter submitted. The parties shall cooperate to achieve an expedited hearing date. The decision of the arbitrator shall be rendered within forty-five (45) days after the Notice of Arbitration is given unless otherwise agreed to in writing by both parties, shall be final and may be filed with the District Court of Douglas County (the "Court") in accordance with the provisions of C.R.S. § 13-22-222. Prior to the appointment of an arbitrator, the Court, upon motion of either party, may enter an order for provisional remedies, including interim awards and temporary restraining orders, to protect the effectiveness of the arbitration proceeding to the same extent and under the same conditions as if the controversy were the subject of a civil action. Such orders shall remain in effect until and unless the arbitrator is appointed who vacates or modifies the same. Following the appointment of an arbitrator, the arbitrator may issue such orders for provisional remedies, including interim awards and temporary restraining orders, as the arbitrator deems appropriate to protect the effectiveness of the arbitration proceeding and to promote the fair and expeditious resolution of the controversy, to the same extent and under the same conditions as if the controversy were the subject of a civil action in a court of competent jurisdiction.

**9. INDEPENDENT CONTRACTOR.** The relationship between District and Contractor is that of independent Contractor. If Contractor has the status of an employer as defined by applicable Colorado statutes and similar acts of the national government including all Social Security Acts, Contractor will withhold from its payrolls as required by law or government regulation, and shall have full and exclusive liability for the payment of any and all taxes and contributions for unemployment insurance, workers' compensation, and retirement benefits that may be required by federal or state governments.

## **10. TERM.**

a. The term of this Agreement is set forth in Exhibit A; provided, however, that in no event shall the term of this Agreement extend beyond the current fiscal year.

b. This Agreement may be terminated by District for any reason upon 10 days prior written notice of termination, except as set forth in subparagraph c.

c. This Agreement may be terminated by District with immediate effect and without prior notice or recourse to any judicial authority if Contractor:

i. Breaches the terms of this Agreement.  
 ii. Becomes insolvent, is subject to a petition in bankruptcy filed by or against Contractor, or is placed under control of receiver, liquidator, or committee of creditors.  
 iii. Assigns or attempts to assign this Agreement without District's prior written consent.

iv. Ceases to function as a going concern or abandons the Designated Territory.

d. If this Agreement is terminated, District will pay Contractor that portion of the Contract Price actually earned by Contractor through the date of termination, as determined by District's Representative in his reasonable discretion.

e. Upon any termination, Contractor shall transfer title and deliver to District all work product which shall be deemed from and after the effective date of this Agreement to be the property of District. "Work Product" shall consist of all written materials maintained by Contractor in connection with performance of this Agreement, including but not limited to all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form. Contractor shall maintain reproducible drawings of any project drawings which it obtains and shall make them available for District's use, and shall provide such copies to District upon request at commercial printing rates. Contractor shall be entitled to retain copies of all work product at its own expense.

**11. NO WAIVER OF GOVERNMENTAL IMMUNITY.** Notwithstanding any provisions contained herein to the contrary, District does not waive or intend to waive the limitations on liability that are provided to it under the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S. or any other applicable law.

**12. AUTHORITY.** Each party represents to the other that such party has full power and authority to execute, deliver, and perform this Agreement; that the individual executing this Agreement on behalf of said party is fully empowered and authorized to do so; and that this Agreement constitutes a valid and legally binding obligation of said party enforceable against said party in accordance with its terms.

**13. ASSIGNMENT.** Except as set forth herein, neither this Agreement, nor any of the parties' rights, obligations, duties or authority hereunder may be assigned in whole or in part by either party without the prior written consent of the other party which consent shall not be reasonably withheld. Any improper attempt of assignment shall be deemed void and of no force or effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment nor the waiver of any right to consent to such subsequent assignment.

**14. MODIFICATION.** This Agreement may be modified, amended or changed, except as otherwise provided herein, in whole or in part, only by an agreement in writing duly authorized and executed by both parties. Section 7 herein shall govern Change Order procedures hereunder.

**15. INTEGRATION.** This Agreement contains the entire agreement between the parties, and no statement, promise or inducement made by either party or the agent of either party that is not contained in this Agreement shall be valid or binding.

**16. SEVERABILITY.** Invalidation of any of the provisions of this Agreement or of any paragraph, sentence, clause, phrase, or word herein, or the application thereof in any given circumstance, shall not affect the validity of any other provision of this Agreement.

**17. CONFLICTS.** In case of conflicts between the provisions of Exhibit A and this Agreement (including the Terms and Conditions made a part hereof), the provisions of this Agreement shall control.

**18. NOTICES.** All notices must be in writing and (a) delivered personally, (b) sent by United States certified mail, postage prepaid, return receipt requested ("US Mail"), (c) placed in the custody

of a nationally recognized overnight carrier for next day delivery (“Carrier”), and will be deemed effective (i) when received, if delivered personally, (ii) 4 days after deposit, if sent by US Mail, and (iii) the next business day after deposited with Carrier during business hours on a business day. All notices shall be delivered to the addresses for the parties first set forth above, or such other address as is provided by one party to the other in accordance with this paragraph.

**END OF TERMS AND CONDITION**

**EXHIBIT A**

Bailey Tree Proposal for 2022



# Bailey Tree LLC

13165 W. Yale PL.  
Lakewood, Co 80228  
720-940-6519  
baileytreetrimming@gmail.com

## PROPOSAL

Generated uniquely for

Please Email us to  
accept and schedule  
work

- Licensed with the Colorado Department of Agriculture for Pesticide Application
- Tree Services Licensed with all Cities in the Denver Metro Area
- Fully Insured with \$4m Liability & Workers Compensation Insurance

### Roxborough Metropolitan District co Clifton Larson Allen

Tuesday, November 23, 2021

Estimator: **George Biedenstein**  
3035878069

Roxborough Metropolitan District c/o Clifton Larson Allen  
8390 E Crescent Parkway Suite 300  
Greenwood Village, CO 80111

Worksite: Roxborough Village

Address: 10127 Waterton Rd  
Littleton, CO 80125

Contact:

### Requested Services

Task #	Tree/Shrub(Location)	Service Description	Quantity	Cost
1	Ash	<p><b>Emerald Ash Borer/Ash Bark Beetle Premier Tree Injection Treatment (Arbormectin)</b></p> <p>I know you did not want Emerald Ash Borer treatment last year, and I don't expect you to approve it this year but I wanted to give it to you as an option. There is a lot of Ash Bark Beetle activity(damaging and eventually killing the Ash trees, 6 lost already) and this EAB treatment can control it.</p> <p>Arbormectin is applied as a trunk injection at the base of the tree. This service treats a variety of tree pests including <b>Emerald Ash Borer, Lilac Ash Borer, and Ash Bark Beetle.</b></p> <p>Arbormectin is delivered into the tree's vascular tissue via direct injection to assure rapid distribution and consistent results. This treatment can also be used as a substitution for a foliar spray or ground injection where exposure to bees, fish or fowl is a concern. This service should be performed once every 2 years.</p> <p><i>This is the most effective treatment available.</i></p> <p><b><i>*Applied Once Every 2 Years.</i></b></p> <p>*We strongly recommend continuing service until Emerald Ash Borer is no longer deemed a threat.</p> <p>*This Plant Health Care service is billed separately and at the time of application.</p>	178	\$21,360.00
<b>Requested Services Total:</b>				<b>\$21,360.00</b>



ISA Certified Arborists

Robert Bailey RM-0603A  
George Biedenstein RM-0756B

We accept Cash, Check, or Credit Card

Click here to PREPAY!



Click here to  
check us out!

Page 1 of 3





*ISA Certified Arborists*

Robert Bailey RM-0603A  
George Biedenstein RM-0756B

**We accept Cash, Check, or Credit Card**

***Click here to PREPAY!***



Page 2 of 3

*Click here to  
check us out!*



**TERMS & CONDITIONS:**

- 1--Our minimum service fee for trimming and/or removal work is \$262.50
- 2--Our minimum service fee for stump grinding is \$115.50
- 3--Our minimum service fee for Plant Health Care (PHC) services (injections and spraying) is \$105.00
- 4--Please make sure no cars are parked under or near the tree(s) on the day of service.
- 5--All moveable objects under and around the tree, and in the pathway between the tree and the service truck, should be moved out of the work zones prior to a service crews arrival.
- 6--Tree services performed in the vicinity of delicate flowers and shrubs may result in some damage to those flowers and shrubs. To avoid this possibility please request a fall or winter schedule date.
- 7--All animal excrement in the areas the service crews will be working must be removed prior to the crews arrival. Failure to do so may result in an incomplete clean up.
- 8--Bailey Tree LLC will not be held responsible for damage to underground utilities not included in a standard locate request during removal, planting, stump grinding, or any subsurface application or service. All repairs will be billed accordingly. Underground utilities include, but are not limited to; sprinkler lines, heads of equipment, electric dog fences, private landscape wiring such as irrigation wires, or any unspecified buried outdoor wiring.
- 9--Prices quoted for or during winter months may need a requote if service is requested or required during non-winter months.
- 10--Cancellations requested with less than 24 hrs. notice may be subject to a \$210 mobilization fee.
- 11--All invoices are due upon completion. Monthly finance charges at 18% per annum will accrue after 30 days.
- 12--The customer warrants that all trees upon which work is being performed either belong to the homeowner or that permission to work on them has been obtained by the owner. **IN THE EVENT OF ANY ERROR, BAILEY TREE LLC IS NOT TO BE HELD RESPONSIBLE.**
- 13--This estimate is for completing the job as described above. It is based on our evaluation and does not include additional services requested or required during or after this service is provided. Project timing is subject to change based on weather and other unforeseen circumstances.
- 14--Any changes to an accepted proposal must be emailed to us 24 hours prior to work being performed.
- 15--To accept a proposal is to acknowledge & accept these terms and conditions.



*ISA Certified Arborists*

Robert Bailey RM-0603A  
George Biedenstein RM-0756B

**We accept Cash, Check, or Credit Card**

**Click here to PREPAY!**



Page 3 of 3

*Click here to  
check us out!*





# Bailey Tree LLC

13165 W. Yale PL.  
Lakewood, Co 80228  
720-940-6519  
baileytreetrimming@gmail.com

## PROPOSAL <sup>104</sup>

Generated uniquely for

Please Email us to  
accept and schedule  
work

- Licensed with the Colorado Department of Agriculture for Pesticide Application
- Tree Services Licensed with all Cities in the Denver Metro Area
- Fully Insured with \$4m Liability & Workers Compensation Insurance

### Roxborough Metropolitan District co Clifton Larson Allen

Tuesday, November 23, 2021

Estimator: **George Biedenstein**  
3035878069

Roxborough Metropolitan District c/o Clifton Larson Allen  
8390 E Crescent Parkway Suite 300  
Greenwood Village, CO 80111

Worksite: Roxborough Village

Address: 10127 Waterton Rd  
Littleton, CO 80125

Contact:

### Requested Services

Task #	Tree/Shrub(Location)	Service Description	Quantity	Cost
1	Tree(s)	<b>Class 2 Deadwood Prune</b>  <b>Tree Service for Roxborough Metro District for 2022</b>  <b>Prune trees in district as needed to take care of dead and broken branches, Sidewalk and Road clearance, and unsightly branches</b>  Remove all dead, dying, diseased, cracked, or broken branches <b>1 inch</b> in diameter and over. . Allow for 13 feet 6 inches of clearance over roadways and 8 feet of clearance over sidewalks as per city code. Remove debris & clean up work areas. Remove any dead ornamental trees and stump grinding. <b>This includes a two man crew with chip truck for ten days. Large tree removals will be an extra charge.</b> <b>This work will be performed between January and March 2021</b>	10	\$15,800.00
2	Tree(s)	<b>Fertilizer Program</b>  This Service includes a systemic treatment applied by soil injection twice a year. Our late spring/early summer application promotes healthy growth in leaves & woody tissue, while the late summer/early fall application promotes healthy root growth to help the trees store their food over the winter.  <b><i>*We strongly recommend continuing service for 2 to 3 years to see the full benefit of this treatment.</i></b> <b><i>*Payment Due After First Application.</i></b>	180	\$12,330.00
<b>Requested Services Total:</b>				<b>\$28,130.00</b>



ISA Certified Arborists

Robert Bailey RM-0603A  
George Biedenstein RM-0756B

We accept Cash, Check, or Credit Card

Click here to PREPAY!



Click here to  
check us out!

Page 1 of 3





*ISA Certified Arborists*

Robert Bailey RM-0603A  
George Biedenstein RM-0756B

**We accept Cash, Check, or Credit Card**

***Click here to PREPAY!***



*Click here to  
check us out!*

Page 2 of 3



**TERMS & CONDITIONS:**

- 1--Our minimum service fee for trimming and/or removal work is \$262.50
- 2--Our minimum service fee for stump grinding is \$115.50
- 3--Our minimum service fee for Plant Health Care (PHC) services (injections and spraying) is \$105.00
- 4--Please make sure no cars are parked under or near the tree(s) on the day of service.
- 5--All moveable objects under and around the tree, and in the pathway between the tree and the service truck, should be moved out of the work zones prior to a service crews arrival.
- 6--Tree services performed in the vicinity of delicate flowers and shrubs may result in some damage to those flowers and shrubs. To avoid this possibility please request a fall or winter schedule date.
- 7--All animal excrement in the areas the service crews will be working must be removed prior to the crews arrival. Failure to do so may result in an incomplete clean up.
- 8--Bailey Tree LLC will not be held responsible for damage to underground utilities not included in a standard locate request during removal, planting, stump grinding, or any subsurface application or service. All repairs will be billed accordingly. Underground utilities include, but are not limited to; sprinkler lines, heads of equipment, electric dog fences, private landscape wiring such as irrigation wires, or any unspecified buried outdoor wiring.
- 9--Prices quoted for or during winter months may need a requote if service is requested or required during non-winter months.
- 10--Cancellations requested with less than 24 hrs. notice may be subject to a \$210 mobilization fee.
- 11--All invoices are due upon completion. Monthly finance charges at 18% per annum will accrue after 30 days.
- 12--The customer warrants that all trees upon which work is being performed either belong to the homeowner or that permission to work on them has been obtained by the owner. **IN THE EVENT OF ANY ERROR, BAILEY TREE LLC IS NOT TO BE HELD RESPONSIBLE.**
- 13--This estimate is for completing the job as described above. It is based on our evaluation and does not include additional services requested or required during or after this service is provided. Project timing is subject to change based on weather and other unforeseen circumstances.
- 14--Any changes to an accepted proposal must be emailed to us 24 hours prior to work being performed.
- 15--To accept a proposal is to acknowledge & accept these terms and conditions.



*ISA Certified Arborists*

Robert Bailey RM-0603A  
George Biedenstein RM-0756B

**We accept Cash, Check, or Credit Card**

**Click here to PREPAY!**



Page 3 of 3

*Click here to  
check us out!*



**Open Space Management Proposal for 2022**

**Weed and Native Plant Management Program**  
**for the**  
**Roxborough Village including Chatfield Farms**  
**and the South Hogback**

**Prepared**  
**by**

**Raymond H. Sperger**

**Ark Ecological Services, LLC**

*Conserving and restoring native species and landscapes for future generations*

**6560 Dover Street**  
**Arvada, CO 80004**  
**303-985-4849**

November 30, 2021

## **Open Space Management Proposal for 2022 Weed and Native Plant Management Program for the Roxborough Village**

### **Introduction**

Roxborough Village is a beautiful integration of residential homes surrounded with substantial areas of open space including prairies, riparian woodlands, ponds and wetland habitats. Many of these native open spaces have high quality natural areas with an abundance of plant and animal life. Recreation opportunities including several miles of trail, wildlife viewing, and aesthetic beauty abound in the large, diverse, greenbelts and wild spaces. These natural amenities are worth cherishing and conserving for future generations, but this can only happen through sound ecological planning, through the commitment of homeowners and community leaders, and through proper stewardship practices (See Addendum 1 for a list of reasons why we should manage and restore native open spaces). Due to the development of the community and past management practices, many of the natural treasures need a helping hand to restore much of their former beauty and diversity, and to serve the needs and desires of Roxborough Village Residents.

The following is a compilation of weed management, ecological restoration, and land management actions that will help to ensure ecologically sound stewardship of these diverse open lands. There is purpose and statement of need that will help the property owners to establish its priorities for open space management. Please consider these items for 2022 or in the future to help you meet the communities' goals. With the support of the community and board of directors, Ark Ecological Services can help you keep your native open spaces beautiful and healthy for future generations.

### **Weed and Native Plant Management Program**

**Purpose:** To contain, suppress, control, and eventually eliminate state and county-listed noxious weeds and other aggressive non-native plants within the Roxborough Village Open Space. This program will focus on the noxious weeds including Canada Thistle, Diffuse Knapweed, Scotch Thistle, Musk Thistle, Poison Hemlock, Mullein, Leafy Spurge, Redstem Filaree, Bindweed, Kochia and other weeds found within and adjacent to these infestations. This proposal will help the community comply with state and county weed ordinances. And, to encourage the growth and sustain the populations of the many native plants which are currently found within the Open Space. We will identify areas that need to be restored and seeded to provide competition with the noxious weeds.

**Statement of Need:** Currently, there are several species of noxious weed growing in the Roxborough Village Open Space and some areas in the Chatfield Farms Open Space, previously-unmanaged areas that are degraded by more dense infestations of Canada Thistle, Diffuse Knapweed, Scotch Thistle, Poison Hemlock, Mullein and other invasive exotic species. Other

parts of the Open Space in the southern upland areas that have been previously managed have few or no weeds and need to be protected from future weed invasions. Lowland areas with willows and cottonwood riparian woodlands have not been managed for noxious weeds as well as the upland areas, and need to be more intensively managed for noxious weeds. Without actively managing these weeds using integrated weed management practices, (chemical treatment, mechanical treatments like mowing, cutting, pulling, and biological controls), weeds will continue to multiply in the areas where infestations exist, will spread into new areas, and will reduce native plant and animal populations. **Prevention, early detection, containment, suppression, and control of noxious weeds are the most efficient and cost effective methods of any weed management strategy.**

### Weed and Native Plant Management Program Options and Costs for 2022

<i>Weed and Native Plant Management Program</i>		
<b>Southern Open Space Areas*</b> (52.4 land acres)	2 broadcast or 3 spot herbicide applications using the best available management practices for the selected weeds being sprayed. See image below.	\$17,500
<b>Chatfield Farms Open Space Areas*</b> (31.0 land acres + 7.3 acres)	2 broadcast or 3 spot herbicide applications using the best available management practices for the selected weeds being sprayed. See image below. Price increase due to the addition of 7.3 acres adjacent to Campfire St.	\$7,950
<b>Southern Hogback Open Space Area*</b> (63.7 land acres)	2 spot herbicide applications using the best available management practices for the selected weeds being sprayed. See image below. Price increase due to wet weather and subsequent Mullein and Poison Hemlock infestation increases.	\$7,500
<b>Roxborough Village East Side Pond</b>	3 spot herbicide applications using the best available management practices for the selected weeds being sprayed. (Added to scope in 2014)	\$2,000
<b>Roadside Berm on N. Rampart Range Road</b>	2 spot herbicide applications using the best available management practices for the selected weeds being sprayed. (Added to scope in 2015)	\$800
<b>Total</b>		\$35,750

\*To the extent possible, native wildflower and shrub populations that are susceptible to broadleaf herbicides will not be sprayed.

**Estimated Weed Management Costs Over Time.** As weeds are controlled through time the seed bank in the soil is depleted and fewer weeds come up each year. Selective applications of herbicides give **both** native grasses and native wildflowers a competitive advantage, thereby increasing the beauty of the area and crowding out space for weeds. In highly infested sites or areas with extensive disturbance, ecological restoration is teamed with weed control to encourage the replacement of weeds with natives. With 2-3 herbicide application per year and a program to restore highly degraded areas, the costs for future control efforts will decline quickly

and it will cost the homeowner’s association less money in the long-term than with an less aggressive management program.

**No weed control in 2022 has the following negative ramifications:**

1. Populations of weeds will increase.
2. The number of seeds in the soil seed bank will continue to grow making future weed control and restoration more expensive.
3. Desirable native vegetation will decline and wildlife will decrease.
4. The aesthetic beauty of the area is marred and the desirability to recreate in weed-infested areas is reduced.
5. Weeds may spread off-site to other parks and private property.
6. Possible violations of county weed ordinances and state weed laws may be enforced.

It is, therefore, prudent to continue to control weeds and prevent their spread.

### **Ecological Restoration Projects**

**Purpose:** To restore native plants as well as environmental conditions to areas that have been disturbed beyond the short-term natural recovery cycle or to enhance the natural recovery cycle.

**Statement of Need:** Several native common areas in Roxborough Village are in need of restoration due to past construction of homes, utilities, trails, or other facilities, due to poor revegetation practices, improper or lack of management, or neglect. These areas will continue to be weed problem areas unless they are restored and revegetated so that there is competition between native plants and weeds. Restoration will enhance the beauty of these areas, reduce long-term management costs, and restore important ecosystem functions. Assessment of areas that need to be reseeded will be conducted and recommendations for future areas that may need to be reseeded.

<i>Recommended Actions:</i>	<u>Cost</u>
<p><b><u>Restoration Projects</u></b>                      Assess the need to revegetate areas where weeds are controlled and bare ground is left.</p>	<p>No charge</p>

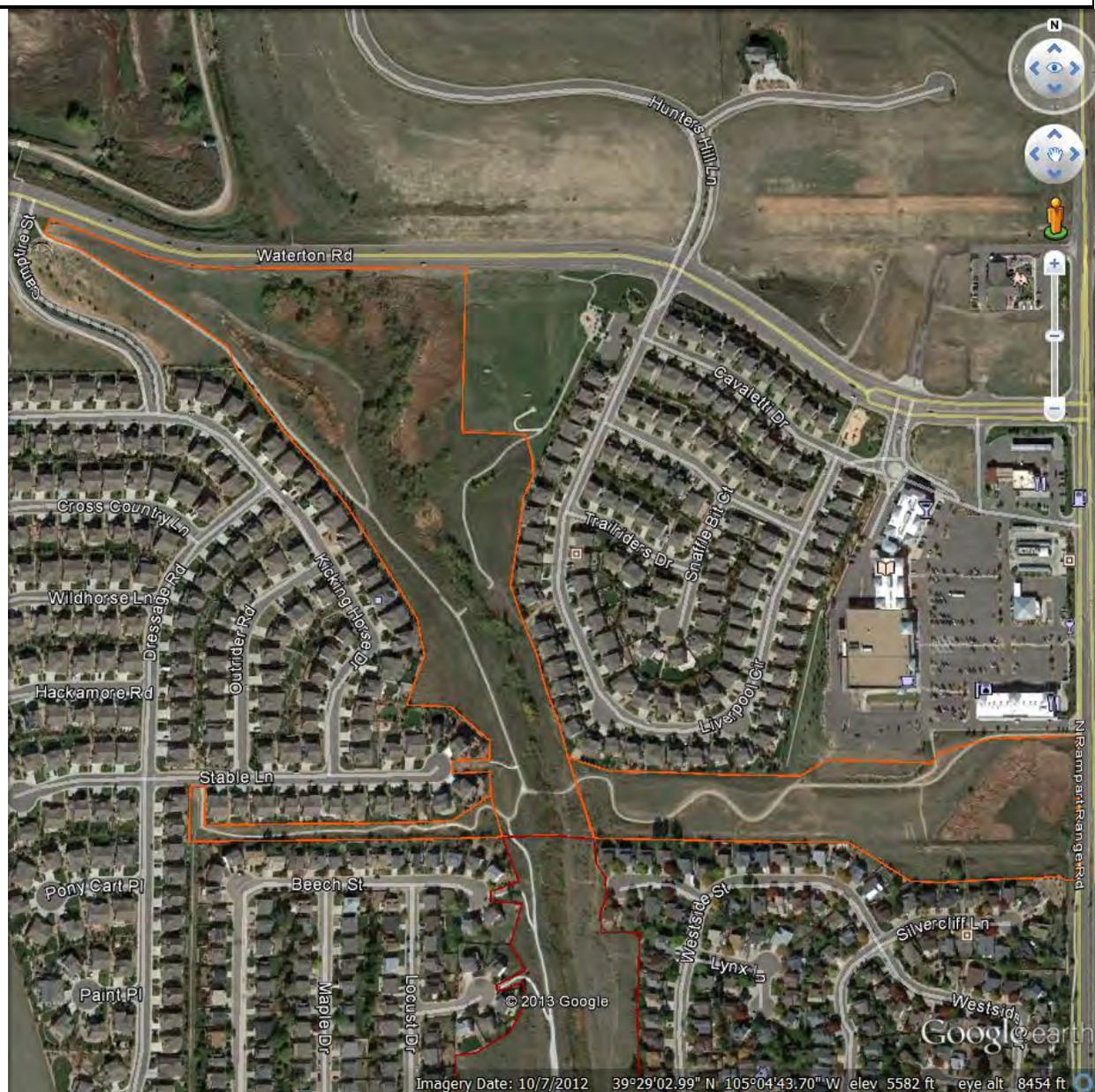
### **Debris Clean-up Projects and Encroachment Notification**

**Purpose:** To improve the aesthetics of the property and to keep people from dumping yard debris, construction debris, and other foreign items into the open space. To prepare the site, if needed, for proper restoration actions. To assist with the notification of other encroachments into the open space.

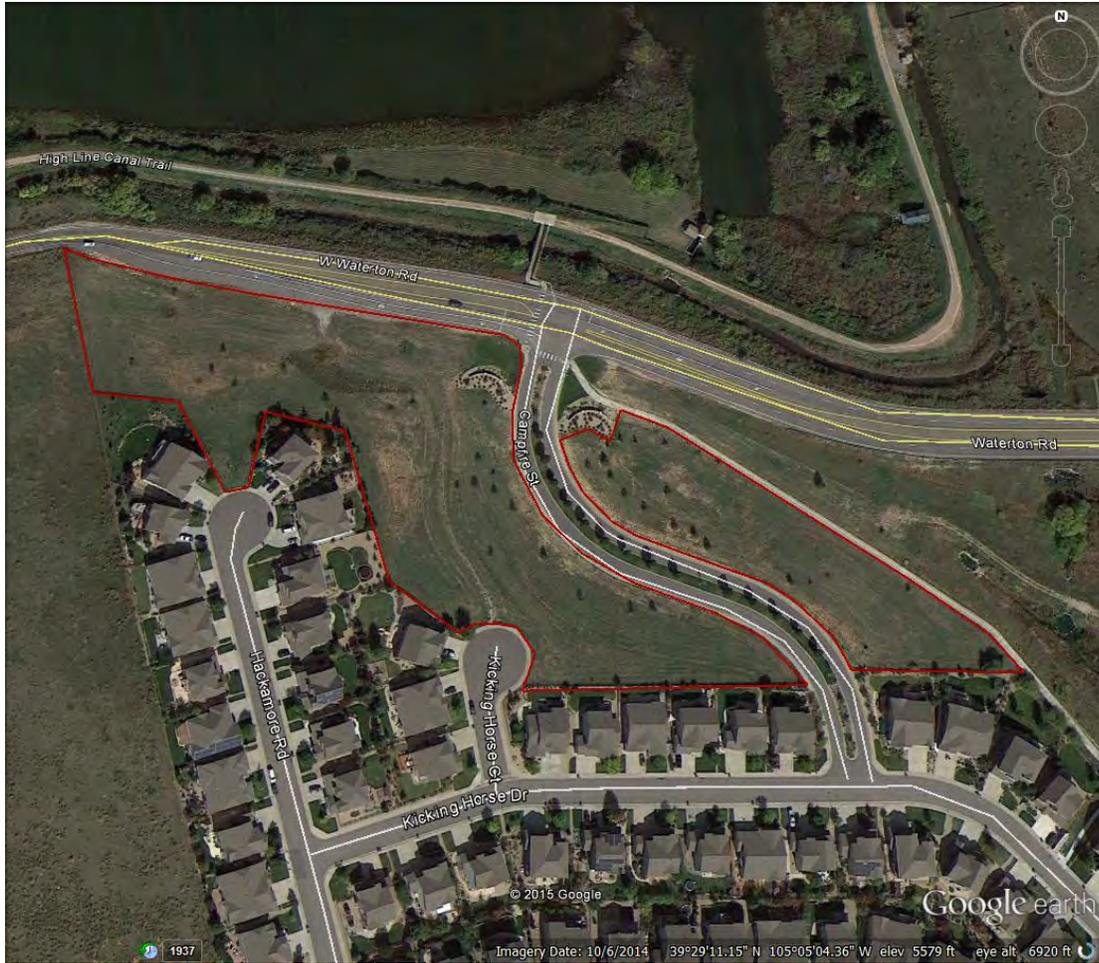
**Statement of Need:** There may be a few small areas in Roxborough Village that are in need of debris clean-up due to homeowners, contractors, or others dumping concrete, yard debris, and fencing material in the open space. There are likely more areas that need cleaned up. Notify the management company of homeowners who are violating various covenants in the open space

including dumping, placing personal items like play equipment into the open space, unauthorized mowing of open space, or planting non-native ornamental plants in the open space.

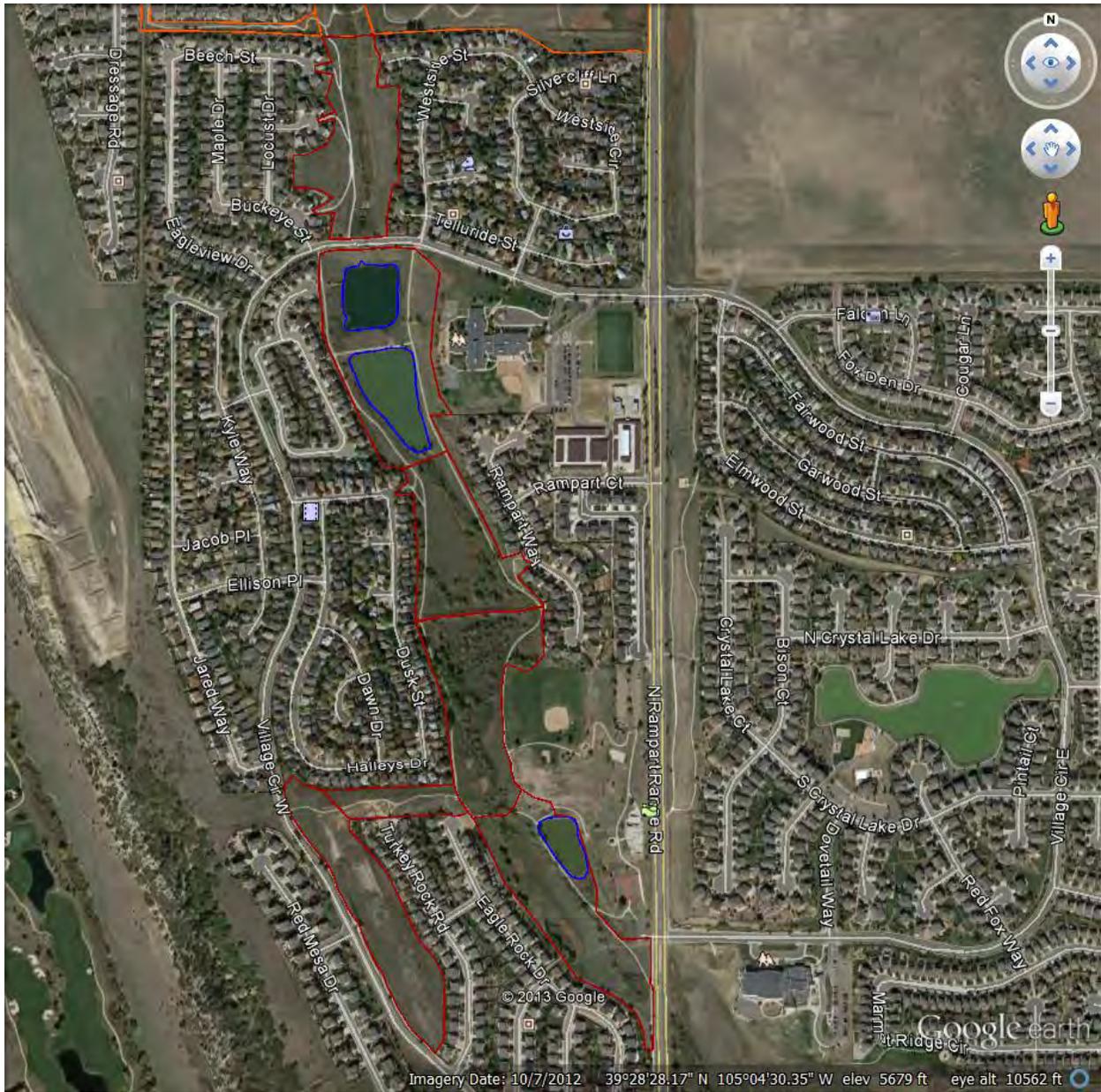
<u>Recommended Actions:</u>	<u>Cost</u>
<p><b>Clean-up Projects</b>                      One area behind homes in the Chatfield Farms open space and miscellaneous seeding in various open space areas.</p>	<p>Time and materials plus disposal fees</p>



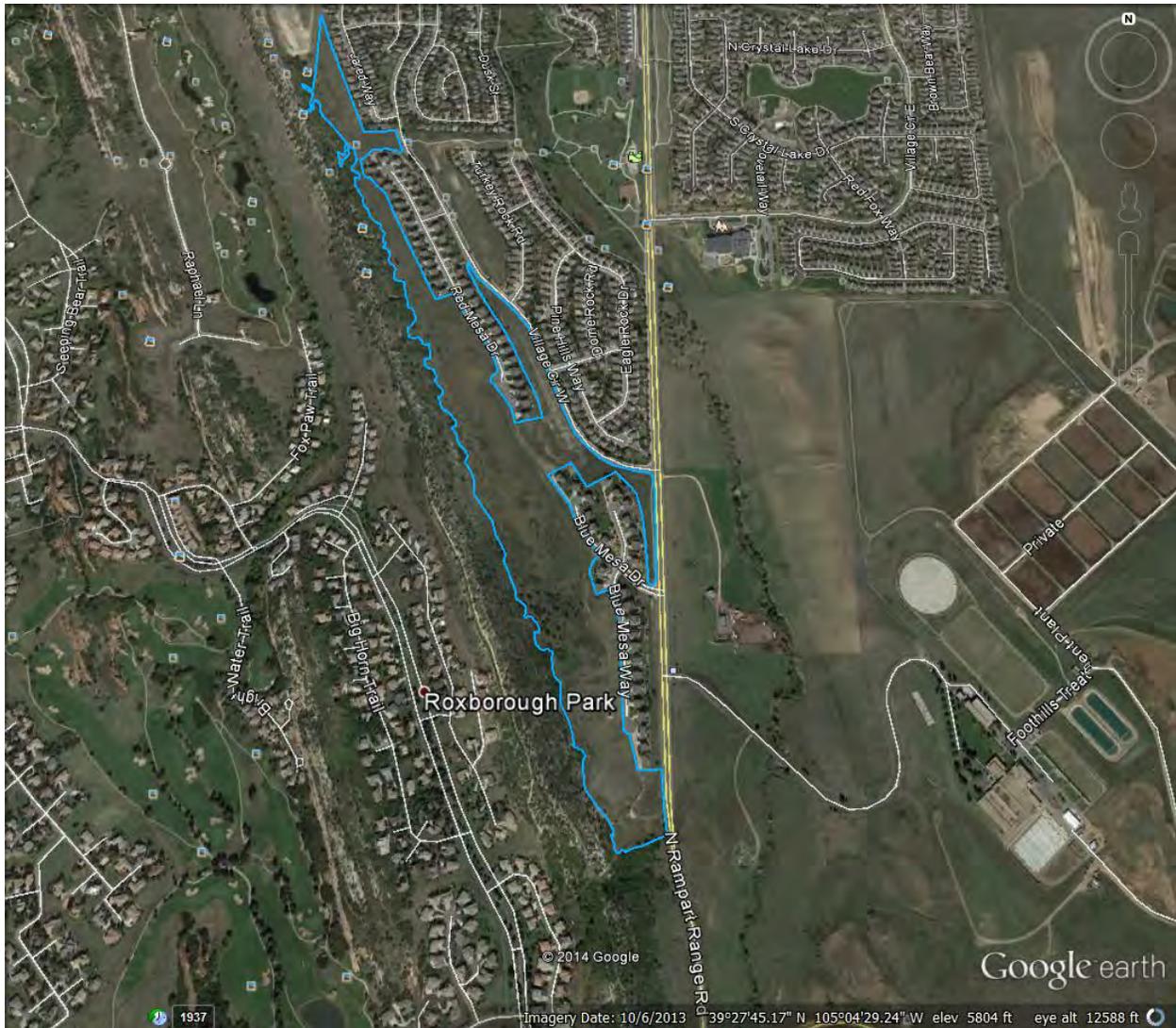
Chatfield Farms Open Space Areas (31 land acres) - Outlined in Orange.



Chatfield Farms - Campfire Street Additional Area - 7.3 acres (Outlined in Red)  
First managed for noxious weeds in 2015.



Roxborough Village Open Space (52.4 land acres) - Outlined in Red



South Hogback Open Space (63.7 land acres) - Outlined in Light Blue

**Proposed Schedule:** (Based on three herbicide applications and on typical weather patterns)

<b>April</b>	<b>Conduct the first herbicide application with an emphasis on early season weeds like Poison Hemlock, Whitetop, Redstem Filaree, and trailside Kochia.</b>
<b>May</b>	<b>Begin second herbicide application with a focus on Diffuse Knapweed, Mullein, Musk Thistle, and Scotch Thistle in open areas.</b>
<b>June</b>	<b>Continue second herbicide application with a focus on Canada Thistle and other weeds in the willow and cottonwood riparian areas, as well as Mullein and Bindweed.</b>
<b>July- August</b>	<b>Complete second herbicide application with a focus on Canada Thistle, Mullein, and Bindweed.</b>
<b>October – November</b>	<b>Complete third herbicide application. Develop a list of potential restoration sites for future budget consideration.</b>
<b>September - Dec.</b>	<b>Complete Open Space Management Proposal for 2023</b>

This proposal is acknowledged and accepted by:

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

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

Board President; Roxborough Village Metro District

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

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

Raymond H. Sperger; Business Manager and Principal Ecologist; Ark Ecological Services, LLC

## **Addendum 1**

### **Reasons to Manage and Restore Native Open Space**

**Because we want to:**

**Open Space -The Benefits are Endless**

- Cleans and purifies our water
- Cleans the air and produces oxygen we need to breathe
- Reduces air temperatures on hot summer days
- Provides habitat for the animals and plants that we enjoy seeing
- Provides children and adults an opportunity to learn about the environment
- Provides artistic, written, and photographic inspiration
- Provides a place for spiritual and emotional renewal
- Defines, identifies, and separates regions, communities, neighborhoods, and neighbors
- Provides a sense of history – what the landscape may have looked like prior to settlement
- Provides recreational space for walking, jogging, bicycling, and other outdoor activities.

**Because we need to:**

**It is a part of the planning and guiding documents for most communities.**

- Planned Unit Development Plan
- Design Review Philosophy and Guidelines
- Covenants

**It maintains property values.**

**It protects other investments made into the community (infrastructure, lot premiums, etc.).**

**Because we have to:**

**It is a part of the laws of the land.**

- Douglas County Weed Ordinance
- Colorado Noxious Weed Law – Revised Statute 35-5.5-115

## **Addendum 2**

### **Possible Goals for Resource and Weed Management in Roxborough Village Open Space**

#### **Resource Management Goal for the Open Spaces**

- To conserve and restore the native biological diversity of the Roxborough Village Open Space through sound land management including aggressive weed control and active ecological restoration for the benefit and enjoyment of the Roxborough Village Homeowners.

#### **Weed Control Mission Statement**

- Work cooperatively to prevent the invasion and manage the spread of noxious weeds in order to conserve and restore the native biological diversity of the open space properties.

#### **Weed Management Goals**

1. Prevent the introduction of noxious weeds not already present in the Open Space.
2. Eradicate noxious weeds which are not well established in the Open Space.
3. Contain the spread of noxious weeds which are so well established that they cannot be easily and quickly eradicated.
4. Implement appropriate weed management actions within weed containment areas.
5. Restore Open Space that has become infested with weeds.
6. Coordinate weed management actions to maximize effectiveness and minimize economic and environmental costs of weed control.
7. Inform homeowners and adjacent landowners within the Roxborough Village about noxious weeds and provide support for their weed management and restoration efforts.



# Extra Work Proposal

<b>Proposal By:</b>	
Metco Account Manager	Bill
Metco Landscape Inc.	
Proposal Date	12/2/2021

<b>Job Location</b>	
Roxborough Village Metro District	
6222 Roxborough Park Road Littleton, Co	

<b>Submitted To:</b>	
Manager Name:	Anna Jones CLA

<b>Accounting Information</b>	
Job #	19-10-305
AR Cust	ROXBDIST

**Extra work proposed as follows:**

		Qty	Rate	Total
1	Winter Water for all Recently planted trees and additional plant beds. Dailey winter water rate is 900.00 per day includes mobilization. Twice a month December thru March	8	\$900.00	\$7,200.00

*\*This work does not include any modifications or repairs to the irrigation system. Any repairs will be billed at contractual T&M rates, or \$65.00/Hour plus materials if no contract is held between Metco Landscape, Inc. and the management company*

Acceptance of proposal - I have read the terms stated herein, and I hereby accept them.

**Client's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_ **Total** **\$7,200.00**

Metco Landscaping 2200 Rifle Street, Aurora, CO, 80011 Tel: (303) 421-3100  
 This proposal is valid for 60 days. After 60 days, pricing may need to be revised

**Extra Work Proposal****12/2/2021**Total: **\$7,200.00****CONDITIONS OF CONTRACT***THESE CONDITIONS ARE A PART OF YOUR CONTRACT.***CONTRACT SPECIFICATIONS & LIMITATIONS**

All material is guaranteed to be as specified in this contract; Metco Landscape, Inc. only uses premium quality materials. All work shall be completed using sound practices and in a workmanlike manner and shall conform to local building codes and regulations set forth by the town in which the work is being performed. Any alteration or deviation from specifications involving extra costs will be executed only upon written confirmation, and will become an extra charge over and above the base contract price. All agreements are contingent upon accidents, weather or delays beyond our control. Our workers are fully covered by Worker's Compensation Insurance.

Unit Prices – The Base Contract price, if any is set forth, is the only guaranteed price in this contract. Any change in materials or services under the original contract may result in a change to individual unit prices and/or the Contract price.

Alternates / Time & Materials – Any work specified as an Alternate or as Time and Material will be charged as an extra to this contract and will increase the Contract price.

Scheduling – Landscape enhancement contracts accepted after October will be completed during the Fall as long as weather permits. Any work not completed in the Fall will be completed the following Spring. Work will be invoiced as items have been completed. Landscape enhancement contracts that extend into June, July or August, and include seeding, may require a delay in completion until after September 1 when newly seeded lawns will readily germinate. Sodding can be performed at any time of year for an additional charge if not already specified in the contract.

Watering and Maintenance – Metco Landscape, Inc. will perform watering of all new and/or transplanted plant material each day we are on site for the duration of a landscape enhancement contract. Metco Landscape, Inc. is not responsible for watering or maintaining plant material after completion of a landscape enhancement contract unless expressly stated in writing.

Seeding – Re-seeding or re-sodding of new grass areas may be required due to insects, diseases, mechanical damage, neglect, under watering, over watering, heavy rainfall, weather or animals. In addition, seeding that is not performed between April 1 – May 15 or September 1 – October 15 will typically require follow-up re-seeding. All such re-seeding, re-sodding, and/or re-establishment of soil is not included in the contract work, unless otherwise stated in writing, and will be charged as an extra to this contract.

**GUARANTEES**

Our guarantee is expressly conditioned upon on-time payment of invoices. This guarantee is void if payment in full has not been received within 30 days from the invoice date.

All claims for loss must be reported in writing within the one (1) year guarantee period.

Plant Material Guarantee – Metco Landscaping guarantees to replace any tree or shrub, which we purchase and plant, that dies from natural causes within a period of one year from the date of planting, provided that the Owner has fully complied with all of the terms of this contract. This guarantee is not transferable. Plant material not covered in this guarantee includes, but is not limited to, herbaceous material such as: annual flowers, bulbs, roses, perennials, groundcovers and turf or wildflower seed germination. However, for a fee equal to 8% of the cost of the herbaceous plant materials, Metco Landscaping will guarantee all herbaceous items, with the exception of annual flowers and bulbs, for one year from installation as long as the Owner has made a good faith effort to keep the plant material properly watered and cared for.

We will not guarantee plants damaged or killed by insects, mechanical damage, neglect, under watering, over watering, severe seasonal conditions, natural disasters, disease or animal damage. Plants installed in pots, planter boxes or containers are not guaranteed. Transplanted material is not guaranteed. Metco Landscape, Inc. will satisfy its responsibility under the guarantee by furnishing and installing replacement plant material of equal type and size that was originally planted. The replacement material shall be

**TERMS OF PAYMENT/SUSPENSION OF WORK**

Invoices will be sent after the contract work is completed, or progress billings will be issued during or at the end of each month through contract completion. Accounts remaining unpaid 30 days past the invoice date will lose the plant guarantee and will be charged interest at a rate of 1.5% per month on the unpaid balance. Accounts remaining unpaid 60 days past the invoice date may result in Metco Landscaping's election to suspend work on the project. Contractor shall recover all expenses incurred in enforcing this agreement, including all collection agency charges, lein fees, court cost, attorney fees, and all expenses incurred in collecting on any judgement.

**CANCELLATION**

This contract may be cancelled by either party with a 30-day written notice should either party fail substantially to perform in accordance with the terms of the contract through no fault of the other. The notified party shall be provided an opportunity to explain and rectify the circumstances. In the event of termination, Metco Landscape, Inc. shall be compensated fully for all services performed and expenses incurred up to the date of termination. In the event of early termination of this contract, the amount paid to date will be compared to the amount that would have been charged on a time and material basis and the difference in this comparison will result in a final payment due or a refund issued.

**DISPUTES**

All disputes shall be settled by binding arbitration pursuant to the commercial arbitration rules of the American Arbitration Association.

**PHOTOGRAPHY**

Metco Landscape, Inc. may take photographs of the property for use in promotional advertising, training, and educational classes unless the Owner communicates in writing that this

**SIGNAGE**

By signing this contract you, the Owner, are granting Metco Landscape, Inc. permission to install a temporary site sign on your property while our work is being performed. Upon completion of our work, we will remove the site sign or ask for permission to have it remain for an agreed to amount of time. If you do not wish to grant Metco Landscape, Inc. permission to install a temporary site sign on your property, please initial here. \_\_\_\_\_.

**UTILITIES/UNKNOWN OBSTRUCTIONS**

All reasonable caution will be taken to prevent damage to existing pavement, septic tanks, septic fields and underground utility lines. Underground gas, phone, and electric utilities will be marked by a representative from the utility companies, at the request of Metco Landscape, Inc., prior to any machine excavation. However, Metco Landscape, Inc. will not be held responsible for the accuracy of any utility line marking done by the utility companies.

It is the Owner's responsibility to conspicuously mark and advise Metco Landscape, Inc. of the location of any other underground utilities including: drainage pipes, plumbing, irrigation, propane lines, electric dog fence, cable TV, lighting, etc. Any delays in crew time and/or costs involved in repairing unmarked systems are the responsibility of the Owner. The cost of removing or circumventing concealed and/or undisclosed obstructions which prevent installation of the site improvements according to plan shall be charged as an extra to this contract. Examples of such obstructions include ledge rock, very large boulders, buried foundations, buried stumps, septic tanks, driveways/pavement, uncharted utilities, unsuitable soil, etc.

**OWNER'S RESPONSIBILITIES**

Hold Harmless - To the fullest extent permitted by law, the Owner will hold harmless Metco Landscape, Inc. and its officers, representatives, partners and employees from and against any and all claims, suits, liens, judgments, damages, losses and expenses, including legal fees and court costs and liability arising in whole or in part and in any manner from injury and/or death of a person, or damage to or loss of any property resulting from the acts, omissions, breach or default of the Owner, except those caused by the negligence of Metco Landscape, Inc..

