

**LITTLETON VILLAGE METROPOLITAN DISTRICT NOS. 1-3  
SPECIAL BOARD MEETING**

**BOARD OF DIRECTORS:**

<b>DISTRICT NOS. 1 &amp; 3</b>	<b>DISTRICT NO. 2</b>
<b>Gardiner Hammond</b> President Term Expires: May 2020	<b>Phil Cernanec</b> President Term Expires: May 2020
<b>Theodore E. Cox</b> Secretary/Treasurer Term Expires: May 2020	<b>Holly Bundschu</b> Treasurer Term Expires: May 2022
<b>Blaire Hammond</b> Assistant Secretary Term Expires: May 2020	<b>Chrystia Losianovich</b> Secretary Term Expires: May 2022
<b>Vacant</b> Term Expires: May 2022	<b>Vacant</b> Term Expires: May 2020
<b>Vacant</b> Term Expires: May 2022	<b>Vacant</b> Term Expires: May 2020

**DATE:** Tuesday, September 25, 2018  
**TIME:** 5:30 p.m.  
**PLACE:** CliftonLarsonAllen LLP  
 8390 E. Crescent Parkway, Suite 250  
 Greenwood Village, CO 80111

- I. Call to Order**
- II. Declaration of Quorum/Director Qualifications/Disclosure of Conflicts**
- III. Approval of Consent Items**
  - A. Review and Consider Approval of August 28<sup>th</sup>, 2018 Special Board Meeting Minutes (enclosed)
- IV. Public Comments – *items not on the agenda***  
*(Three minutes per speaker, not including response time to Board questions)*
- V. Financial Items**
  - A. Review and Consider Approval of Schedules of Cash Position, Property Taxes, and Developer Funding (enclosed)
  - B. Review and Approval of Claims (to be distributed)
  - C. Other
- VI. Legal Items**
  - A. Discuss Board Vacancy for District No. 2
  - B. Discuss ARC Vacancy for District No. 2

- C. Discuss Status of Acceptance of Century Landscaping
  - D. Discuss Status of Acceptance of Richmond Landscaping
  - E. Consider Approval of Independent Contractor Agreement between District No. 2 and Ground Engineering for Dog Park Testing (enclosed)
  - F. Consider Approval of Independent Contractor Agreement between District No. 2 and Diverse Project Consultants for Engineering and Management Services related to the Dog Park Restoration Project (enclosed)
  - G. Discuss Voting Privileges for District Nos. 1-3
  - H. Discuss Separation of District No. 2
  - I. Other
- VII. Manager Items**
- A. Discuss Trash Violations
  - B. Discuss Community Garden Boxes
  - C. Other
- VIII. Director Items**
- IX. Executive Session** – Pursuant to §24-6-402(4)(b), C.R.S. for the purpose of receiving legal advice, if necessary
- X. Next Regular Board Meeting – October 23, 2018**
- A. Confirm Quorum
- XI. Adjournment**

MINUTES OF A SPECIAL MEETING  
OF THE BOARD OF DIRECTORS OF THE  
LITTLETON VILLAGE METROPOLITAN DISTRICT NOS. 1-3  
HELD  
AUGUST 28, 2018

A special meeting of the Board of Directors of the Littleton Village Metropolitan District Nos. 1-3 was held on August 28, 2018 at 5:30 p.m. at the offices of CliftonLarsonAllen LLP, 8390 E. Crescent Pkwy, Suite 300, Greenwood Village, CO 80111. The meeting was open to the public.

Attendance

In attendance were the following Directors:

Gardiner G. Hammond  
Theodore E. Cox  
Chrystia Losianovich  
Holly Bundschu  
Phil Cernanec

Also in attendance were:

Denise Denslow, Geol Scheirman; CliftonLarsonAllen LLP (“CLA”)  
Trish Harris; White Bear Ankele Tanaka & Waldron  
Jenn McElyea; Watt Investment Partners (Via Telephone)

Lewis Lively; Amli Representative

Jason Bicknell; Resident  
Jim Bowlby; Resident  
Tom Paulsen; Resident  
Mike Bolsinger; Resident

Century Representatives: Cindy Myers, Brenda Owings, Scott Geonetta,  
Geof Phillips, and Brian Mulqueen

Call to Order/Declaration  
of Quorum/Joint Meetings

The Boards of Directors of Littleton Village MD Nos. 1, 2 & 3 called the meeting to order at 5:39 p.m. and confirmed quorum was present.

The Boards of Directors of the Districts determined to hold joint meetings of the Districts and to prepare joint minutes of action taken by the Districts in such meetings. Unless otherwise noted herein, all official action reflected in these minutes shall be deemed to be the action of all Districts. Where necessary, action taken by an individual District will be so reflected in these minutes.

Director Qualifications  
Conflicts of Interest /  
Reaffirmation of  
Disclosures

The Boards were advised that pursuant to Colorado law, certain disclosures by the Boards' members may be required prior to taking official action at the meeting. The Boards reviewed the Agenda for the meeting, following which each Board member confirmed the contents of written disclosures previously made, stating the fact and summary nature of any matters, as required under Colorado law, to permit official action to be taken at the meeting.

The Boards determined that participation by the directors with potential conflicts of interest was necessary to obtain a quorum or otherwise enable lawful action to occur.

Approval of  
2018 Consent Items

Review and Consider Approval of July 31<sup>st</sup>, 2018 and August 14<sup>th</sup>,  
Special Board Meeting Minutes

Following review, upon a motion duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried, the Board approved the July 31<sup>st</sup> and August 14<sup>th</sup> meeting minutes for District Nos 1&3, as presented.

Following review, upon a motion duly made by Director Bundschu, seconded by Director Losianovich and, upon vote, unanimously carried, the Board approved the July 31<sup>st</sup> and August 14<sup>th</sup> meeting minutes for District No. 2, as presented.

Public Comments

Members of the public noted that flags marking dead plants are still present throughout the community.

Mr. Jim Bowlby inquired as to the status of correcting the Richmond drainage issues and voiced his concerns about ice forming on the sidewalks in the winter.

Financial Items

Review and Consider Approval of Schedules of Cash Position, Property Taxes, and Developer Funding

Following review, upon a motion duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried, the Board approved the schedules of cash position, property taxes and developer funding, as presented.

Review and Approval of Claims

Following review, upon a motion duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried, the Board approved the claims for a total amount of \$100,538.59.

Other

None.

Legal ItemsConsider Approval of Dog Park Restoration Agreement

Mr. Jim Bowlby discussed concerns over cost for issues within dog park. Director Cernanec explained the process needed to reach 100% restoration of the dog park. Director Bundschu requested a plan for the oversight of all improvements to the dog park area. Ms. Harris informed the Board that all legal contracts would be through District No. 2.

Following discussion, upon a motion duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried the Board for District Nos. 1 & 3 approved the Dog Park Restoration Agreement for District No. 2, subject to extending the time for contracts to 90 days.

Upon a motion duly made by Director Cox, seconded by Director Bundschu and, upon vote, unanimously carried the Board for District No. 2 approved the Dog Park Restoration Agreement for District No. 2, subject to extending the time for contracts to 90 days.

Review and Consider Approval of a Resolution of the Board of Directors of Littleton Village Metropolitan District No. 1 Regarding Acceptance of Improvements (Century Landscaping, Sewer Drainage and Mailbox Improvements)

Following review, upon a motion duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried, the Board approved the resolution of the Board of Directors of Littleton Village Metropolitan District No. 1 Regarding Acceptance of Improvements, subject to Mike Bolsinger performing a final walk through and signing off on final improvements.

Review and Consider First Addendum to Independent Contractor Agreement (Landscaping Services – Century Parcels) by and between Littleton Village Metropolitan District No. 1 and Brightview Landscape Services

Following review, upon a motion duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried, the Board approved the First Addendum to the Independent Contractor Agreement by and between Littleton Village Metropolitan District No. 1 and Brightview Landscape Services, subject to the map attached being updated to include one area of maintenance responsibility that was omitted.

### Discuss Status of Acceptance of Richmond Landscaping

Director Cernanec voiced his concerns regarding the turnover report from Richmond Landscaping being incomplete and not addressing certain concerns.

Following discussion, upon a motion duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried, the Board for District Nos. 1 & 3 approved assigning acceptance of the Richmond improvements turnover, pursuant to the Maintenance Agreement between District No. 1 and Richmond, to District No. 2.

Upon a motion duly made by Director Cernanec, seconded by Director Losianovich and, upon vote, the Board for District No. 2 approved assigning acceptance of the Richmond improvements turnover, pursuant to the Maintenance Agreement between District No. 1 and Richmond, to District No. 2.

Following discussion, upon a motion duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried, the Board for District Nos. 1 & 3 approved assigning acceptance of the Century alley/concrete improvements turnover, pursuant to the Turnover of Maintenance and Water Invoicing Agreements between District No. 1 and Century, to District No. 2.

Upon a motion duly made by Director Cernanec, seconded by Director Losianovich and, upon vote, the Board for District No. 2 approved assigning acceptance of the Century alley/concrete improvements turnover, pursuant to the Turnover of Maintenance and Water Invoicing Agreements between District No. 1 and Century, to District No. 2.

### Other

Ms. Harris provided an update on the Bond closing to the Board.

## Manager Items

### Community Updates

#### Community Bulletin Board Proposals

Upon a motion duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried, the Board approved the community bulletin board proposal, as presented.

### AMLI Parking Approval Letter and Leasing Trailer Options

Lewis Lively presented proposed temporary trailer location and requested the Board approve letter for AmlI to present to City of Littleton. Upon a motion

duly made by Director Hammond, seconded by Director Cox and, upon vote, unanimously carried, the Board approved the AMLI parking and leasing trailer options letter, as presented.

Update on Joint Session with City of Littleton

Ms. Denslow provided an update on the joint session with the City of Littleton to the Board.

Director Cernanec noted working toward a relationship with the City of Littleton to address parking and speeding issues within the community.

Ms. Denslow will discuss options for animal control enforcement with legal counsel.

Other

None.

Director Items

Director Hammond and Director Cox resigned from the Board of District No. 2.

Ms. Harris discussed the process to appoint members to the Board of District No. 2.

The Board requested CLA to inform the community of Board vacancy.

The Board requested further education regarding District separation be provided at the next Board meeting.

Next Meeting

Confirm Quorum for August 28, 2018 Special Board Meeting

The Board confirmed quorum for the September 25, 2018 special board meeting.

Adjournment

Upon a motion duly made, seconded and, upon vote unanimously carried, the Board adjourned the meeting at 8:38 p.m.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

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Secretary for the Meeting

**LITTLETON VILLAGE METROPOLITAN DISTRICT #1**  
**Schedule of Cash Position**  
**August 31, 2018**  
Updated as of September 18, 2018

	<u>General Fund</u>	<u>Operations Fund</u>	<u>Capital Projects Fund</u>	<u>Total</u>
<b><u>1st Bank - Checking Account</u></b>				
Balance as of 08/31/2018	\$ 1,665.30	\$ 15,159.81	\$ 5,916.55	\$ 22,741.66
Subsequent activities:				
August held checks	-	-	(19,576.00)	(19,576.00)
09/07/18 - Developer Advance CFLA #24	-	-	16,701.28	16,701.28
Operations fees collected in September	-	2,458.00	-	2,458.00
<i>Anticipated Transfer from District No. 2 (O&amp;M taxes)</i>	<i>1,372.00</i>	-	-	<i>1,372.00</i>
<i>Anticipated Transfer from District No. 3 (O&amp;M taxes)</i>	<i>788.89</i>	-	-	<i>788.89</i>
<i>Anticipated Balances</i>	<u>\$ 3,826.19</u>	<u>\$ 17,617.81</u>	<u>\$ 3,041.83</u>	<u>\$ 24,485.83</u>



<b>DEVELOPER FUNDING SCHEDULE</b>
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Date Received	O&M	Capital	Total	Capital Dev Adv Converted to Series 2014A Bond (Principal Outstanding)	Capital Dev Adv Converted to Series 2014B Bond (Principal Outstanding)	Bond Conversion Date (Opinion Issued by Bond Council)	O&M Dev Adv (Principal Outstanding)
<b>Former Arrangement</b>							
<b>TOTAL</b>	<b>\$ 98,827.31</b>	<b>\$ 767,889.24</b>	<b>\$ 866,716.55</b>	<b>\$ 767,889.24</b>		6/6/2014	<b>\$ 98,827.31</b>
<b>New Arrangement</b>							
6/24/2014	\$ 3,193.04	\$ 95,791.59	\$ 98,984.63	95,791.59		6/24/2014	3,193.04
7/22/2014	1,179.11	722,769.65	723,948.76	722,769.65		7/22/2014	1,179.11
8/12/2014	2,057.52	1,014,848.29	1,016,905.81	1,014,848.29		8/12/2014	2,057.52
9/15/2014	1,876.43	613,932.39	615,808.82	613,932.39		9/15/2014	1,876.43
10/3/2014	1,498.02	592,871.26	594,369.28	592,871.26		10/3/2014	1,498.02
10/21/2014	-	938,000.00	938,000.00				-
11/7/2014	-	684,491.70	684,491.70	503,491.70		11/7/2014	-
11/19/2014	1,310.01	-	1,310.01				1,310.01
12/5/2014	8,724.65	1,088,289.30	1,097,013.95	705,290.00		12/5/2014	8,724.65
1/22/2015	2,035.01	540,847.63	542,882.64	592,730.00		1/22/2015	2,035.01
2/2/2015	-	(950,000.00)	(950,000.00)				-
2/18/2015	1,973.00	499,549.05	501,522.05	522,911.91		2/18/2015	1,973.00
3/16/2015	2,225.32	175,981.88	178,207.20	355,638.31		3/16/2015	2,225.32
4/23/2015	2,799.46	263,758.67	266,558.13	355,078.28		4/23/2015	2,799.46
5/21/2015	1,804.97	478,427.99	480,232.96	461,677.29		5/21/2015	1,804.97
6/12/2015	4,081.76	136,951.44	141,033.20	185,577.14		6/12/2015	4,081.76
7/16/2015	7,108.60	392,549.65	399,658.25	413,090.28		7/16/2015	7,108.60
8/28/2015	2,725.45	495,680.03	498,405.48	522,281.18		8/28/2015	2,725.45
9/21/2015	-	299,472.47	299,472.47	317,936.89		9/21/2015	-
10/9/2015	1,301.23	-	1,301.23				1,301.23
10/28/2015	-	1,156,993.09	1,156,993.09	1,235,970.18		10/28/2015	-
11/19/2015	6,806.72	-	6,806.72				6,806.72
11/19/2015	434.65	860,403.72	860,838.37	873,275.13		11/19/2015	434.65
		(7,402,533.19)	(7,402,533.19)	(7,402,533.19)		12/17/2015	-
1/1/2016	16,448.33	(16,448.33)	-				16,448.33
1/6/2016	9,480.08	-	9,480.08				9,480.08
1/6/2016	-	361,826.77	361,826.77	361,826.77		1/6/2016	-
1/8/2016	-	371,596.79	371,596.79	371,596.79		1/8/2016	-
1/27/2016	5,815.06	-	5,815.06				5,815.06
2/4/2016	-	109,191.79	109,191.79	109,191.79		2/4/2016	-

<b>DEVELOPER FUNDING SCHEDULE</b>
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Date Received	O&M	Capital	Total	Capital Dev Adv Converted to Series 2014A Bond (Principal Outstanding)	Capital Dev Adv Converted to Series 2014B Bond (Principal Outstanding)	Bond Conversion Date (Opinion Issued by Bond Council)	O&M Dev Adv (Principal Outstanding)
2/10/2016	-	480,148.36	480,148.36	469,333.94	10,814.42	2/10/2016	-
3/2/2016	-	40,044.47	40,044.47		40,044.47	3/2/2016	-
3/10/2016	-	66,709.94	66,709.94		66,709.94	3/10/2016	-
3/24/2016	3,026.35	-	3,026.35				3,026.35
4/8/2016	-	43,310.09	43,310.09		43,310.09	4/8/2016	-
6/8/2016	-	200,574.61	200,574.61		200,574.61	6/8/2016	-
6/20/2016	-	245,088.66	245,088.66		245,088.66	6/20/2016	-
7/11/2016	-	357,614.54	357,614.54		357,614.54	7/11/2016	-
8/15/2016	-	452,053.32	452,053.32		452,053.32	8/15/2016	-
9/30/2016	-	218,789.83	218,789.83		218,789.83	9/30/2016	-
10/25/2016	-	37,742.08	37,742.08		37,742.08	10/25/2016	-
10/26/2016	-	290,486.69	290,486.69		290,486.69	10/26/2016	-
11/28/2016	-	32,779.45	32,779.45		32,779.45	11/28/2016	-
1/13/2017	-	29,723.75	29,723.75		29,723.75	1/13/2017	-
3/2/2017	-	49,290.20	49,290.20		49,290.20	3/2/2017	-
6/22/2017	-	70,859.44	70,859.44		70,859.44	6/22/2017	-
7/19/2017	-	64,983.41	64,983.41		64,983.41	7/19/2017	-
9/7/2017	-	64,181.47	64,181.47		64,181.47	9/7/2017	-
9/22/2017	-	64,092.70	64,092.70		64,092.70	9/22/2017	-
10/4/2017	-	14,099.66	14,099.66		14,099.66	10/4/2017	-
11/7/2017	13,085.80	3,416.95	16,502.75		3,416.95	11/7/2017	13,085.80
11/16/2017	-	15,939.53	15,939.53		15,939.53	11/16/2017	-
12/11/2017	9,040.21	12,381.70	21,421.91		12,381.70	12/11/2017	9,040.21
2/5/2018	-	50,855.32	50,855.32		50,855.32	2/5/2018	-
2/27/2018	-	170,673.00	170,673.00		170,673.00	2/27/2018	-
3/2/2018	16,630.58	15,444.29	32,074.87		15,444.29	3/2/2018	16,630.58
4/17/2018	-	19,751.88	19,751.88		19,751.88	4/17/2018	-
6/20/2018	21,165.12	-	21,165.12				21,165.12
6/25/2018	-	22,153.54	22,153.54		22,153.54	6/25/2018	-
8/31/2018	40,722.42	-	40,722.42				40,722.42
9/6/2018	-	(5,879,741.10)	(5,879,741.10)	(4,097,173.51)	(1,782,567.59)		
9/7/2018	-	16,701.28	16,701.28		16,701.28		-
	\$ 188,548.90	\$ 795,392.69	\$ 983,941.59				
<b>TOTAL</b>	<b>\$ 287,376.21</b>	<b>\$ 1,563,281.93</b>	<b>\$ 1,850,658.14</b>	<b>\$ 665,293.30</b>	<b>\$ 897,988.63</b>		<b>\$ 287,376.21</b>

**LITTLETON VILLAGE METROPOLITAN DISTRICT #2**  
**Schedule of Cash Position**  
**August 31, 2018**  
Updated as of September 18, 2018

	<u>General Fund</u>	<u>Special Revenue Fund</u>	<u>Debt Service Fund</u>	<u>Total</u>
<b><u>ColoTrust - Savings Account</u></b>				
Balance as of 08/31/18	\$ -	\$ -	\$ 178,443.72	\$ 178,443.72
Subsequent activities:				
09/04/18 - Transfer to UMB	-	-	(178,107.48)	(178,107.48)
09/10/18 - Tax collection	788.89	-	3,155.70	3,944.59
<i>Anticipated Transfer to District No. 1 (O&amp;M)</i>	(788.89)	-	-	(788.89)
<i>Anticipated Transfer to UMB</i>	-	-	(3,491.94)	(3,491.94)
<i>Anticipated Balances</i>	-	-	(0.00)	(0.00)
<b><u>UMB - 2015 Bond Fund</u></b>				
Balance as of 08/31/18	-	-	428,119.90	428,119.90
Subsequent activities:				
09/04/18 - Transfer from ColoTrust	-	-	178,107.48	178,107.48
<i>Anticipated Transfer from Debt Service</i>	-	-	3,491.94	3,491.94
<i>Anticipated Transfer from District No. 3 ColoTrust</i>	-	-	10,193.47	10,193.47
<i>Anticipated Balances</i>	-	-	619,912.79	619,912.79
<b><u>UMB - 2015 Surplus Fund</u></b>				
Balance as of 08/31/18	-	-	131,407.63	131,407.63
<i>Anticipated Balances</i>	-	-	131,407.63	131,407.63
<b><u>UMB - 2015 Reserve Fund</u></b>				
Balance as of 08/31/18	-	-	881,846.38	881,846.38
<i>Anticipated Balances</i>	-	-	881,846.38	881,846.38
<b><u>1st Bank - Escrow</u></b>				
Balance as of 08/31/18	-	-	-	-
Subsequent activities:				
09/06/18 - Developer contribution	-	100,000.00	-	100,000.00
<i>Anticipated Balances</i>	-	100,000.00	-	100,000.00
<i>Anticipated Balances</i>	\$ -	\$ 100,000.00	\$ 1,633,166.80	\$ 1,733,166.80

**Yield information as of 08/31/18**

ColoTrust - 2.23%

**LITTLETON VILLAGE METROPOLITAN DISTRICT NO. 2**  
**Property Taxes Reconciliation**  
**2018**

	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	\$ 11,965.53	\$ -	\$ 3,138.40	\$ -	\$ (179.48)	\$ 14,924.45	2.42%	2.42%	\$ 2,976.73	1.08%	1.08%
February	182,182.45	-	3,043.72	-	(2,732.74)	182,493.43	36.90%	39.32%	53,209.08	32.02%	33.10%
March	24,498.86	-	3,318.98	-	(367.48)	27,450.36	4.96%	44.28%	13,684.51	7.65%	40.74%
April	57,776.69	-	2,737.24	-	(866.65)	59,647.28	11.70%	55.98%	43,990.63	26.41%	67.15%
May	92,535.97	-	3,311.90	26.80	(1,388.44)	94,486.23	18.74%	74.72%	30,869.33	18.21%	85.36%
June	120,286.24	-	2,845.67	70.85	(1,805.36)	121,397.40	24.36%	99.08%	23,021.19	13.35%	98.71%
July	2,079.44	-	4,075.55	48.81	(31.92)	6,171.88	0.42%	99.51%	2,197.71	0.63%	99.35%
August	1,975.43	-	1,941.15	58.52	(30.51)	3,944.59	0.40%	99.91%	1,361.75	0.00%	99.35%
September	-	-	-	-	-	-	0.00%	99.91%	1,571.17	0.28%	99.63%
October	-	-	-	-	-	-	0.00%	99.91%	1,385.94	0.00%	99.63%
November	-	-	-	-	-	-	0.00%	99.91%	1,983.79	0.37%	100.00%
December	-	-	-	-	-	-	0.00%	99.91%	1,123.41	0.00%	100.00%
<b>Totals</b>	<b>\$ 493,300.61</b>	<b>\$ -</b>	<b>\$ 24,412.61</b>	<b>\$ 204.98</b>	<b>\$ (7,402.58)</b>	<b>\$ 510,515.62</b>	<b>99.91%</b>	<b>99.91%</b>	<b>\$ 177,375.24</b>	<b>100.00%</b>	<b>100.00%</b>

	Taxes Levied	% of Levied	Property Taxes Collected
<b>Property Tax</b>			
General Fund	\$ 98,750.00	20.00%	\$ 98,656.33
Debt Service Fund	395,019.00	80.00%	394,644.28
	<u>\$ 493,769.00</u>	<u>100.00%</u>	<u>\$ 493,300.61</u>

Totals	
General	102,099.20
Debt Service	408,416.42
<b>Total</b>	<b>510,515.62</b>

No. 1

**Specific Ownership Tax**

General Fund	\$ 9,875.00	20.00%	\$ 4,882.33
Debt Service	39,505.00	80.00%	19,530.28
	<u>\$ 49,380.00</u>	<u>100.00%</u>	<u>\$ 24,412.61</u>

**Treasurer's Fees**

General Fund	\$ (1,481.00)	20.00%	\$ (1,480.46)
Debt Service	(5,925.00)	80.00%	(5,922.12)
	<u>\$ (7,406.00)</u>	<u>100.00%</u>	<u>\$ (7,402.58)</u>

**LITTLETON VILLAGE METROPOLITAN DISTRICT #3**  
**Schedule of Cash Position**  
**August 31, 2018**  
Updated as of September 18, 2018

	<u>General Fund</u>	<u>Debt Service Fund</u>	<u>Total</u>
<b><u>ColoTrust - Savings Account</u></b>			
Balance as of 08/31/18	\$ 109.26	\$ 91.28	\$ 200.54
Subsequent activities:			
09/10/18 - Tax collection	1,262.74	10,102.19	11,364.93
<i>Anticipated Transfer to District No. 1 (O&amp;M)</i>	<i>(1,372.00)</i>	-	<i>(1,372.00)</i>
<i>Anticipated Transfer to District No. 2 (Debt Service)</i>	-	<i>(10,193.47)</i>	<i>(10,193.47)</i>
<b><i>Anticipated Balances</i></b>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

**Yield information as of 08/31/18**

ColoTrust - 2.23%

**LITTLETON VILLAGE METROPOLITAN DISTRICT NO. 3**  
**Property Taxes Reconciliation**  
**2018**

	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	\$ 2,813.79	\$ -	\$ 757.23	\$ -	\$ (42.21)	\$ 3,528.81	2.36%	2.36%	\$ 596.36	0.00%	0.00%
February	35,826.35	-	734.39	-	(537.40)	36,023.34	30.07%	32.43%	490.26	0.01%	0.01%
March	6.53	-	800.80	-	(0.10)	807.23	0.01%	32.44%	2,861.09	2.84%	2.85%
April	-	-	660.44	-	-	660.44	0.00%	32.44%	447.00	0.00%	2.85%
May	11,078.70	-	799.09	88.58	(167.51)	11,798.86	9.30%	41.74%	2,841.13	2.84%	5.70%
June	58,773.83	-	686.60	1,175.48	(899.24)	59,736.67	49.33%	91.07%	609.73	0.00%	5.70%
July	-	-	983.34	-	-	983.34	0.00%	91.07%	556.39	0.00%	5.70%
August	10,637.01	-	468.36	425.50	(165.94)	11,364.93	8.93%	100.00%	666.08	0.00%	5.70%
September	-	-	-	-	-	-	0.00%	100.00%	530.56	0.00%	5.70%
October	-	-	-	-	-	-	0.00%	100.00%	677.90	0.00%	5.70%
November	-	-	-	-	-	-	0.00%	100.00%	81,151.68	94.30%	100.00%
December	-	-	-	-	-	-	0.00%	100.00%	549.49	0.00%	100.00%
<b>Total</b>	<b>\$ 119,136.21</b>	<b>\$ -</b>	<b>\$ 5,890.25</b>	<b>\$ 1,689.56</b>	<b>\$ (1,812.40)</b>	<b>\$ 124,903.62</b>	<b>100.00%</b>	<b>100.00%</b>	<b>\$ 91,977.67</b>	<b>100.00%</b>	<b>100.00%</b>

Taxes Levied	% of Levied	Property Taxes Collected
General Fund	13,237.00	11.11% \$ 13,237.02
Debt Service Fund	105,899.00	88.89% 105,899.19
<b>Total</b>	<b>\$ 119,136.00</b>	<b>100.00% \$ 119,136.21</b>

**Property Taxes**

General Fund  
Debt Service Fund

Totals	
General	13,690.11
Debt Service	109,523.95
<b>Total</b>	<b>123,214.06</b>

No. 1  
No.2

**Specific Ownership Taxes**

General Fund  
Debt Service

General Fund	1,324.00	11.11% \$ 654.46
Debt Service	10,590.00	88.89% 5,235.79
<b>Total</b>	<b>\$ 11,914.00</b>	<b>100.00% \$ 5,890.25</b>

**Treasurer's Fees**

General Fund  
Debt Service

General Fund	(199.00)	11.11% \$ (201.37)
Debt Service	(1,588.00)	88.89% (1,611.03)
<b>Total</b>	<b>\$ (1,787.00)</b>	<b>100.00% \$ (1,812.40)</b>

INDEPENDENT CONTRACTOR AGREEMENT  
(Dog Park Restoration Testing Services)

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This INDEPENDENT CONTRACTOR AGREEMENT, including any and all exhibits attached hereto (the “Agreement”), is entered into as of the 25<sup>th</sup> day of September, 2018, by and between LITTLETON VILLAGE METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), and GROUND ENGINEERING, LLC, a Colorado limited liability company (the “Contractor”). The District and the Contractor are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the District was organized pursuant to and in accordance with the provisions of §§ 32-1-101, *et seq.*, C.R.S. for the purpose of constructing, financing, operating and maintaining certain public facilities and improvements for itself, its taxpayers, residents and users; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is empowered to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, pursuant to § 32-1-1001(1)(i), C.R.S., the District is empowered to appoint, hire and retain agents, employees, engineers and attorneys; and

WHEREAS, the District desires to engage the Contractor to perform certain services as are needed by the District to serve the property within and without its boundaries; and

WHEREAS, the Contractor has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

TERMS AND CONDITIONS

1. **SCOPE OF SERVICES.** The Contractor shall perform the services described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Services”): (a) in a first-class manner, to the satisfaction of the District, using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the District; (b) within the time period and pursuant to the Scope of Services specified in said Exhibit A; (c) in such a manner as to minimize any annoyance, interference or disruption to the residents, tenants, occupants and invitees within the District; and (d) in compliance with all applicable federal, state, county and local or municipal body or agency statutes, ordinances and regulations, including, without limitation, any licensing, bonding, and permit requirements, and including without limitation, any such laws relating to storage, use or disposal of hazardous

wastes, substances or materials. Exhibit A may take any form, including forms which may include price and payment terms. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in Exhibit A, the terms in the body of this Agreement shall govern. Contractor shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement.

2. TERM/RENEWAL. This Agreement shall be effective as of September 19, 2018 and shall terminate on the earlier to occur of: (i) termination pursuant to Section 18 hereof; (ii) completion of the Services; or (iii) December 31, 2018. Notwithstanding the foregoing, unless terminated pursuant to (i) or (ii) above, or unless the District determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew for each succeeding year for an additional one (1) year term commencing January 1 of the next succeeding year.

3. ADDITIONAL SERVICES. The District may request the Contractor to provide additional services not set forth in Exhibit A. The terms and conditions of the provision of such services shall be subject to the mutual agreement of the Contractor and the District pursuant to a written service/work order executed by an authorized representative of the District and the Contractor. Authorization to proceed with additional services shall not be given unless the District has appropriated funds sufficient to cover the additional compensable amount. To the extent additional services are provided pursuant to this Section 3, the terms and conditions of this Agreement relating to Services shall also apply to any additional services rendered.

4. REPAIRS/CLAIMS. The Contractor shall notify the District immediately of any and all damage caused by the Contractor to District property and that of third parties. The Contractor will promptly repair or, at the District's option, reimburse the District for the repair of any damage to property caused by the Contractor or its employees, agents or equipment. In addition, the Contractor shall promptly notify the District of all potential claims of which it becomes aware. The Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the District the opportunity to review and inspect such evidence, including the scene of any damage or accidents. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Services and shall provide all reasonable protection to prevent damage or injury to persons and property, including any material and equipment related to the Services, whether in storage on or off site, under the care, custody, or control of the Contractor or any of its subcontractors.

5. GENERAL PERFORMANCE STANDARDS.

a. The Contractor has by careful examination ascertained: (i) the nature and location of the Services; (ii) the configuration of the ground on which the Services are to be performed; (iii) the character, quality, and quantity of the labor, materials, equipment and facilities necessary to complete the Services; (iv) the general and local conditions pertaining to the Services; and (v) all other matters which in any way may affect the performance of the Services by the



Contractor. Contractor enters into this Agreement solely because of the results of such examination and not because of any representations pertaining to the Services or the provision thereof made to it by the District or any agent of the District and not contained in this Agreement. The Contractor represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Contractor's performance of the Services does not meet this standard, the Contractor shall, at the District's request, re-perform the Services not meeting this standard without additional compensation.

b. The Services of the Contractor shall be undertaken and completed to assure their expeditious completion in light of the purposes of this Agreement. If performance of the Services by the Contractor is delayed due to factors beyond the Contractor's reasonable control, or if conditions of the scope or type of services are expected to change, Contractor shall give timely notice to the District of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

c. The Services provided under this Agreement shall be adequate and sufficient for the intended purposes and shall be completed in a good and workmanlike manner.

d. The Contractor declares that it has complied with all Federal, State and local laws, rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses that are required to provide the Services under this Agreement.

e. The responsibilities and obligations of the Contractor under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, sub-consultant or employee of the District. Review, acceptance or approval by the District of the Services performed or any documents prepared by the Contractor shall not relieve the Contractor of any responsibility for deficiencies, omissions or errors in said Services or documents, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. MONTHLY STATUS REPORT. The Contractor shall provide to the District, at the District's request, on or before the 25<sup>th</sup> of each month, a narrative progress and status report describing work in progress and results achieved during the reporting period, including a description of the Services performed during the invoice period and the Services anticipated to be performed during the ensuing invoice period ("Monthly Report").

#### 7. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be in accordance with the compensation schedule attached hereto as **Exhibit B**. The 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 as provided in Exhibit B of this Agreement, unless said reimbursement or compensation is approved in writing by the District in advance of incurring such expenses. Any direct reimbursable costs for materials will be

reimbursable at the Contractor's actual cost, provided that the Contractor shall make a reasonable attempt to notify the District of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services. Concurrent with the execution of this Agreement, the Contractor shall provide the District with a current completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification) ("W-9"). No payments will be made to the Contractor until the completed W-9 is provided. The W-9 shall be attached hereto and incorporated herein as **Exhibit B-1**.

b. Invoices. Invoices for the Services shall be submitted monthly, by the 10<sup>th</sup> of each month, during the term of the Agreement and shall contain the following information:

- i. An itemized statement of the Services performed.
- ii. Any other reasonable information required by the District to process payment of the invoice, including project and/or cost codes as provided in any applicable written service/work order.

The District shall be charged only for the actual time and direct costs incurred for the performance of the Services. Invoices received by the District after the 10<sup>th</sup> of each month may be processed the following month.

8. TIME FOR PAYMENT. Payment for the Services shall be made by the District within thirty (30) days of receipt of: (i) a timely, satisfactory and detailed invoice; and (ii) if applicable, a satisfactory and detailed Monthly Report, for that portion of the Services performed and not previously billed. The District may determine to waive or extend the deadline for filing the Monthly Report, or may make payment for Services to the Contractor notwithstanding a delay in filing the Monthly Report, upon reasonable request of the Contractor, if it is in the best interest of the District to do so. In the event a Board meeting is not scheduled in time to review payment of an invoice, the Board hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27, without the need for additional Board approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the District's approved budget. Such payment shall require review and approval of each Monthly Report and invoice by the President and one other officer of the District, subject to ratification at the next succeeding special or regular Board meeting.

9. INDEPENDENT CONTRACTOR. The Contractor is an independent contractor and nothing in the Agreement shall constitute or designate the Contractor or any of its employees or agents as employees or agents of the District. The Contractor shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the District, and shall be responsible for supervising its own employees or subcontractors. The District is concerned only with the results to be obtained. The District shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Contractor or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state or federal income or other tax contributions, insurance contributions (e.g.

FICA taxes), workers' compensation, disability, injury, health or life insurance, professional liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits or insurance. The Contractor shall be responsible for its safety, the safety of its employees, the public and the work site in general and shall comply with all applicable provisions of local, state and federal laws, regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970 (OSH Act). All personnel furnished by the Contractor will be deemed employees of the Contractor and will not for any purpose be considered employees or agents of the District, and the Contractor will comply with all employment laws relative to such employees, including but not limited to Wage and Hour laws, Worker Compensation Laws, Immigration Laws and OSHA-type laws. **The Contractor is not entitled to worker's compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Contractor or some other entity other than the District, and the Contractor is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

10. **EQUAL OPPORTUNITY / EMPLOYMENT ELIGIBILITY.** This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Contractor represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

The Contractor hereby states that it does not knowingly employ or contract with illegal aliens and that the Contractor has participated in or has attempted to participate in the E-Verify Program or Department Program (formerly known as the Basic Pilot Program) (as defined in §8-17.5-101, C.R.S.) in order to verify that it does not employ any illegal aliens. The Contractor affirmatively makes the follow declarations:

a. The Contractor shall not knowingly employ or contract with an illegal alien who will perform work under the public contract for services contemplated in the Agreement and will participate in the E-Verify Program or Department Program (as defined in §8-17.5-101, C.R.S.) in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services contemplated in the Agreement.

b. The Contractor shall not knowingly enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the services contemplated in the Agreement.

c. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify Program or the Department Program.

d. The Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

e. If the Contractor obtains actual knowledge that a subcontractor performing the services under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

i. 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.

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required above the subcontractor does not stop employing or contracting with the illegal alien; except that 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.

f. The Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that such Department is undertaking pursuant to the authority established in §8-17.5-102, C.R.S.

g. If the Contractor violates a provision of the Agreement pursuant to §8-17.5-102, C.R.S., the District may terminate the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the District.

#### 11. CONTRACTOR'S INSURANCE.

a. The Contractor shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in **Exhibit C**, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the District, its directors, officers, employees and agents is required for each coverage provided. The Commercial General Liability and Comprehensive Automobile Liability Insurance policies will be endorsed to name the District as an additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the District may carry, and any insurance maintained by the District shall be considered excess. The District shall have the right to verify or confirm, at any time, all coverage, information or representations required by this Section 11 of the Agreement.

b. Prior to commencing any work under this Agreement, the Contractor shall provide the District with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage, which certificate(s) shall be attached hereto as **Exhibit C-1**. If the Contractor subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the District and the Contractor. If the coverage required expires during the term of this Agreement, the Contractor or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

c. The Contractor's failure to purchase the required insurance shall not serve to release it from any obligations contained in the Agreement; nor shall the purchase of the required insurance serve to limit the Contractor's liability under any provision in the Agreement. The Contractor shall be responsible for the payment of any deductibles on issued policies.

12. CONFIDENTIALITY AND CONFLICTS.

a. Confidentiality. During the performance of this Agreement, if the Contractor is notified that certain information is to be considered confidential, the Contractor, on behalf of its employees, agrees to enter into a confidentiality agreement. Any information deemed confidential by the District and given to the Contractor by the District, or developed by the Contractor as a result of the performance of a particular task, shall remain confidential. In addition, the Contractor shall hold in strict confidence, and shall not use in competition, any information which the Contractor becomes aware of under or by virtue of this Agreement which the District deems confidential, or which the District has agreed to hold confidential, or which, if revealed to a third party, might reasonably be construed to be contrary to the best interests of the District.

b. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the District, the Contractor agrees to notify the owner of conflicts that impact the Services to the District.

13. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Contractor pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the District under all circumstances, upon payment to the Contractor of the invoices representing the work by which such materials were produced. The Contractor shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services, shall make them available for the District's use and shall provide such copies to the District upon request at no cost.

14. LIENS AND ENCUMBRANCES. The Contractor shall not have any right or interest in any District assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated in the Agreement. The Contractor, for itself, hereby waives and releases any and all statutory or common law mechanic's, materialmen's or other such lien claims, or rights to place a lien upon the District's property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Contractor shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through or under the Contractor to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Contractor further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the District. The Contractor will provide indemnification against all such liens for labor performed, materials supplied or used by the Contractor and/or any other person in connection with the Services undertaken by the Contractor, in accordance with Section 15(b), below.

15. INDEMNIFICATION.

a. The Contractor shall defend, indemnify and hold harmless the District and each of its directors, officers, contractors, employees, agents and consultants, from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages, and expenses, including reasonable legal expenses and attorneys' fees, by the degree or percentage of negligence or fault arising directly or indirectly, out of the errors or omissions, negligence, willful misconduct, or any criminal or tortious act or omission of the Contractor or any of its subcontractors, officers, agents or employees, in connection with this Agreement and/or the Contractor's performance of the Services or work pursuant to this Agreement. The Contractor is not obligated to indemnify the District for the District's own negligence. This indemnification obligation will not be limited in any way by any limitation on the amount or types of damages, compensation or benefits payable by or for the Contractor under worker's compensation acts, disability acts or other employee benefit acts.

b. The Contractor will at all times defend, indemnify and hold the District and its directors, officers, managers, agents and employees harmless against any liability for claims and liens for labor performed or materials used or furnished in the performance of Contractor's Services, including any costs and expenses incurred in the defense of such claims and liens, reasonable attorneys' fees and any damages to the District resulting from such claims or liens. After written demand by the District, the Contractor will immediately cause the effect of any suit or lien to be removed from the District's property. In the event the Contractor fails to do so, the District is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed, and the costs thereof, together with reasonable attorneys' fees, will be immediately due and payable by the Contractor or may, at the District's option, be offset against any sums due and payable to Contractor pursuant to this Agreement. In the event a suit on such claim or lien is brought, the Contractor will, at the option of the District, defend said suit at its own cost and expense, with counsel satisfactory to the District and will pay and satisfy any such claim, lien, or judgment as may be established by the decision of the Court in such suit. The Contractor may litigate any such lien or suit, provided the Contractor causes the effect thereof to be removed promptly in advance from the District's property.

c. This indemnity coverage shall also cover the District's defense costs in the event that the District, in its sole discretion, elects to provide its own defense. The District retains the right to disapprove counsel, if any, selected by the Contractor to fulfill the foregoing defense indemnity obligation, which right of disapproval shall not be unreasonably exercised. Insurance coverage requirements specified in the Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the District's protection in the performance of this Agreement. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

16. ASSIGNMENT. The Contractor shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the District. Any attempted

assignment, delegation or subcontracting of this Agreement in whole or in part with respect to which the District has not consented, in writing, shall be null and void and of no effect whatsoever.

17. SUB-CONTRACTORS. The Contractor is solely and fully responsible to the District for the performance of all Services under this Agreement, whether performed by the Contractor or a subcontractor engaged by the Contractor. The Contractor shall not subcontract any Services without prior written approval by the District. The Contractor agrees that each and every agreement of the Contractor with any subcontractor to perform Services under this Agreement shall contain an indemnification provision identical to the one contained in Section 15 of this Agreement holding the District harmless for the acts of the subcontractor. The Contractor further agrees that any such subcontract shall be terminable for cause or convenience and that, unless directed otherwise by the District, the Contractor shall immediately terminate all such subcontracts immediately upon termination of this Agreement. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the District. The Contractor further agrees that all such subcontracts shall provide that they may be terminated immediately without further cost upon termination of this Agreement. Neither the District's approval of any subcontractors, suppliers or materialmen, nor the failure of performance thereof by such parties, will relieve, release or affect in any manner any of the Contractor's duties, liabilities or obligations under this Agreement, and the Contractor will at all times be and remain fully liable. The Contractor agrees that each of its employees, and any subcontractors, suppliers and materialmen will be properly qualified and will use reasonable care in the performance of their duties.

18. TERMINATION. In addition to the termination provisions contained in Section 2, above, this Agreement may be terminated for cause or for convenience by the Contractor upon delivery of thirty (30) days prior written notice to the District and by the District by giving the Contractor thirty (30) days prior written notice. Such notice shall not be required for automatic expiration under Section 2, above. If this Agreement is terminated, the Contractor shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. Said payment shall be made in the normal course of business. Should either Party to this Agreement be declared bankrupt, make a general assignment for the benefit of creditors or commit a substantial and material breach of this Agreement in the view of the other Party, said other Party shall be excused from rendering or accepting any further performance under this Agreement. In the event of termination by either Party hereto, the Contractor shall cooperate with the District to ensure a timely and efficient transition of all work and work product to the District or its designees. All time, fees and costs associated with such transition shall not be billed by the Contractor to the District.

19. DEFAULT. If either Party fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of the default, at the address specified in Section 20 below, and the defaulting party will have fifteen (15) days from and after receipt of the notice to cure the default. If the default is not of a type which can be cured within such fifteen (15)-day period and the defaulting party gives written notice to the non-defaulting party within such fifteen (15)-day period that it is actively and diligently pursuing a

cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the fifteen (15)-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. If any default under this Agreement is not cured as described above, the non-defaulting party will, in addition to any other legal or equitable remedy, have the right to terminate this Agreement and enforce the defaulting party's obligations pursuant to this Agreement by an action for injunction or specific performance.

20. NOTICES. Any notice or communication required under this Agreement must be in writing, and may be given personally, sent via nationally recognized overnight carrier service, or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of: (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent; or (ii) three days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered or sent via nationally recognized overnight carrier service, a notice will be deemed to have been given and received on the first to occur of: (i) one business day after being deposited with a nationally recognized overnight air courier service; or (ii) delivery to the party to whom it is addressed. Any party hereto may at any time, by giving written notice to the other party hereto as provided in this Section 20 of the Agreement, designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the parties at their addresses set forth below:

District: Littleton Village Metropolitan District No. 2  
 c/o CliftonLarsonAllen LLP  
 8390 E. Crescent Parkway, Suite 300  
 Greenwood Village, Colorado 80111  
 Attention: Denise Denslow  
 (303) 265-7910 (phone)  
 (303) 779-0348 (fax)  
 denise.denslow@claconnect.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON  
 Attorneys at Law  
 2154 East Commons Avenue, Suite 2000  
 Centennial, Colorado 80122  
 Attention: William P. Ankele, Jr., Esq.  
 (303) 858-1800 (phone)  
 (303) 858-1801 (fax)  
 wpankele@wbapc.com

Contractor: Ground Engineering, LLC  
 41 Inverness Drive East  
 Englewood, Colorado 80112  
 Attention: Jessica Irons



(303) 991-6923 (phone)  
(303) 289-6742 (fax)  
jessica.irons@goundeng.com

21. AUDITS. The District shall have the right to audit, with reasonable notice, any of the Contractor's books and records which may be necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll and personnel records) and the Contractor agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two (2) years after termination of the Agreement and to make the same available to the District at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

22. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Contractor and the District.

23. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

24. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in the Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

25. GOVERNING LAW / DISPUTES.

a. Arbitration. All claims, counterclaims, disputes and other matters in question between the Parties hereto arising out of or relating to this Agreement or the breach hereof may be decided by arbitration upon the mutual agreement to do so by the Parties to this Agreement. In that case, arbitration will be administered by the Judicial Arbitrator Group in Denver, Colorado under its arbitration rules, by a single arbitrator, unless a different arbitrator is agreed upon by the Parties. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. THE PARTIES RECOGNIZE THAT BY AGREEING TO BINDING ARBITRATION AS THE METHOD FOR DISPUTE RESOLUTION, THEY RELINQUISH THE RIGHT TO BRING AN ACTION IN COURT AND WAIVE THE RIGHT TO A JURY TRIAL AND THE EXTENSIVE DISCOVERY RIGHTS TYPICALLY PERMITTED IN JUDICIAL PROCEEDINGS. Colorado law shall apply to any dispute, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Each Party will be responsible for paying one half of all fees and expenses charged by the arbitrator. Notice of request for arbitration must be filed in writing with the other Party(ies) to this Agreement. If agreed to, notice must be filed with the Judicial Arbitrator Group. The request must be made within a reasonable time after the claim, dispute or other matter in

question has arisen. In no event may it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. In the event that the Parties do not agree to arbitration, each party shall be permitted to pursue all available legal and equitable remedies.

b. Litigation and Venue. In the event the Parties do not agree to arbitration pursuant to Section 25(a), above, venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At the District's request, the Contractor shall carry on its duties and obligations under this Agreement during any legal proceedings and the District shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated.

c. Prevailing Party. Other than arbitration fees as set forth in Section 25(a) of the Agreement, in the event that it becomes necessary for either party to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees. For purposes of this Agreement, "prevailing party" shall mean the party in whose favor a judgment, decree, or final order is rendered, either by an arbitrator or the court, after appeal, if any. In the event both Parties prevail on one or more claims, the prevailing party shall mean the net winner of a dispute, taking into account the claims pursued, the claims on which the pursuing party was successful, the amount of money sought, the amount of money awarded, and offsets or counterclaims pursued (successfully or unsuccessfully) by the other Party.

d. At the District's request, the Contractor will consent to being joined in litigation between the District and third parties, but such consent shall not be construed as an admission of fault or liability. The Contractor shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner or failure of the District to furnish timely information or to approve or disapprove of Contractor's Services in a timely manner.

26. GOOD FAITH OF PARTIES. In the performance of this Agreement, or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

27. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District pursuant to this Agreement requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations. The Contractor expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the

Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the District, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the District or statutory debt limitation, including, without limitation, Article X, Section 20 or Article XI, Section 6 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of District funds. The District's obligations under this Agreement exist subject to annual budgeting and appropriations, and shall remain subject to the same for the entire term of this Agreement.

28. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

29. NEGOTIATED PROVISIONS. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

30. SEVERABILITY. If any covenant, term, condition or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition or provision shall not affect any other provision contained in the Agreement, the intention being that such provisions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

31. NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

32. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202, *et seq.*, C.R.S.

33. STANDARD OF CARE. In providing Services under this Agreement, the Contractor shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time.

34. TAX EXEMPT STATUS. The District is exempt from Colorado State sales and use taxes. Accordingly, taxes from which the District is exempt shall not be included in any invoices submitted to the District. The District shall, upon request, furnish Contractor with a copy of its certificate of tax exemption. Contractor and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase the materials tax free. The Contractor and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

35. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Remainder of page intentionally left blank. Signature pages follow].*

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

LITTLETON VILLAGE METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

***District's Signature Page to Independent Contractor Agreement for Dog Park Restoration Testing Services with Littleton Village Metropolitan District No. 2, dated September 25, 2018***

CONTRACTOR:

GROUND ENGINEERING, LLC, a Colorado limited liability company

\_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, as the \_\_\_\_\_ of Ground Engineering, LLC.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_

(S E A L)

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

***Contractor's Signature Page to Independent Contractor Agreement for Dog Park Restoration Testing Services with Littleton Village Metropolitan District No. 2, dated September 25, 2018***

**EXHIBIT A**  
**SCOPE OF SERVICES**

September 12, 2018

Subject: Proposal for Materials Testing and Special Inspection Services, Littleton Village Dog Park Repair; Littleton, Colorado

**Proposal No. 1809-1616**

Ms. Denise Denslow  
**Littleton Village Metro District**  
c/o CliftonLarsonAllen, LLP  
8390 East Crescent Parkway, Suite 500  
Greenwood Village, Colorado 80111

Dear Ms. Denslow,

Ground Engineering Consultants, Inc. (GROUND) appreciates the opportunity to prepare a proposal to perform materials testing and special inspection services for the Littleton Village Dog Park Repairs project located in Littleton, Colorado. Please note that the services will only be provided as scheduled by the Owner, Owner's Representative, Contractor, or applicable Subcontractors. Additional services beyond those below can be provided. Please contact this office for a fee estimate for additional services that may be needed.

Our rates for this work will in accordance with the Fee Schedule attached below. An overtime rate of an additional \$15.00 per hour above the hourly rate will be billed for hours over 8 per day and all hours on weekends and holidays. Review and supervision will be completed at a rate of \$95.00 per hour. Lab testing if required will be completed at unit rates outlined on the attached Fee Schedule. For budgetary purposes, we have provided a total fee estimate below based on quantities estimated from the plans and specifications and an estimated scope of services to be scheduled:

**Service Agreement/Proposal Conditions**

The scope addressed by this proposal does not include geotechnical engineering services, other than any specifically identified herein. Should geotechnical engineering services be requested, including but not necessarily limited to soil bearing pressure evaluation, remedial earthwork/soil stabilization recommendations, groundwater evaluation, and assessment of soil suitability for specific uses, the Client/Owner/Contractor must realize additional time, exploration, evaluation/analysis, and costs likely will be incurred for such services. Such services would be provided under a separate scope and fee. Performing materials testing and observation services does not place the Consultant in the role of Geotechnical Engineer for the project, and the Consultant cannot assume that role unless specifically contracted to do so.

You will be invoiced for the amount of services actually performed, so actual total cost may be more or less than the amount estimated above. This proposed estimate shall be valid for a period of 120 calendar days from the date of submittal. GROUND reserves the right to review and revise the proposed quantities and unit rates thereafter. The referenced "Fee Schedule" is included and is part of this proposal. We propose that our fees for any additional services be based on our hourly and unit costs in accordance with the "Fee Schedule". Also note that GROUND reserves the right to withhold data and reports until we have received a signed proposal. If this proposal meets with your approval, please sign one copy and return it to this office.



Littleton Village Dog Park Repair  
Littleton, Colorado

Thank you for considering us for the materials testing and special inspection services on this project.

Sincerely,  
**GROUND ENGINEERING CONSULTANTS, INC.**

  
Jessica Irons

  
Reviewed by Levi Klingsmith

**EXHIBIT B**  
COMPENSATION SCHEDULE

# GROUND ENGINEERING

## FEE SCHEDULE - CONSTRUCTION SERVICES

### MATERIAL TESTING AND SPECIAL INSPECTION

(Time is round trip from office to project site and return)

• Concrete and Asphalt Testing (hourly)	\$48.00
• Soil Testing (hourly)	\$48.00
• Rebar, Masonry, Post Tension, Piers (hourly)	\$48.00
• Floor Flatness (hourly)	\$65.00
• Wastewater Pipe Inspection (hourly)	\$60.00
• Coring and Concrete Humidity/Moisture (hourly)	\$75.00
• Certified Welding Inspector (CWI) (hourly)	\$75.00
• Certified Building Inspector (hourly)	\$78.00
• Certified Fire Stop Inspector (hourly)	\$95.00

### MANAGEMENT AND ENGINEERING

• Project Management-Review/Supervision (hourly)	\$95.00
• Senior Project Engineer/Geologist (hourly)	\$150.00
• Project Engineer/Geologist (hourly)	\$115.00
• Staff Engineer/Geologist (hourly)	\$95.00
• Principal Engineer, Senior Project Manager	Quote
• Overtime (Over 8hrs/day, weekends, after 6pm)	rate + \$15.00
• Trip Charge (covers vehicle and equipment)	\$15.00
• Interest charged after 30 days from invoice date	1.5%

### MISCELLANEOUS

(These units are on a project by project basis and will only apply as detailed in the proposal)

• Vehicle Mileage	Quote	• Mobile Laboratory	Quote
• Daily Rates	Quote	• Outside Laboratory Services	Quote
• Out-of-town living expenses, commercial travel costs, equipment rental, etc.	Quote	• Vibration Monitoring/Geotechnical Instrumentation Services, Thermal Conductivity and Resistivity	Quote
• Pile Dynamic Analysis, Ground Penetrating Radar, Cross Hole Sonic Logging, Sonic Echo, Falling Weight Deflectometer	Quote		Quote

### LABORATORY TESTING

#### Soil and Aggregate

Standard Proctor Compaction	\$100.00
Modified Proctor Compaction	\$110.00
Soil Cement Proctor	\$150.00
Natural Density and Moisture Content	\$15.00
Specific Gravity of Fine Aggregate	\$65.00
Gradation	\$60.00
No. 200 Wash	\$35.00
Gradation and Hydrometer	\$135.00
"R"-Value	\$350.00
Atterberg Limit	\$65.00
Unconfined Comp. Str.-Soil Stab. (per set)	\$250.00
pH Test	\$50.00
Water Soluble Sulfates Test	\$50.00
Triaxial Permeability	\$375.00
Freeze-Thaw Test	\$500.00
Denver Swell	\$65.00
Direct Shear	\$375.00
Soil Stabilization Mixture Analysis	Quote
Sand Equivalent	\$95.00
Relative Density	\$200.00
Clay Lumps and Friable Particles	\$45.00
Flat or Elongated Particles	\$60.00
Sulfate Soundness	\$200.00
Fractured Faces Test	\$60.00
Los Angeles Abrasion Test	\$150.00
Uncompacted Voids Test	\$95.00
Specific Gravity of Coarse Aggregate	\$95.00

#### Concrete

Concrete Compression Test, Cylinders (each)	\$14.00
Concrete Comp. St. Cylinders (high strength concrete)	\$75.00
Compressive Strength-CLSM Cylinders	\$20.00
Concrete Flexural Test, Beams	\$55.00
Maturity Data Logger (each)	\$75.00
Moisture Coupons (each)	\$50.00
Relative Humidity Sensors (ASTM F2170) (each)	\$75.00
Shotcrete Comp. Str. (per panel)	\$225.00
Maturity Meter Strength Correlation	Quote

#### Asphalt

AC Content and Extracted Gradation	\$160.00
Stability and Flow (Marshall)	\$200.00
Specific Gravity (SSD) and Voids (Gyratory) (per test)	\$250.00
Theoretical Maximum Specific Gravity	\$100.00
Modified Lottman (TSR)	\$325.00
Ignition Oven Calibration	\$225.00
Specific Gravity (SSD) and Voids (per Core)	\$40.00
Coring-Asphalt (Dia. (in.) X Depth (in.) X No. cores)	\$1.50
Stability (Gyratory)	\$105.00
Asphalt Moisture Content	\$15.00
Asphalt and Concrete Mixture Analysis	Quote
Micro Deval	\$175.00

#### Masonry

Mortar Compressive Strength	\$20.00
Masonry Prism Comp. Strength	\$95.00
Grout Compressive Strength	\$30.00
Compressive Strength CMU/Brick Coupon	\$50.00

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**EXHIBIT B-1**  
CONTRACTOR'S COMPLETED W-9

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

NOTE: All insurance required and provided hereunder shall also comply with the provisions of Section 11 of the Agreement.

1. Standard Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor involved with the performance of the Services, with policy amounts and coverage in compliance with the laws of the jurisdiction in which the Services will be performed.
2. Commercial General Liability Insurance with minimum limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage liability; \$2,000,000 designated location, general aggregate. Such insurance will include coverage for contractual liability, personal injury and broad form property damage, and shall include all major divisions of coverage and be on a comprehensive basis including, but not limited to:
  - a. premises operations;
  - b. personal injury liability without employment exclusion;
  - c. blanket contractual;
  - d. broad form property damages, including completed operations;
  - e. medical payments;
  - f. products and completed operations;
  - g. independent consultants coverage;
  - h. coverage inclusive of construction means, methods, techniques, sequences, and procedures, employed in the capacity of a construction consultant; and

**This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.**
3. Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired automobiles used in connection with the performance of the Services, with limits of liability of not less than \$1,000,000 combined single limit bodily injury and property damage. **This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.**
4. If applicable: Contractor shall secure and maintain a third party fidelity bond in favor of the District covering the Contractor and its employees and agents who may provide or be responsible for the provision of Services where such activities contemplate the responsibility for money or property of the District. Such bond shall protect the District against any fraudulent or dishonest act which may result in the loss of money, securities, or other property belonging to or in the possession of the District. Said bond shall be in an amount as determined by the District, from a surety acceptable to the District.
5. Any other insurance commonly used by contractors for services of the type to be performed pursuant to this Agreement.
6. Professional liability insurance in the amount of \$1,000,000.00 each occurrence.

**EXHIBIT C-1**  
CERTIFICATE(S) OF INSURANCE



INDEPENDENT CONTRACTOR AGREEMENT  
(Dog Park Restoration Construction Management)

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This INDEPENDENT CONTRACTOR AGREEMENT, including any and all exhibits attached hereto (the “Agreement”), is entered into as of the 25<sup>th</sup> day of September, 2018, by and between LITTLETON VILLAGE METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), and DIVERSE PROJECT CONSULTANTS, LLC, a Colorado limited liability company (the “Contractor”). The District and the Contractor are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the District was organized pursuant to and in accordance with the provisions of §§ 32-1-101, *et seq.*, C.R.S. for the purpose of constructing, financing, operating and maintaining certain public facilities and improvements for itself, its taxpayers, residents and users; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is empowered to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, pursuant to § 32-1-1001(1)(i), C.R.S., the District is empowered to appoint, hire and retain agents, employees, engineers and attorneys; and

WHEREAS, the District desires to engage the Contractor to perform certain services as are needed by the District to serve the property within and without its boundaries; and

WHEREAS, the Contractor has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES. The Contractor shall perform the services described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Services”): (a) in a first-class manner, to the satisfaction of the District, using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the District; (b) within the time period and pursuant to the Scope of Services specified in said Exhibit A; (c) in such a manner as to minimize any annoyance, interference or disruption to the residents, tenants, occupants and invitees within the District; and (d) in compliance with all applicable federal, state, county and local or municipal body or agency statutes, ordinances and regulations, including, without limitation, any licensing, bonding, and permit requirements, and



including without limitation, any such laws relating to storage, use or disposal of hazardous wastes, substances or materials. Exhibit A may take any form, including forms which may include price and payment terms. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in Exhibit A, the terms in the body of this Agreement shall govern. Contractor shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement.

2. TERM/RENEWAL. This Agreement shall be effective as of September 19, 2018 and shall terminate on the earlier to occur of: (i) termination pursuant to Section 18 hereof; (ii) completion of the Services; or (iii) December 31, 2018. Notwithstanding the foregoing, unless terminated pursuant to (i) or (ii) above, or unless the District determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew for each succeeding year for an additional one (1) year term commencing January 1 of the next succeeding year.

3. ADDITIONAL SERVICES. The District may request the Contractor to provide additional services not set forth in Exhibit A. The terms and conditions of the provision of such services shall be subject to the mutual agreement of the Contractor and the District pursuant to a written service/work order executed by an authorized representative of the District and the Contractor. Authorization to proceed with additional services shall not be given unless the District has appropriated funds sufficient to cover the additional compensable amount. To the extent additional services are provided pursuant to this Section 3, the terms and conditions of this Agreement relating to Services shall also apply to any additional services rendered.

4. REPAIRS/CLAIMS. The Contractor shall notify the District immediately of any and all damage caused by the Contractor to District property and that of third parties. The Contractor will promptly repair or, at the District's option, reimburse the District for the repair of any damage to property caused by the Contractor or its employees, agents or equipment. In addition, the Contractor shall promptly notify the District of all potential claims of which it becomes aware. The Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the District the opportunity to review and inspect such evidence, including the scene of any damage or accidents. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Services and shall provide all reasonable protection to prevent damage or injury to persons and property, including any material and equipment related to the Services, whether in storage on or off site, under the care, custody, or control of the Contractor or any of its subcontractors.

5. GENERAL PERFORMANCE STANDARDS.

a. The Contractor has by careful examination ascertained: (i) the nature and location of the Services; (ii) the configuration of the ground on which the Services are to be performed; (iii) the character, quality, and quantity of the labor, materials, equipment and facilities necessary to complete the Services; (iv) the general and local conditions pertaining to the Services;

and (v) all other matters which in any way may affect the performance of the Services by the Contractor. Contractor enters into this Agreement solely because of the results of such examination and not because of any representations pertaining to the Services or the provision thereof made to it by the District or any agent of the District and not contained in this Agreement. The Contractor represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Contractor's performance of the Services does not meet this standard, the Contractor shall, at the District's request, re-perform the Services not meeting this standard without additional compensation.

b. The Services of the Contractor shall be undertaken and completed to assure their expeditious completion in light of the purposes of this Agreement. If performance of the Services by the Contractor is delayed due to factors beyond the Contractor's reasonable control, or if conditions of the scope or type of services are expected to change, Contractor shall give timely notice to the District of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

c. The Services provided under this Agreement shall be adequate and sufficient for the intended purposes and shall be completed in a good and workmanlike manner.

d. The Contractor declares that it has complied with all Federal, State and local laws, rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses that are required to provide the Services under this Agreement.

e. The responsibilities and obligations of the Contractor under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, sub-consultant or employee of the District. Review, acceptance or approval by the District of the Services performed or any documents prepared by the Contractor shall not relieve the Contractor of any responsibility for deficiencies, omissions or errors in said Services or documents, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. MONTHLY STATUS REPORT. The Contractor shall provide to the District, at the District's request, on or before the 25<sup>th</sup> of each month, a narrative progress and status report describing work in progress and results achieved during the reporting period, including a description of the Services performed during the invoice period and the Services anticipated to be performed during the ensuing invoice period ("Monthly Report").

7. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be in accordance with the compensation schedule attached hereto as **Exhibit B**. The 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 as provided in Exhibit B of this Agreement, unless said reimbursement or compensation is approved in writing by the District in

advance of incurring such expenses. Any direct reimbursable costs for materials will be reimbursable at the Contractor's actual cost, provided that the Contractor shall make a reasonable attempt to notify the District of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services. Concurrent with the execution of this Agreement, the Contractor shall provide the District with a current completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification) ("W-9"). No payments will be made to the Contractor until the completed W-9 is provided. The W-9 shall be attached hereto and incorporated herein as **Exhibit B-1**.

b. Invoices. Invoices for the Services shall be submitted monthly, by the 10<sup>th</sup> of each month, during the term of the Agreement and shall contain the following information:

- i. An itemized statement of the Services performed.
- ii. Any other reasonable information required by the District to process payment of the invoice, including project and/or cost codes as provided in any applicable written service/work order.

The District shall be charged only for the actual time and direct costs incurred for the performance of the Services. Invoices received by the District after the 10<sup>th</sup> of each month may be processed the following month.

8. TIME FOR PAYMENT. Payment for the Services shall be made by the District within thirty (30) days of receipt of: (i) a timely, satisfactory and detailed invoice; and (ii) if applicable, a satisfactory and detailed Monthly Report, for that portion of the Services performed and not previously billed. The District may determine to waive or extend the deadline for filing the Monthly Report, or may make payment for Services to the Contractor notwithstanding a delay in filing the Monthly Report, upon reasonable request of the Contractor, if it is in the best interest of the District to do so. In the event a Board meeting is not scheduled in time to review payment of an invoice, the Board hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27, without the need for additional Board approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the District's approved budget. Such payment shall require review and approval of each Monthly Report and invoice by the President and one other officer of the District, subject to ratification at the next succeeding special or regular Board meeting.

9. INDEPENDENT CONTRACTOR. The Contractor is an independent contractor and nothing in the Agreement shall constitute or designate the Contractor or any of its employees or agents as employees or agents of the District. The Contractor shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the District, and shall be responsible for supervising its own employees or subcontractors. The District is concerned only with the results to be obtained. The District shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Contractor or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not

limited to: local, state or federal income or other tax contributions, insurance contributions (e.g. FICA taxes), workers' compensation, disability, injury, health or life insurance, professional liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits or insurance. The Contractor shall be responsible for its safety, the safety of its employees, the public and the work site in general and shall comply with all applicable provisions of local, state and federal laws, regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970 (OSH Act). All personnel furnished by the Contractor will be deemed employees of the Contractor and will not for any purpose be considered employees or agents of the District, and the Contractor will comply with all employment laws relative to such employees, including but not limited to Wage and Hour laws, Worker Compensation Laws, Immigration Laws and OSHA-type laws. **The Contractor is not entitled to worker's compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Contractor or some other entity other than the District, and the Contractor is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

10. EQUAL OPPORTUNITY / EMPLOYMENT ELIGIBILITY. This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Contractor represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

The Contractor hereby states that it does not knowingly employ or contract with illegal aliens and that the Contractor has participated in or has attempted to participate in the E-Verify Program or Department Program (formerly known as the Basic Pilot Program) (as defined in §8-17.5-101, C.R.S.) in order to verify that it does not employ any illegal aliens. The Contractor affirmatively makes the follow declarations:

a. The Contractor shall not knowingly employ or contract with an illegal alien who will perform work under the public contract for services contemplated in the Agreement and will participate in the E-Verify Program or Department Program (as defined in §8-17.5-101, C.R.S.) in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services contemplated in the Agreement.

b. The Contractor shall not knowingly enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the services contemplated in the Agreement.

c. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify Program or the Department Program.

d. The Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

e. If the Contractor obtains actual knowledge that a subcontractor performing the services under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

i. 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.

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required above the subcontractor does not stop employing or contracting with the illegal alien; except that 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.

f. The Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that such Department is undertaking pursuant to the authority established in §8-17.5-102, C.R.S.

g. If the Contractor violates a provision of the Agreement pursuant to §8-17.5-102, C.R.S., the District may terminate the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the District.

#### 11. CONTRACTOR'S INSURANCE.

a. The Contractor shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in **Exhibit C**, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the District, its directors, officers, employees and agents is required for each coverage provided. The Commercial General Liability and Comprehensive Automobile Liability Insurance policies will be endorsed to name the District as an additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the District may carry, and any insurance maintained by the District shall be considered excess. The District shall have the right to verify or confirm, at any time, all coverage, information or representations required by this Section 11 of the Agreement.

b. Prior to commencing any work under this Agreement, the Contractor shall provide the District with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage, which certificate(s) shall be attached hereto as **Exhibit C-1**. If the Contractor subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the District and the Contractor. If the coverage required expires during the term of this Agreement, the Contractor or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

c. The Contractor's failure to purchase the required insurance shall not serve to release it from any obligations contained in the Agreement; nor shall the purchase of the required insurance serve to limit the Contractor's liability under any provision in the Agreement. The Contractor shall be responsible for the payment of any deductibles on issued policies.

12. CONFIDENTIALITY AND CONFLICTS.

a. Confidentiality. During the performance of this Agreement, if the Contractor is notified that certain information is to be considered confidential, the Contractor, on behalf of its employees, agrees to enter into a confidentiality agreement. Any information deemed confidential by the District and given to the Contractor by the District, or developed by the Contractor as a result of the performance of a particular task, shall remain confidential. In addition, the Contractor shall hold in strict confidence, and shall not use in competition, any information which the Contractor becomes aware of under or by virtue of this Agreement which the District deems confidential, or which the District has agreed to hold confidential, or which, if revealed to a third party, might reasonably be construed to be contrary to the best interests of the District.

b. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the District, the Contractor agrees to notify the owner of conflicts that impact the Services to the District.

13. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Contractor pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the District under all circumstances, upon payment to the Contractor of the invoices representing the work by which such materials were produced. The Contractor shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services, shall make them available for the District's use and shall provide such copies to the District upon request at no cost.

14. LIENS AND ENCUMBRANCES. The Contractor shall not have any right or interest in any District assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated in the Agreement. The Contractor, for itself, hereby waives and releases any and all statutory or common law mechanic's, materialmen's or other such lien claims, or rights to place a lien upon the District's property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Contractor shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through or under the Contractor to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Contractor further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the District. The Contractor will provide indemnification against all such liens for labor performed, materials supplied or

used by the Contractor and/or any other person in connection with the Services undertaken by the Contractor, in accordance with Section 15(b), below.

15. INDEMNIFICATION.

a. The Contractor shall defend, indemnify and hold harmless the District and each of its directors, officers, contractors, employees, agents and consultants, from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages, and expenses, including reasonable legal expenses and attorneys' fees, by the degree or percentage of negligence or fault arising directly or indirectly, out of the errors or omissions, negligence, willful misconduct, or any criminal or tortious act or omission of the Contractor or any of its subcontractors, officers, agents or employees, in connection with this Agreement and/or the Contractor's performance of the Services or work pursuant to this Agreement. The Contractor is not obligated to indemnify the District for the District's own negligence. This indemnification obligation will not be limited in any way by any limitation on the amount or types of damages, compensation or benefits payable by or for the Contractor under worker's compensation acts, disability acts or other employee benefit acts.

b. The Contractor will at all times defend, indemnify and hold the District and its directors, officers, managers, agents and employees harmless against any liability for claims and liens for labor performed or materials used or furnished in the performance of Contractor's Services, including any costs and expenses incurred in the defense of such claims and liens, reasonable attorneys' fees and any damages to the District resulting from such claims or liens. After written demand by the District, the Contractor will immediately cause the effect of any suit or lien to be removed from the District's property. In the event the Contractor fails to do so, the District is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed, and the costs thereof, together with reasonable attorneys' fees, will be immediately due and payable by the Contractor or may, at the District's option, be offset against any sums due and payable to Contractor pursuant to this Agreement. In the event a suit on such claim or lien is brought, the Contractor will, at the option of the District, defend said suit at its own cost and expense, with counsel satisfactory to the District and will pay and satisfy any such claim, lien, or judgment as may be established by the decision of the Court in such suit. The Contractor may litigate any such lien or suit, provided the Contractor causes the effect thereof to be removed promptly in advance from the District's property.

c. This indemnity coverage shall also cover the District's defense costs in the event that the District, in its sole discretion, elects to provide its own defense. The District retains the right to disapprove counsel, if any, selected by the Contractor to fulfill the foregoing defense indemnity obligation, which right of disapproval shall not be unreasonably exercised. Insurance coverage requirements specified in the Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the District's protection in the performance of this Agreement. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

16. ASSIGNMENT. The Contractor shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the District. Any attempted assignment, delegation or subcontracting of this Agreement in whole or in part with respect to which the District has not consented, in writing, shall be null and void and of no effect whatsoever.

17. SUB-CONTRACTORS. The Contractor is solely and fully responsible to the District for the performance of all Services under this Agreement, whether performed by the Contractor or a subcontractor engaged by the Contractor. The Contractor shall not subcontract any Services without prior written approval by the District. The Contractor agrees that each and every agreement of the Contractor with any subcontractor to perform Services under this Agreement shall contain an indemnification provision identical to the one contained in Section 15 of this Agreement holding the District harmless for the acts of the subcontractor. The Contractor further agrees that any such subcontract shall be terminable for cause or convenience and that, unless directed otherwise by the District, the Contractor shall immediately terminate all such subcontracts immediately upon termination of this Agreement. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the District. The Contractor further agrees that all such subcontracts shall provide that they may be terminated immediately without further cost upon termination of this Agreement. Neither the District's approval of any subcontractors, suppliers or materialmen, nor the failure of performance thereof by such parties, will relieve, release or affect in any manner any of the Contractor's duties, liabilities or obligations under this Agreement, and the Contractor will at all times be and remain fully liable. The Contractor agrees that each of its employees, and any subcontractors, suppliers and materialmen will be properly qualified and will use reasonable care in the performance of their duties.

18. TERMINATION. In addition to the termination provisions contained in Section 2, above, this Agreement may be terminated for cause or for convenience by the Contractor upon delivery of thirty (30) days prior written notice to the District and by the District by giving the Contractor thirty (30) days prior written notice. Such notice shall not be required for automatic expiration under Section 2, above. If this Agreement is terminated, the Contractor shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. Said payment shall be made in the normal course of business. Should either Party to this Agreement be declared bankrupt, make a general assignment for the benefit of creditors or commit a substantial and material breach of this Agreement in the view of the other Party, said other Party shall be excused from rendering or accepting any further performance under this Agreement. In the event of termination by either Party hereto, the Contractor shall cooperate with the District to ensure a timely and efficient transition of all work and work product to the District or its designees. All time, fees and costs associated with such transition shall not be billed by the Contractor to the District.

19. DEFAULT. If either Party fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of the default, at the address specified in Section 20 below, and the defaulting party will have fifteen (15) days from and after receipt of the notice to cure the default. If the default is not of a type which can be



cured within such fifteen (15)-day period and the defaulting party gives written notice to the non-defaulting party within such fifteen (15)-day period that it is actively and diligently pursuing a cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the fifteen (15)-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. If any default under this Agreement is not cured as described above, the non-defaulting party will, in addition to any other legal or equitable remedy, have the right to terminate this Agreement and enforce the defaulting party's obligations pursuant to this Agreement by an action for injunction or specific performance.

20. NOTICES. Any notice or communication required under this Agreement must be in writing, and may be given personally, sent via nationally recognized overnight carrier service, or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of: (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent; or (ii) three days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered or sent via nationally recognized overnight carrier service, a notice will be deemed to have been given and received on the first to occur of: (i) one business day after being deposited with a nationally recognized overnight air courier service; or (ii) delivery to the party to whom it is addressed. Any party hereto may at any time, by giving written notice to the other party hereto as provided in this Section 20 of the Agreement, designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the parties at their addresses set forth below:

District: Littleton Village Metropolitan District No. 2  
c/o CliftonLarsonAllen LLP  
8390 E. Crescent Parkway, Suite 300  
Greenwood Village, Colorado 80111  
Attention: Denise Denslow  
(303) 265-7910 (phone)  
(303) 779-0348(fax)  
denise.denslow@claconnect.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law  
2154 East Commons Avenue, Suite 2000  
Centennial, Colorado 80122  
Attention: William P. Ankele, Jr., Esq.  
(303) 858-1800 (phone)  
(303) 858-1801 (fax)  
wpankele@wbapc.com

Contractor: Diverse Project Consultants, LLC  
9233 Park Meadows Drive, #171

Lone Tree, Colorado 80124  
Attention: Patricia Y. Ortiz  
(303) 906-0213 (phone)  
portiz@diverse-llc.com

21. AUDITS. The District shall have the right to audit, with reasonable notice, any of the Contractor's books and records which may be necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll and personnel records) and the Contractor agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two (2) years after termination of the Agreement and to make the same available to the District at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

22. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Contractor and the District.

23. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

24. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in the Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

25. GOVERNING LAW / DISPUTES.

a. Arbitration. All claims, counterclaims, disputes and other matters in question between the Parties hereto arising out of or relating to this Agreement or the breach hereof may be decided by arbitration upon the mutual agreement to do so by the Parties to this Agreement. In that case, arbitration will be administered by the Judicial Arbitrator Group in Denver, Colorado under its arbitration rules, by a single arbitrator, unless a different arbitrator is agreed upon by the Parties. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. THE PARTIES RECOGNIZE THAT BY AGREEING TO BINDING ARBITRATION AS THE METHOD FOR DISPUTE RESOLUTION, THEY RELINQUISH THE RIGHT TO BRING AN ACTION IN COURT AND WAIVE THE RIGHT TO A JURY TRIAL AND THE EXTENSIVE DISCOVERY RIGHTS TYPICALLY PERMITTED IN JUDICIAL PROCEEDINGS. Colorado law shall apply to any dispute, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Each Party will be responsible for paying one half of all fees and expenses charged by the arbitrator. Notice of request for arbitration must be filed in writing with the other Party(ies) to this Agreement. If agreed to, notice must be filed with the Judicial Arbitrator Group. The

request must be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event may it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. In the event that the Parties do not agree to arbitration, each party shall be permitted to pursue all available legal and equitable remedies.

b. Litigation and Venue. In the event the Parties do not agree to arbitration pursuant to Section 25(a), above, venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At the District's request, the Contractor shall carry on its duties and obligations under this Agreement during any legal proceedings and the District shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated.

c. Prevailing Party. Other than arbitration fees as set forth in Section 25(a) of the Agreement, in the event that it becomes necessary for either party to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees. For purposes of this Agreement, "prevailing party" shall mean the party in whose favor a judgment, decree, or final order is rendered, either by an arbitrator or the court, after appeal, if any. In the event both Parties prevail on one or more claims, the prevailing party shall mean the net winner of a dispute, taking into account the claims pursued, the claims on which the pursuing party was successful, the amount of money sought, the amount of money awarded, and offsets or counterclaims pursued (successfully or unsuccessfully) by the other Party.

d. At the District's request, the Contractor will consent to being joined in litigation between the District and third parties, but such consent shall not be construed as an admission of fault or liability. The Contractor shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner or failure of the District to furnish timely information or to approve or disapprove of Contractor's Services in a timely manner.

26. GOOD FAITH OF PARTIES. In the performance of this Agreement, or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

27. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District pursuant to this Agreement requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations. The Contractor expressly understands and agrees that the District's obligations under this

Agreement shall extend only to monies appropriated for the purposes of this Agreement by the Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the District, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the District or statutory debt limitation, including, without limitation, Article X, Section 20 or Article XI, Section 6 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of District funds. The District's obligations under this Agreement exist subject to annual budgeting and appropriations, and shall remain subject to the same for the entire term of this Agreement.

28. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

29. NEGOTIATED PROVISIONS. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

30. SEVERABILITY. If any covenant, term, condition or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition or provision shall not affect any other provision contained in the Agreement, the intention being that such provisions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

31. NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

32. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202, *et seq.*, C.R.S.

33. STANDARD OF CARE. In providing Services under this Agreement, the Contractor shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time.

34. TAX EXEMPT STATUS. The District is exempt from Colorado State sales and use taxes. Accordingly, taxes from which the District is exempt shall not be included in any invoices submitted to the District. The District shall, upon request, furnish Contractor with a copy of its certificate of tax exemption. Contractor and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase the materials tax free. The Contractor and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

35. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Remainder of page intentionally left blank. Signature pages follow].*

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

LITTLETON VILLAGE METROPOLITAN  
DISTRICT NO. 2, a quasi-municipal corporation  
and political subdivision of the State of Colorado

---

President

ATTEST:

---

Secretary

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

---

General Counsel to the District

***District's Signature Page to Independent Contractor Agreement for Dog Park Restoration  
Construction Management Services with Littleton Village Metropolitan District No. 2, dated  
September 25, 2018***

CONTRACTOR:

DIVERSE PROJECT CONSULTANTS, LLC, a Colorado limited liability company

\_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, as the \_\_\_\_\_ of Diverse Project Consultants, LLC.

WITNESS my hand and official seal.

My commission expires: \_\_\_\_\_

(S E A L)

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

***Contractor's Signature Page to Independent Contractor Agreement for Dog Park Restoration Construction Management Services with Littleton Village Metropolitan District No. 2, dated September 25, 2018***

**EXHIBIT A**  
**SCOPE OF SERVICES**





September 17, 2018

Denise Denslow  
Littleton Village Metropolitan District  
c/o CliftonLarsonAllen, LLP  
8390 E Crescent Parkway, Suite 300  
Greenwood Village, CO 80111

Dear Denise,

Diverse Project Consultants, LLC (DPC) is pleased to submit this letter to Littleton Village Metropolitan District to provide professional services for the project near E Dry Creek and S Logan Street. Our project understanding and scope of services are presented below. A proposed agreement and our current fee schedule are attached.

#### Project Understanding & Scope of Services

We understand DPC will act as a third party engineer evaluating some latent construction issues on the Littleton Village park project. This may include site visit(s), review of design and construction information, coordination calls and/or meetings. Due to the unknown extent of our involvement at this time DPC will provide these services on a time and materials basis, as requested by the District.

DPC shall be entitled to rely on the completeness and accuracy of all information provided by the District or the District's consultants, contractors or by others for whom DPC is not responsible. Verifying the accuracy and completeness of such items is not part of DPC's scope of services.

We have attached a copy of our proposed agreement for services along with fee schedule of our current hourly rates. If the District concurs and wishes us to proceed with the services please return a signed agreement.

Thank you for the opportunity to provide professional services.

Sincerely,

A handwritten signature in blue ink that reads "Pat. Y. Ortiz". The signature is written in a cursive style with a large initial "P" and "O".

Patricia Y. Ortiz, PE, RMP  
Manager

**EXHIBIT B**  
COMPENSATION SCHEDULE



## Diverse Project Consultants, LLC

### HOURLY RATE SCHEDULE

(2018)

Manager (PE, PMP)	\$ 132.00/hour
Senior Project Engineer (PE)	\$ 121.00/hour
Senior Construction/ Contract Advisor	\$ 118.00/hour
Project Engineer (PE)	\$ 112.00/hour
Design Engineer (EI)	\$ 93.00/hour
Construction Coordinator/Inspector	\$ 90.00/hour
Contract Administration Assistant	\$ 66.00/hour

### Direct Costs

Prints and Photocopies	Cost + 5%
Deliveries & Express Shipping	Cost + 15%
Outside Services by Others	Cost + 10%
Mileage	current IRS allowed rate

\_\_\_\_\_  
Authorizing signature

\_\_\_\_\_  
Date

**EXHIBIT B-1**  
CONTRACTOR'S COMPLETED W-9

**EXHIBIT C**  
**INSURANCE REQUIREMENTS**

NOTE: All insurance required and provided hereunder shall also comply with the provisions of Section 11 of the Agreement.

1. Standard Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor involved with the performance of the Services, with policy amounts and coverage in compliance with the laws of the jurisdiction in which the Services will be performed.
2. Commercial General Liability Insurance with minimum limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage liability; \$2,000,000 designated location, general aggregate. Such insurance will include coverage for contractual liability, personal injury and broad form property damage, and shall include all major divisions of coverage and be on a comprehensive basis including, but not limited to:
  - a. premises operations;
  - b. personal injury liability without employment exclusion;
  - c. blanket contractual;
  - d. broad form property damages, including completed operations;
  - e. medical payments;
  - f. products and completed operations;
  - g. independent consultants coverage;
  - h. coverage inclusive of construction means, methods, techniques, sequences, and procedures, employed in the capacity of a construction consultant; and

**This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.**
3. Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired automobiles used in connection with the performance of the Services, with limits of liability of not less than \$1,000,000 combined single limit bodily injury and property damage. **This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.**
4. If applicable: Contractor shall secure and maintain a third party fidelity bond in favor of the District covering the Contractor and its employees and agents who may provide or be responsible for the provision of Services where such activities contemplate the responsibility for money or property of the District. Such bond shall protect the District against any fraudulent or dishonest act which may result in the loss of money, securities, or other property belonging to or in the possession of the District. Said bond shall be in an amount as determined by the District, from a surety acceptable to the District.
5. Any other insurance commonly used by contractors for services of the type to be performed pursuant to this Agreement.
6. Professional liability insurance in the amount of \$1,000,000.00 each occurrence.

**EXHIBIT C-1**  
CERTIFICATE(S) OF INSURANCE

