

**TO JOIN MEETING VIA PHONE, DIAL 720-931-2462 AND WHEN PROMPTED,
ENTER CODE 2462**

SUNLIGHT METROPOLITAN DISTRICT

450 E. 17th Avenue, Suite 400

Denver, Colorado 80203-1254

Phone: 303-592-4380

NOTICE OF REGULAR MEETING AND AGENDA

DATE: Wednesday, July 26, 2017

TIME: 8:30 a.m.

PLACE: Colorado Group Realty
509 Lincoln Avenue
Steamboat Springs, Colorado 80487

<u>Board of Directors</u>	<u>Office</u>	<u>Term Expires</u>
Todd Pedersen	President	May 2020
LeAllyn "Bert" Svendsen	Secretary	May 2018
Matthew Tredway	Treasurer	May 2018
Nicholas M. Metzler	Assistant Secretary	May 2020
Thomas B. Fox	Assistant Secretary	May 2020

I. ADMINISTRATIVE MATTERS

A. Present disclosures of potential conflicts of interest.

B. Approve agenda; confirm location of meeting, posting of meeting notices and quorum.

C. Review and consider approval of minutes from the May 10, 2017, special meeting (enclosure).

II. LEGAL MATTERS

III. FINANCIAL MATTERS

- A. Conduct Public Hearing to consider Amendment to 2017 Budget and adoption of Resolution No. 2017-07-01; Resolution to Amend the 2017 Budget and Appropriate Expenditures (enclosure).

- B. Review and consider approval of payment of claims (enclosure).

- C. Discussion re: status of bank account

IV. CONSTRUCTION MATTERS

- A. Discuss development / construction outlook.

- B. Consider approval of Master Service Agreement with Independent District Engineering Services LLC for cost certification services (enclosure).

V. COVENANT ENFORCEMENT / DESIGN REVIEW

- A. Discuss status of the Declaration of Covenants, Conditions and Restrictions of Sunlight.

- B. Review and consider approval of Resolution Acknowledging and Adopting the Declaration of Covenants, Conditions, and Restrictions for Sunlight Residential Subdivision.

- C. Review and consider Resolution Acknowledging and Adopting the Sunlight Design Guidelines for Sunlight Residential Subdivision.

- D. Review and consider approval of Resolution Adopting the Policies and Procedures Governing the Enforcement of the Protective Covenants of Sunlight Residential Subdivision.

VI. OTHER BUSINESS

VII. ADJOURNMENT

The next regular meeting will be held on Wednesday, October 11, 2017 at 8:30 a.m. at the offices of Colorado Group Realty.

RECORD OF PROCEEDINGS

MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS OF SUNLIGHT METROPOLITAN DISTRICT (“District”)

Held: Wednesday, May 10, 2017 at 8:30 a.m. at:

Colorado Group Realty
509 Lincoln Avenue
Steamboat Springs, Colorado 80487

ATTENDANCE

The Special Meeting of the Board of Directors of the District, City of Steamboat Springs, County of Routt, Colorado (“**Board**”), was called and held as shown above and in accordance with the applicable statutes of the State of Colorado, with the following Directors present and acting:

LeAllyn “Bert” Svendsen
Matthew R. Tredway
Nicholas M. Metzler
Todd J. Pedersen

The absence of Thomas B. Fox was excused.

Also present were:

Mary Jo Dougherty, McGeady Becher P.C. (via telephone)
Christine M. Heise, McGeady Becher P.C. (via telephone)
Eric Weaver, Marchetti & Weaver, LLC (via telephone)

ADMINISTRATIVE MATTERS

Disclosure of Potential Conflicts of Interest: Attorney Dougherty discussed the requirements of Colorado law to disclose any potential conflicts of interest or potential breaches of fiduciary duty of the Board of Directors to the Secretary of State. The members of the Board were requested to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting, and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with statute. It was noted by Attorney Dougherty that disclosures of potential conflicts of interest were filed with the Secretary of State for all Directors.

Agenda: The Agenda for the District’s special meeting was distributed for the Board’s review. Following discussion and upon motion duly made by Director Pedersen, seconded by Director Svendsen and, upon vote, unanimously carried, the Board approved the Agenda as amended.

Approval of Meeting Location: The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District's Board meeting. Following discussion, and upon motion duly made by Director Pedersen, seconded by Director Svendsen and, upon vote, unanimously carried, the Board determined that because there was not a suitable or convenient location within its boundaries, to conduct this meeting, it was determined to conduct the meeting at the above-stated date, time and location. The Board noted that notice of this location was duly posted and that it had not received any objections to the location or any requests that the meeting place be changed by taxpaying electors within its boundaries. The Board further noted that the location of the special meeting is within a 20-mile radius of the boundaries of the District.

Public Comment: None.

April 5, 2017 Organizational Meeting Minutes: The Board reviewed the April 5, 2017 Organizational Meeting Minutes. Following discussion, upon motion duly made by Director Pedersen, seconded by Director Svendsen and, upon vote, unanimously carried, the Board approved the April 5, 2017 Organizational Meeting Minutes.

Ratify Resolution No. 2017-04-09 to Obtain Insurance Coverage Through the Colorado Special Districts Property and Liability Pool and join the Special District Association (“SDA”), and Ratify Approval of the Agency Services Agreement with T. Charles Wilson: The Board discussed Resolution No. 2017-04-09 and the Agency Services Agreement. Following discussion, upon motion duly made by Director Pedersen, seconded by Director Svendsen and, upon vote, unanimously carried, the Board ratified approval of Resolution No. 2017-04-09 and the Agency Services Agreement with T. Charles Wilson.

LEGAL
MATTERS

Operation Funding Agreement: Attorney Dougherty discussed with the Board the Operation Funding Agreement between the District and Steamboat Sunlight, LLC. Following discussion, upon motion duly made by Director Svendsen, seconded by Director Tredway and, upon vote, unanimously carried, the Board approved the 2017 Operation Funding Agreement between the District and Steamboat Sunlight, LLC.

Facilities Acquisition Agreement: Attorney Dougherty discussed with the Board Facilities Acquisition Agreement between the District and Steamboat Sunlight, LLC. Following discussion, upon motion duly made by Director Svendsen, seconded by Director Pedersen and, upon vote, unanimously carried, the Board approved the Facilities Acquisition Agreement between the District and Steamboat Sunlight, LLC.

Resolution No. 2017-05-01 Regarding Imposition of a Design Review Fee: The Board discussed Resolution No. 2017-05-01 Regarding Imposition of a Design Review Fee in the amount of \$500.00 due at the time of plan submittal to the Design Review Committee. Following discussion, upon motion duly made by Director Pedersen, seconded by Director Tredway and, upon vote, unanimously carried, the Board approved Resolution No. 2017-05-01 Regarding Imposition of a Design Review Fee with additional revisions and subject to the District President's final review and approval.

FINANCIAL
MATTERS

Public Hearing on 2017 Budget Amendment: The Board opened the public hearing to consider the proposed 2017 Budget Amendment to amend the General Fund to include Design Review Fee and to discuss related issues.

It was noted that Notice stating that the Board would consider adoption of the 2017 budget amendment and the date, time and place of the public hearing was posted in three places within the boundaries of the District pursuant to statute. No written objections were received prior to the public hearing.

No public comments were received and the public hearing was closed.

Following discussion, the Board considered the adoption of Resolution No. 2017-05-02 to Amend the 2017 Budget. Upon motion duly made by Director Pedersen, seconded by Director Svendsen and, upon vote, unanimously carried, the Board adopted Resolution No. 2017-05-02 to Amend the 2017 Budget.

CONSTRUCTION
MATTERS

2017 Development/Construction Outlook: The Board discussed the 2017 development and construction outlook. It is anticipated that lots will be under contract in June 2017.

Cost Verification Engineer: Attorney Dougherty discussed with the Board the proposal from Tamarack Consulting, LLC for cost verification services and authorizing the District President to make a determination regarding the cost verification engineer. Following discussion, upon motion duly made by Director Svendsen, seconded by Director Tredway and, upon vote, unanimously carried, the Board authorized the District President to negotiate with Tamarack Consulting, LLC and other cost verification engineers and authorized the District President to make a final determination regarding the same.

COVENANT
ENFORCEMENT/
DESIGN REVIEW

Status of Covenants and Design Guidelines: The Board discussed the status of covenants to be recorded against property in the District and design guidelines authorized by covenants. It is anticipated that the District will provide covenant and design review services. Following discussion, upon motion duly made by Director Pedersen, seconded by

Director Tredway and, upon vote, unanimously carried, the Board authorized the District President to work with District Counsel to finalize, execute and record any and all documents necessary for the implementation of the Declaration of Covenants, Conditions and Restrictions of Sunlight and authorize all necessary actions in connection therewith.

OTHER BUSINESS

The Board discussed using Bill.com as a platform for bill pay. All Board Members will be signers, initially, and Director Pedersen will be the designated signer. Following discussion, upon motion duly made by Director Svendsen, seconded by Director Tredway and, upon vote, unanimously carried, the Board approved using Bill.com as a platform for bill pay and authorized Director Pedersen as the designated signer on the account.

ADJOURNMENT

There being no further business to come before the Board and following discussion, upon motion duly made by Director Svendsen, seconded by Director Pedersen and, upon vote, unanimously carried, the Board adjourned the meeting.

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

Secretary

THESE MINUTES ARE APPROVED AS THE OFFICIAL MAY 10, 2017 MINUTES OF THE SUNLIGHT METROPOLITAN DISTRICT BY THE MEMBERS OF THE BOARD OF DIRECTORS SIGNING BELOW:

Todd Pedersen

LeAllyn "Bert" Svendsen

Matthew Tredway

Nicholas Metzler

Thomas Fox

RESOLUTION NO. 2017-07-01

RESOLUTION TO AMEND BUDGET

**RESOLUTION OF THE SUNLIGHT METROPOLITAN DISTRICT TO AMEND THE
2017 BUDGET**

Pursuant to Section 29-1-109, C.R.S., the Board of Sunlight Metropolitan District (the “**District**”), hereby certifies that an organizational meeting of the Board of Directors of the District, was held on April 5, 2017, at the offices of Colorado Group Realty, 509 Lincoln Ave., Steamboat Springs, Colorado 80487.

A. At such meeting, the Board of Directors of the District adopted that certain Resolution No. 2017-04-02 to Adopt Budget appropriating funds for the fiscal year 2017 as follows:

General Fund	\$48,500
Capital Projects Fund	0

B. The necessity has arisen for additional Capital Fund appropriations requiring the expenditure of funds in excess of those appropriated for the fiscal year 2017.

C. The source and amount of revenues for such expenditures, the purposes for which such revenues are being appropriated, and the fund(s) which shall make such supplemental expenditures are described on **Exhibit A**, attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Sunlight Metropolitan District shall and hereby does amend the budget for the fiscal year 2017 as follows:

Capital Projects Fund	\$4,230,272
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BE IT FURTHER RESOLVED, that such sum is hereby appropriated from unexpected revenues available to the District to the General Fund for the purpose stated.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO RESOLUTION OF THE SUNLIGHT METROPOLITAN DISTRICT TO AMEND THE 2017 BUDGET]

RESOLUTION APPROVED AND ADOPTED on July 26, 2017.

SUNLIGHT METROPOLITAN DISTRICT

By: _____
President

Attest:

By: _____
Secretary

EXHIBIT A

Original and Amended Budget Appropriations

Sunlight Metropolitan District
 Statement of Revenues, Expenditures, & Changes In Fund Balance
 Modified Accrual Basis For the Period Indicated

	2017 Adopted Budget	2017 Amended Budget	2018 Prelim Budget	Notes/Assumptions
PROPERTY TAXES				
Assessed Valuation	74,510	74,510	740,830	Prelim AV Per County Wesbite - May 2017
Mill Levy - Debt	-	-	-	Intended to be 20 mills once Bonds are issued
Mill Levy - Operations	-	-	35,000	Intended to be 15 mills once Bonds are issued
Total	-	-	35,000	
Property Tax Revenue - Debt	-	-	-	AV * Mill Levy / 1,000
Property Tax Revenue - Operations	-	-	25,929	AV * Mill Levy / 1,000
Total	-	-	25,929	
Less Provision For Uncollectible - Debt	-	-	-	Assume all collected
Less Provision For Uncollectible - Operations	-	-	-	Assume all collected
Total	-	-	-	
Net Property Tax Collections - Debt	-	-	-	
Net Property Tax Collections - Operations	-	-	25,929	
Total	-	-	25,929	

Sunlight Metropolitan District
Statement of Revenues, Expenditures, & Changes In Fund Balance
Modified Accrual Basis For the Period Indicated

	2017 Adopted Budget	2017 Amended Budget	2018 Prelim Budget	Notes/Assumptions
COMBINED FUNDS				
REVENUE				
Property taxes	-	-	25,929	See Prior Page
Specific ownership taxes	-	-	1,815	Estimated at 7% of property taxes
Design review fees	-	2,000	7,500	4 homes in 2017 & 15 in 2018 at \$500 each
Interest & other income	-	-	-	
TOTAL REVENUE	-	2,000	35,244	
EXPENDITURES				
<u>Administration</u>				
Accounting	10,000	10,000	10,000	financials, budgeting, payables, exemption
Audit	500	-	5,000	Audit required in 2018 for infrastructure
Legal	20,000	20,000	20,000	Administration, agreements, other needs
Management	10,000	-	10,000	Covenant enforcement & on-site services
Design review	-	2,000	7,500	
Treasurer's fees	-	-	389	3% of property taxes
Director's fees	-	-	-	
Election	-	-	2,000	Only in even years, assume canceled
Insurance, bonds & SDA dues	5,000	5,000	5,000	D&O, liability & property Insurance. SDA dues.
<u>Operations</u>				
Landscaping & snow removal	-	2,000	10,000	District property
Irrigation Maintenance	-	1,000	1,000	Blowout and maintenance for common areas
Utilities	-	-	5,000	Street lights, water, irrig controllers, etc.
Miscellaneous	2,000	2,000	2,000	Misc other costs
Contingency	2,500	8,000	10,000	For unforeseen needs
<u>Debt Service</u>				
Debt service	-	-	-	No bonds issued yet
Debt issuance expense	-	-	-	No bonds issued yet
<u>Capital Outlay</u>				
	-	4,230,272	-	See Capital Fund
TOTAL EXPENDITURES	50,000	4,280,272	87,889	
REVENUE OVER / (UNDER) EXPENDITURES	(50,000)	(4,278,272)	(52,645)	
OTHER SOURCES / (USES)				
Developer advances- cash	50,000	60,000	54,000	To cover operating shortfall
Developer advances- infrastructure	-	4,220,272	-	
Bond proceeds	-	-	-	Per Projection
TOTAL OTHER SOURCES / (USES)	50,000	4,280,272	54,000	
CHANGE IN FUND BALANCE	-	2,000	1,355	
BEGINNING FUND BALANCE	-	-	2,000	
ENDING FUND BALANCE	-	2,000	3,355	See breakdown below
	=	=	=	
COMPONENTS OF FUND BALANCE				
TABOR emergency reserve	1,500	1,500	2,637	3% of operating expenditures
Restricted For debt service	-	-	-	
Unassigned	(1,500)	500	718	
TOTAL ENDING FUND BALANCE	-	2,000	3,355	
	=	=	=	

No assurance is provided on these financial statements;
substantially all disclosures required by GAAP omitted.

Sunlight Metropolitan District
Statement of Revenues, Expenditures, & Changes In Fund Balance
Modified Accrual Basis For the Period Indicated

	2017 Adopted Budget	2017 Amended Budget	2018 Prelim Budget	Notes/Assumptions
GENERAL FUND				
REVENUE				
Property taxes	-	-	25,929	General fund portion of mill levy
Specific ownership taxes	-	-	1,815	Estimated at 7% of property taxes
Design Review Fees	-	2,000	7,500	4 homes in 2017 & 15 in 2018 at \$500 each
Interest income	-	-	-	
Other income	-	-	-	
TOTAL REVENUE	-	2,000	35,244	
EXPENDITURES				
<u>Administration</u>				
Accounting	10,000	10,000	10,000	financials, budgeting, payables, exemption
Audit	500	-	5,000	Audit required in 2018 for infrastructure
Legal	20,000	20,000	20,000	Administration, agreements, other needs
Management	10,000	-	10,000	Covenant enforcement & on-site services
Design review administration	-	2,000	7,500	4 homes in 2017 & 15 in 2018 at \$500 each
Bank Fees	-	-	-	
Treasurer's fees	-	-	389	3% of property taxes
Director's fees	-	-	-	
Interest - developer advances	-	-	-	
Election	-	-	2,000	Only in even years, assume canceled
Insurance, bonds & SDA dues	5,000	5,000	5,000	D&O, liability & property Insurance. SDA dues.
<u>Operations</u>				
Landscape maintenance	-	-	-	District property e.g. tree lawns
Snow removal	-	2,000	10,000	District sidewalks & streets
Irrigation Maintenance	-	1,000	1,000	Blowout and maintenance for common areas
Utilities	-	-	5,000	Street lights, water, irrig controllers, etc.
Miscellaneous	2,000	2,000	2,000	Misc other costs
Contingency	2,500	8,000	10,000	For unforeseen needs
TOTAL EXPENDITURES	50,000	50,000	87,889	
REVENUE OVER / (UNDER) EXPENDITURES	(50,000)	(48,000)	(52,645)	
OTHER SOURCES / (USES)				
Transfers in/(out)	-	-	-	
Developer advances	50,000	50,000	54,000	
TOTAL OTHER SOURCES / (USES)	50,000	50,000	54,000	
CHANGE IN FUND BALANCE	-	2,000	1,355	
BEGINNING FUND BALANCE	-	-	2,000	
ENDING FUND BALANCE	-	2,000	3,355	

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Sunlight Metropolitan District
 Statement of Revenues, Expenditures, & Changes In Fund Balance
 Modified Accrual Basis For the Period Indicated

	2017 Adopted Budget	2017 Amended Budget	2018 Prelim Budget	Notes/Assumptions
DEBT SERVICE FUND				
REVENUE				
Property taxes	-	-	-	No bonds issued yet
Specific ownership taxes	-	-	-	
Interest income	-	-	-	
TOTAL REVENUE	-	-	-	
EXPENDITURES				
Treasurer's fees	-	-	-	
Bond interest	-	-	-	
Bond principal	-	-	-	
Developer advance interest	-	-	-	
Developer advance principal	-	-	-	
Paying agent / trustee fees	-	-	-	
Debt issuance expense	-	-	-	
Miscellaneous	-	-	-	
TOTAL EXPENDITURES	-	-	-	
REVENUE OVER / (UNDER) EXPENDITURES	-	-	-	
OTHER SOURCES / (USES)				
Transfers in/(out)	-	-	-	
Developer advances received / (paid)	-	-	-	
Bond proceeds	-	-	-	
TOTAL OTHER SOURCES / (USES)	-	-	-	
CHANGE IN FUND BALANCE	-	-	-	
BEGINNING FUND BALANCE	-	-	-	
ENDING FUND BALANCE	-	-	-	

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Sunlight Metropolitan District
Statement of Revenues, Expenditures, & Changes In Fund Balance
Modified Accrual Basis For the Period Indicated

	2017 Adopted Budget	2017 Amended Budget	2018 Prelim Budget	Notes/Assumptions
CAPITAL FUND				
REVENUE				
Interest income	-	-	-	
Other income	-	-	-	
TOTAL REVENUE	-	-	-	
EXPENDITURES				
ROADS & SIDEWALKS				
Phase 1	-	1,146,298		Preliminary cost estimate
Indian Trail		140,301		Preliminary cost estimate
WATER				
Phase 1	-	683,224		Preliminary cost estimate
SEWER				
Phase 1	-	604,355		Preliminary cost estimate
Indian Trail		66,065		Preliminary cost estimate
PARKS AND RECREATION				
Phase 1 landscaping	-	145,550		Preliminary cost estimate
SOFT/ALLOCATABLE COSTS				
Phase 1	-	408,430		Preliminary cost estimate
Indian Trail	-	26,050		Preliminary cost estimate
Cost certification consultant fees	-	10,000		Independent engineer to certify costs
Contingency	-	1,000,000		Additional eligible items, cost increases, etc
TOTAL EXPENDITURES	-	4,230,272	-	
REVENUE OVER / (UNDER) EXPENDITURES	-	(4,230,272)	-	
OTHER SOURCES / (USES)				
Transfers in/(out)	-	-	-	
Developer advances- conveyances	-	4,220,272	-	Infrastructure conveyed and added to note
Developer advances- cash	-	10,000	-	Cost certification consultant fees
TOTAL OTHER SOURCES / (USES)	-	4,230,272	-	
CHANGE IN FUND BALANCE	-	-	-	
BEGINNING FUND BALANCE	-	-	-	
ENDING FUND BALANCE	-	-	-	

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Sunlight Metropolitan District
ACCOUNTS PAYABLE
July 5, 2017

Payables to be Approved at Meeting:

<u>PAYEE</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>	<u>APPROVED BY:</u>
Colo Special Districts Property & Liab Pool	1,165.76	General Liability & Workers Comp Insurance	Approve at Meeting
Marchetti & Weaver, LLC	1,471.50	May Accounting	Approve at Meeting
McGeady Becher PC	8,598.38	April & May Legal	Approve at Meeting
Special Districts Association of Colorado	200.00	Annual Membership	Approve at Meeting
T Charles Wilson Insurance	475.00	Insurance Agency Fee	Approve at Meeting
Total to be Approved :	<u>11,910.64</u>		

Additions are Bolded

MASTER SERVICE AGREEMENT FOR COST CERTIFICATION SERVICES

THIS MASTER SERVICE AGREEMENT FOR COST CERTIFICATION SERVICES (“**Agreement**”) is entered into and effective as of May ____, 2017, by and between **SUNLIGHT METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **INDEPENDENT DISTRICT ENGINEERING SERVICES, LLC**, a Colorado limited liability company (the “**Consultant**”) (each a “**Party**” and, collectively, the “**Parties**”).

RECITALS

A. The District was organized pursuant to the laws of the State of Colorado in order to construct, operate and maintain certain public facilities and improvements in accordance with its service plan.

B. Pursuant to Section 32-1-1001(1)(d)(I), C.R.S., the District is permitted to enter into contracts and agreements affecting the affairs of the District.

C. The Consultant has experience in providing the services, generally described in **Exhibit A**, attached hereto and incorporated herein, the specific scope of which will be determined on a Task Order (“**Task Order**”) basis, as more particularly described herein (the “**Services**”), and is willing to provide such Services to the District for reasonable consideration.

D. The Parties desire to enter into this Agreement to establish the terms by which the Consultant will provide the Services to the District.

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

I. CONSULTANT DUTIES AND AUTHORITY

1.1 Duties of Consultant. The Consultant shall:

(a) Perform the Services, safely and in accordance with the standard of care, skill, and diligence provided by a professional consultant in performance of work similar to the Services.

(b) Be properly qualified to perform the Services. The Consultant does hereby warrant that the quality of the Services shall be as specified in this Agreement, shall conform in all respects to the requirements of this Agreement and shall be free of defects and deficiencies.

(c) Take all precautions necessary for safely and prudently conducting the Services required by this Agreement, including maintaining insurance as required under Section 4.2 hereof.

(d) Advise the District of the status of the Services required by this Agreement on a regular basis and work in coordination with the District's consultants to assure that the District has the most complete information available for the exercise of the District's powers and discretionary authority.

(e) Shall not enter into any contract, oral or written, in the name of the District, and from incurring any debt, liability or obligation for or on behalf of the District. All obligations incurred by the Consultant shall be obligations of the Consultant and the Consultant shall hold the District harmless therefrom.

1.2 Limitations on Authority.

(a) The Consultant shall have no right or authority, expressed 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, a Task Order, or specifically authorized or ratified by the board of directors of the District as reflected in the minutes of the District board meetings. The Consultant shall at all times conform to the stated policies established and approved by the District.

(b) Independent Contractor Status. The Consultant is an independent contractor, as provided in Section 8-40-202(2)(b)(I)-(IV), C.R.S., as amended, and nothing herein contained shall constitute or designate the Consultant or any of its employees, agents, subcontractors or suppliers as employees of the District. The Services to be performed by the Consultant shall be at its sole cost, risk and expense, and no part of the cost thereof shall be charged to the District, except the payments to be made by the District to the Consultant for the Services performed as provided herein. The District shall not be responsible for the Consultant's means, methods, techniques, sequences or procedures of work or for safety precautions incident thereto. **The Consultant is not entitled to workers' compensation benefits and the Consultant is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

1.3 Compliance with Applicable Law. The Consultant shall provide the Services set forth herein in full compliance with all applicable laws, rules, and regulations of any federal, state, county, or municipal body or agency thereof having jurisdiction over the activities of the District.

1.4 No Right or Interest in District Assets. The Consultant shall have no right or interest in any of the District's assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the Services contemplated herein.

1.5 Certification of Compliance with Illegal Alien Statute. By its execution hereof, the Consultant confirms and ratifies all of the certifications, statements, representations and warranties set forth in **Exhibit E** attached hereto and made a part hereof by this reference.

1.6 Work Product. "**Work Product**" shall consist of all written materials maintained by the Consultant in connection with performance of this Agreement, including, but not limited to, all test results, logs, surveys, maps, plans, drawings, specifications, reports, PDF formatted electronic files and other documents, in whatever form. The Consultant shall maintain

reproducible copies of any test results and logs which it obtains and shall make them available for the District's use, and shall provide such copies to the District upon request at reasonable commercial printing rates. Consultant agrees all right, title and interest in the Work Product is and shall remain the property of the District. If requested by the District, Consultant shall execute and deliver such documents as shall be necessary in the District's sole discretion, to assign, transfer and convey all rights in the Work Product to the District or its assignee. If Consultant fails to execute any documents required under this Section 1.6, then Consultant hereby irrevocably appoints the District its attorney-in-fact for the purpose of executing any required transfers of ownership or interests and any other documents necessary to effectuate this Section 1.6. Further, all Work Product, whether in paper or electronic form, reproductions thereof, or any information or instruments derived therefrom, shall be provided to the District immediately upon termination of this Agreement.

II. TASK ORDERS; COMPENSATION

2.1 Task Orders. The Services to be provided hereunder shall be performed for specific portions of Services, pursuant to a separate Task Order. The Task Orders shall be identified and determined in accordance with the process set forth on Exhibit B, attached hereto and incorporated herein by this reference. A form of Task Order is set forth on Exhibit C, attached hereto and incorporated herein.

2.2 Compensation. The Consultant shall be paid as set forth in the Fee Schedule/Contract Price set forth on Exhibit D, attached hereto and incorporated herein.

2.3 Expenses. The Consultant is responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as set forth in the applicable Task Order, unless otherwise approved in advance by the District in writing pursuant to a Task Order.

2.4 Subject to Annual Budget and Appropriation; District Debt. 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 hereunder requiring budgeting and appropriation of funds is subject to annual budgeting and appropriation. Nothing herein constitutes or creates an indebtedness or debt of the District within the meaning of any Colorado constitutional provision or statutory limitation.

III. TERM AND TERMINATION

3.1 Term. The term of this Agreement shall begin on the date set forth above, and shall expire on satisfactory completion of the Services under all Task Orders. Extensions of this Agreement or any Task Order must be in writing and executed by both Parties.

3.2 Termination. The District may terminate this Agreement for convenience or for cause, in whole or in part, by written notice of termination given to the Consultant at least thirty (30) days prior to the effective date of such termination. The District may, at any time, and for any reason, by a written notice, cancel or suspend a Task Order in whole or in part. The Consultant may terminate this Agreement or any individual Task Order for convenience or for cause, in whole or in part, by written notice of termination given to the District at least thirty (30)

days prior to the effective date of such termination. Any termination notice provided pursuant to this Section 3.2 shall specify the extent of termination and the effective date of the same.

The District shall pay the Consultant for all Services satisfactorily performed in accordance with each Task Order through the termination date.

IV. INDEMNIFICATION AND INSURANCE

4.1 Indemnification. The Consultant hereby agrees to indemnify, defend and hold the District and its affiliated entities or other persons or entities designated by the District, and their respective directors, trustees, officers, members, managers, agents and employees (collectively, the “**Indemnitees**”), harmless from any and all liability for damage, including, but not limited to, the reimbursement of attorneys’ fees and costs, arising out of death or bodily injury to persons or damage to property, in such amount that is represented by the degree or percentage of negligence or fault attributable to the Consultant and/or its agents, representatives, subcontractors, or suppliers.

4.2 Insurance Requirements. The Consultant shall procure, at its sole cost and expense, the insurance coverages set forth below, which insurance shall be placed with insurance companies rated at least “A:XIII” by A.M. Best Company. The Consultant shall give notice to the District at least thirty (30) days prior to the cancellation or nonrenewal of such policies. The Consultant shall give notice to the District within five (5) business days, or as soon as practicable, of any modification of any such policies. Consultant’s cost of maintaining the insurances required hereunder shall not be considered a reimbursable expense of the Consultant. The Consultant shall, upon request, promptly furnish the District with copies of policies obtained pursuant to this Section 4.2. Prior to commencing the Services, the Consultant shall furnish the District with certificates evidencing such insurance and provided further, however, with respect to the Workers’ Compensation Insurance required below, the Consultant must furnish to the District, prior to the commencement of any Services, duly executed and validated forms as prescribed by the state authority having jurisdiction evidencing that such insurance is in full force and effect. The District shall not pay any invoices until Consultant provides the certificates evidencing such insurance and Workers’ Compensation coverage.

(a) Liability Insurance Coverage.

(i) Workers’ Compensation Insurance. A Workers’ Compensation Insurance Policy in form and substance reasonably acceptable to the District and in an amount not less than the statutory benefits, including Employer’s Liability Insurance with limits of liability of not less than (i) \$500,000 for bodily injury by accident, each accident; (ii) \$500,000 for bodily injury by disease, each employee; and (iii) \$500,000 aggregate liability for disease. The Workers’ Compensation Insurance Policy, or an endorsement to such policy, must include a waiver of subrogation in favor of the District.

(ii) Commercial General Liability Insurance. A Commercial General Liability Insurance Policy written on an occurrence basis, in form and substance reasonably acceptable to the District, which policy shall include, without

limitation, the District as an additional insured, a waiver of subrogation endorsement in favor of the District, cross liability and severability of interest endorsements, endorsements providing that the coverage afforded by the insurance policy or policies is primary and non-contributing with any other insurance maintained by or available to the District, and appropriate language providing the following coverages: Premises and Operations Liability; Personal Injury Liability; Broad Form Property Damage Liability; Contractual Liability supporting the Consultant's indemnification agreements in favor of the District; Completed Operations and Products Liability; and Independent Contractor's Protective Liability. The Commercial General Liability Insurance Policy must be written with a combined single limit of liability of not less than \$1,000,000 for each occurrence of bodily injury and/or property damage and an annual aggregate of liability of not less than \$2,000,000 for bodily injury and/or property damage, and an annual aggregate of liability of not less than \$2,000,000 for Completed Operations and Products Liability.

(iii) Automobile Liability Insurance. An Automobile Liability Insurance Policy written on a per accident basis, in form and substance reasonably acceptable to the District. The Automobile Liability Insurance Policy must provide coverage for all owned, hired, rented and nonowned automobiles, and must include uninsured motorist coverages. The Automobile Liability Insurance Policy must be written with a combined single limit of liability of not less than \$1,000,000 for each accident for bodily injury and/or property damage.

(iv) Excess Liability Insurance. An Excess Liability Insurance Policy written in excess of the coverages provided by the insurance policies described in the preceding Subsections 4.2(a)(i) - (iii), in form and substance reasonably acceptable to the District, which policy will include the District as additional insured. The Excess Liability Insurance Policy must be written with a combined single limit of not less than \$1,000,000 for each occurrence of bodily injury/or property damage and annual aggregate.

(v) Professional Liability Insurance Coverage. The Consultant shall obtain and, continuously thereafter for eight (8) years from the date of substantial completion of the Services, maintain in full force and effect a claims made policy covering errors, omissions and negligent acts in the performance of its Services hereunder, in an amount of \$1,000,000 per claim and annual aggregate. The Consultant shall be solely responsible for the payment of all deductibles. Consultant's deductibles or Consultant's self-insured retentions shall be approved by the District.

(b) Failure to Obtain and Obligation to Maintain Insurance. If the Consultant fails to furnish and maintain insurance as required by this Section 4.2, the District may purchase such insurance on behalf of the Consultant and deduct the cost of such insurance premium(s) from the compensation otherwise owed to the Consultant, and the Consultant shall furnish to the District any information needed to obtain such insurance. Except as otherwise expressly provided herein, all insurance policies required by the

terms of this section shall be kept in full force and effect until the date of final payment to the Consultant for the Services specified in this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the foregoing insurance requirements are in no way intended to, and will not in any manner, limit or qualify the liabilities and/or indemnities assumed by the Consultant under or pursuant to this Agreement.

(c) Effect of Approval or Acceptance of Insurance. District acceptance and/or approval of any or all of the insurances required hereunder does not and shall not be construed to relieve Consultant from any obligations, responsibilities or liabilities under this Agreement.

V. MISCELLANEOUS

5.1 Assignment. The Consultant shall not assign any of its rights or delegate any of its duties hereunder to any person or entity. Any purported assignment or delegation in violation of the provisions hereof shall be void and of no effect.

5.2 Modification; Amendment. This Agreement may be amended from time to time by agreement between the Parties hereto; provided, however, that no amendment, modification, or alteration of the terms or provisions hereof shall be binding upon the District or the Consultant unless the same is in writing and duly executed by the Parties.

5.3 Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

5.4 Severability. If any covenant, term, condition, or provision under 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 herein, the intention being that such provisions are severable.

5.5 Governing Law and Jurisdiction. This Agreement shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Agreement shall be exclusive to the State District Court in and for the County of Routt, Colorado.

5.6 Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

5.7 Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the Consultant any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the District and the Consultant shall be for the sole and exclusive benefit of the District and the Consultant.

5.8 Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to

have been validly given or served by delivery of same in person to the addressee or by courier delivery via Federal Express or other nationally recognized overnight air courier service, by electronically-confirmed email transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To District: Sunlight Metropolitan District
450 E. 17th Ave., Suite 400
Denver, Colorado 80203
Phone: 303-592-4380
Email: mdougherty@specialdistrictlaw.com
Attn: MaryJo Dougherty

With a Copy To: McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Phone: (303) 592-4380
Email: mdougherty@specialdistrictlaw.com
Attn: MaryJo Dougherty

To Consultant: Independent District Engineering Services, LLC
954 Valley Road
Evergreen, CO 80439
Phone: (303) 796-1892
Email: GuyFord@idesllc.com
Attn: Guy Ford

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with Federal Express or other nationally recognized overnight air courier service, upon electronic confirmation of email transmission, or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days' written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

5.9 Default/Remedies. If either Party fails to perform any of its responsibilities, obligations or agreements to be performed in accordance with the provisions of this Agreement, including the provisions of any Task Order issued hereunder, and if such failure of performance continues for a period of thirty (30) days following written notice of default from the other Party (or such additional period of time as may reasonably be required to cure such default; provided that the curative action is commenced within such thirty (30) day period and is diligently and continuously pursued to completion), then the non-defaulting Party, at its option, may elect (i) to treat this Agreement as remaining in full force and effect; or (ii) terminate this Agreement or a specific Task Order as of any specified date. The non-defaulting Party shall additionally be entitled to exercise all remedies available at law or in equity. In the event of any litigation or other proceeding to enforce the terms, covenants or conditions hereof, the non-defaulting Party in any such litigation or other proceeding shall obtain as part of its judgment or award its reasonable attorneys' fees.

5.10 Instruments of Further Assurance. Each Party covenants it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of their obligations hereunder.

5.11 Compliance with Law. This Agreement is intended to be performed in accordance with and only to the extent permitted by all applicable laws, ordinances, rules, and regulations of the jurisdiction in which the Agreement is performed. The Consultant declares it has complied and will comply with all federal, state and local laws regarding business permits, certificates and licenses required to perform the Services.

5.12 Non-Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed to be a waiver of any subsequent default hereunder. Notwithstanding any provision to the contrary in this Agreement, no term or condition of this Agreement shall be construed or interpreted as a waiver, either expressed or implied, of any of the immunities, rights, benefits or protection provided to the District under the Colorado Governmental Immunity Act.

5.13 Inurement. This Agreement shall inure to and be binding on the heirs, executors, administrator, successors, and permitted assigns of the Parties hereto.

5.14 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

5.15 Conflicts. If any term or provision(s) in any Exhibit attached as part of this Agreement conflicts with any term or provision(s) in the body of this Agreement, the term or provision(s) contained in the body of this Agreement shall control.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO SERVICE AGREEMENT]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

Consultant:

**INDEPENDENT DISTRICT
ENGINEERING SERVICES, LLC**

By: _____

Its: _____

STATE OF COLORADO)

) ss.

COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Guy Ford as Member Manager of Independent District Engineering Services, LLC.

Witness my hand and official seal.

My commission expires: _____

Notary Public

District:
SUNLIGHT METROPOLITAN DISTRICT

By: _____
President

STATE OF COLORADO)

) ss.

COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____,
2017, by _____, as _____ of Sunlight Metropolitan District.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A

General Description of Services

INFRASTRUCTURE ACQUISITION SCOPE OF SERVICES

IDES will review the documentation provided by the District to determine the scope of District eligible improvements and the claimed cost for the initial improvements. The District will provide the following documentation for completed, designed or administrative elements of the Project associated with reimbursements:

- Service Plan
- Project Plans
- Plat or Exhibit showing District Tract Ownership and Easements
- ACAD Base Files for Exhibit Development (IDES can coordinate with DOR for this info)
- Local Jurisdiction Acceptance
- Other Legal Documents entered into or impacting reimbursements or eligibility of improvements
- Accountant Spreadsheets and other accounting tracking information
- Invoices and evidence of payments
- Any additional documentation of services provided and or fees paid that the Client believes would be a District eligible cost.
- Other as may be requested or needed
- Contact for District Representative
- Contact for Developer Representative

Based on the information provided, IDES will prepare a cost verification of District eligible improvements. Invoices will be reviewed for reasonableness and District eligibility. This information will be used to prepare an Engineer's Report for Certification of Facilities Acquisition. The report will be prepared and signed by a Professional Engineer and will contain all necessary information to satisfy the requirements of the District Service Plan. IDES will perform site visits as needed and participate in meeting and conference calls as needed during construction.

EXHIBIT B

Task Order Process

A. TASK ORDER PROCEDURES FOR SERVICES.

1. General. The Consultant shall perform Services under this Agreement only upon receipt from the District of a written Task Order, executed by both the District and the Consultant, to perform the Services specified therein, in a form substantially provided in **Exhibit C**, respectively, attached hereto and incorporated herein by this reference. Each Task Order shall be performed for the Task Order Price (as defined below) and within the time period set forth in the Task Order Schedule (as defined below) established for that Task Order in accordance with Section B hereto. Each individual Task Order shall be numbered consecutively and shall be appended to this Agreement as an attachment thereto.

2. Request for Task Order Submittal. When the District determines, it requires the performance of any Services by Consultant, the District shall notify the Consultant by issuing a written “**Request for Task Order**,” setting forth milestones for key elements of the Services, providing any additional detail needed to further describe the Services, and establishing the deliverables to be produced by the Consultant (collectively, the “**Task(s)**”).

3. Consultant’s Response. Within seven (7) business days of receipt of the District’s Request for Task Order, the Consultant shall respond by providing the following elements (collectively the “**Task Order Submittal**”) to the District for approval, rejection or negotiation:

- (a) A schedule of the Services and the Task(s);
- (b) A detailed description of proposed Services;
- (c) If requested, a work plan that describes the discrete portions of the Task(s);
- (d) A proposed Task Order Price which contains an itemized breakdown of the costs, based on the method directed by the District, the Fee Schedule attached as **Exhibit D** Fee Schedule/Contract Price, including necessary staffing, man-hours and reimbursable costs, corresponding to discrete portions of the Task; and
- (e) A proposed Task Order Schedule which contains a detailed scheduling of the Services and completion of the Task(s).
- (f) Any additional information required in the Request for Task Order Submittal.

4. Negotiation Regarding Task Order. The District will review the Task Order Submittal and approve, reject or negotiate any or all elements thereof. If the District and the Consultant cannot agree on the Task Order, the District may perform the Task(s) itself, engage others to perform the Task(s), or reject the Task Order Submittal in whole or in part.

5. Issuance of Task Order. If the District approves a Task Order Submittal in whole or in part or the parties successfully agree to the terms of a Task Order after negotiation, the District may issue a Task Order directing the Consultant to perform the Task(s) pursuant to the Task Order. The Consultant agrees it shall not be compensated in excess of the Task Order Price, as it may be amended by written agreement of the Parties. The Contractor shall not initiate any Task(s) prior to the receipt of a Task Order.

6. Cancellation/Suspension of Task(s). The District may, at any time and for any reason by a written notice, cancel or suspend a Task Order, in whole or in part. Upon such cancellation or suspension, Consultant shall permanently cease or suspend, for a period of time the District determines appropriate, performance of those Services. In the event of cancellation or suspension, the Consultant shall take all steps necessary to reduce the costs to the District incidental to the cancellation or suspension. In no event, shall Consultant be entitled to any damages because of such cancellation or suspension.

B. SCHEDULE.

The Services of the Consultant shall be undertaken and completed in a professionally appropriate sequence within the Task Order Schedule established in a Task Order. It is understood that there may be delays beyond the control of the Consultant. In the event of these delays, the Consultant may, within seven (7) days of knowledge of such delay, request an extension of milestones within the Task Order Schedule.

C. COMPENSATION.

1. Services Invoicing And Reporting. Compensation for the Services provided under this Agreement shall be based on the method selected and indicated in the Fee Schedule attached as **Exhibit D** and incorporated herein by this reference. To obtain payment the Consultant must submit to the District a report detailing the Services provided, Task Order progress, percent complete, percent of budget spent, deliverables submitted, anticipated activities, and a discussion of items of concern or schedule impacts, together with an invoice. The Consultant shall use a monthly/billing period summary report format provided by the District, or may submit another format meeting the requirements of this paragraph and approved by the District prior to use. Invoices shall show names, classifications and time for each individual and the District's project and cost codes as may be provided in the approved Task Order. Attached to each invoice the Consultant shall provide a lien waiver for all invoiced Services, including all sub-contractors and suppliers. The waiver shall be in a form reasonably acceptable to the District.

2. Partial Payments. Invoices for payment shall contain an itemized statement by Task(s) and any sub-task(s) of the Services performed and direct expenses incurred. The District shall be charged according to the selected method of payment identified on the Task Order.

3. Disputed Invoices. The District reserves the right to reject any invoice not meeting the requirements of this Section C or not consistent with this Agreement. The District may also dispute any portion of any invoice for unacceptable Services, progress, or non-

performance. District will advise Consultant within twenty (20) days of receipt of any invoice of any dispute(s). Undisputed portions of invoices will be processed for payment. Consultant and District shall meet prior to resubmission of disputed invoices or portions to attempt to resolve such disputes.

EXHIBIT C

Form of Task Order

**PROSPER COORDINATING METROPOLITAN DISTRICT
MASTER SERVICES AGREEMENT TASK ORDER**

AGREEMENT TITLE Master Service Agreement for Cost Verification Services

AGREEMENT NO. _____ **AGREEMENT DATE** _____ **TASK ORDER NO.** _____

CONSULTANT _____

TASK ORDER REFERENCE: Task Order _____ Submittal (attached)

TASK ORDER NAME: _____

METRO DISTRICT PROJECT ENGINEER: IDES, LLC (Guy Ford)

BASIS OF COMPENSATION: Classification Rate (Fee Schedule attached)

SCHEDULE: _____

AGREEMENT PRICE RECONCILIATION:

Previously Approved Change Orders/Amendments/Task Orders	\$	<u>000.00</u>
Task Order Price – Task Order No.	\$	<u>000.00</u>
Total of Agreement Prices including this Task Order	\$	<u>000.00</u>

AGREEMENT TERMS AND CONDITIONS

All other terms and conditions of the Agreement remain unchanged and in full force and effect.

This Task Order constitutes written assurance by the District that lawful appropriations have been made to cover the cost of the Task Order, pursuant to Section 24-91-103.6, C.R.S.

APPROVALS REQUIRED:

To be effective, this Task Order must be approved according to the Agreement.

Recommended by _____ Date _____

Approved by _____ Date _____

The undersigned agrees to the above terms and conditions:

Consultant Date

Authorized Agent Title

EXHIBIT D

Fee Schedule/Contract Price

Services will be invoiced on a Time and Material basis in accordance with the Change Rate Schedule for a not to exceed amount of \$15,000.00 unless approved in writing by Task Order.

CHARGE RATE SCHEDULE

The following Charge Rate Schedule shall remain in effect until 12/31/2017.

District Engineer	\$ 140.00 per hour
Project Manager/Construction Manager	\$ 130.00 per hour
Professional Engineer (Office/Field)	\$ 120.00 per hour
Senior Engineer/Field Engineer	\$ 120.00 per hour
Engineer/Sr. Field Tech	\$ 100.00 per hour
Contracts Admin Specialist	\$ 95.00 per hour
Asst. Engineer/Field Tech	\$ 85.00 per hour
Project Administrator	\$ 68.00 per hour

EXHIBIT E

Certification Of Consultant

1. Pursuant to the requirements of Section 8-17.5-102(1), C.R.S., the Consultant hereby certifies to the District that the Consultant does not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that it will participate in the E-Verify Program or Department Program (as defined in Sections 8-17.5-101(3.3) and (3.7), C.R.S.) in order to confirm the employment eligibility of all employees of the Consultant who are newly hired to perform work under the Agreement.

2. In accordance with Section 8-17.5-102(2)(a), C.R.S., the Consultant shall not:

(a) Knowingly employ or contract with an illegal alien to perform work under the Agreement; or

(b) Enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

3. The Consultant represents and warrants it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program or the Department Program.

4. The Consultant is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the Agreement is in effect.

5. If the Consultant obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, the Consultant shall:

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

(b) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

6. The Consultant shall comply with any reasonable request by the Colorado Department of Labor and Employment (“**Department**”) made in the course of an investigation that the Department is undertaking, pursuant to the law.

7. If the Consultant violates any provision of Section 8-17.5-102(1), C.R.S., the District may terminate the Agreement immediately and the Consultant shall be liable to the District for actual and consequential damages of the District resulting from such termination, and

the District shall report such violation by the Consultant to the Colorado Secretary of State, as required by law.