

CITYSET METROPOLITAN DISTRICT NO. 2

141 Union Boulevard, Suite 150
Lakewood, Colorado 80228-1898
Tel: 303-987-0835 • 800-741-3254
Fax: 303-987-2032

NOTICE OF A SPECIAL MEETING AND AGENDA

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expiration:</u>
Navin Dimond	President	2022/May 2022
Aly-Khan Merali	Treasurer	2022/May 2022
Jason Gaede	Assistant Secretary	2022/May 2022
William G. Martinic	Assistant Secretary	2023/May 2022
Ashley Dimond	Assistant Secretary	2023/May 2022
David Solin	Secretary	

DATE: March 11, 2021 (Thursday)

TIME: 9:30 A.M.

PLACE: *Due to Executive Order D 2020 044 Safer at Home issued by Governor Polis on April 26, 2020, and Public Health Order 20-28 implementing the Executive Order, issued by the Colorado Department of Health and Environment (CDPHE) on April 26, 2020, this meeting will be held via teleconferencing and can be joined through the directions below:*

IF YOU WOULD LIKE TO ATTEND THIS MEETING, PLEASE CALL IN TO THE CONFERENCE BRIDGE AT 1-877-250-3814 AND WHEN PROMPTED, DIAL IN THE PASSCODE OF 5592663.

I. ADMINISTRATIVE MATTERS

A. Present Disclosures of potential conflicts of interest and confirm quorum.

B. Approve Agenda, confirm location of meeting, posting of meeting notice and designate 24 hour posting location.

C. Review and approve the Minutes of the November 18, 2020 Special (enclosure).

II. PUBLIC COMMENT

A. _____

II. FINANCIAL MATTERS

- A. Review and ratify the approval of the payment of claims as follows (enclosures):

Fund	Period Ending Dec.9, 2020	Period Ending Jan. 13, 2021	Period Ending Feb.10, 2021
General	\$ 12,322.66	\$ 49,918.28	\$ 33,917.05
Debt Service	\$ -0-	\$ 94,837.94	\$ -0-
Capital Projects	\$ -0-	\$ -0-	\$ -0-
Total Claims	\$ 12,322.66	\$ 144,756.22	\$ 33,917.05

- B. Review and accept unaudited financial statements through the period ending December 31, 2020 (enclosure).

- C. Discuss Developer advances (2021 Budget enclosed).

III. LEGAL MATTERS

- A. Review and consider approval of a 2021 Operation Funding Agreement between the District and Stonebridge Realty Advisors, Inc. (enclosure)

- B. Ratify approval of First Amendment to Trust Indenture between the District and Zions Bancorporation, National Association Relating to Limited Tax General Obligation and Special Revenue Refunding and Improvement Bonds, Series 2020 (to be distributed).

- C. Discuss and consider adoption of Resolution No. 2021-03-01 Regarding Continuing Disclosure Policies and Procedures (to be distributed).

IV. PROJECTS – OPERATIONS/MAINTENANCE/CAPITAL REPAIRS

- A. Ratify approval of Service Agreement for Elevator Maintenance Services between the District and Horizon Glass (enclosure).

*As used herein, the term "Developer" means any and/or all of the following entities: Cherry Creek Lodging, LLC; Stonebridge Realty Advisors, Inc.; Sonley Lodging, LLC; Sonley Retail, LLC; Dimond Holdings LLC; and Group Four Holdings, LLC

B. Ratify approval of Service Agreement for Independent Engineering Services between the District and Element Engineering, LLC (enclosure).

C. Ratify approval of Service Agreement for Generator Maintenance between the District and Generator Source, LLC (enclosure).

D. Ratify approval of Service Agreement for Snow Removal Services between the District and Brightview Landscape Services, Inc. (enclosure).

E. Ratify approval of Service Agreement for Construction Service between the District and Akers Construction Services (enclosure).

F. Discuss landscape matters and consider approval or ratification of approval of any actions related therewith.

a. Additional planting and refreshing (enclosures).

b. Grounds Maintenance.

G. Discuss Fountain Repair.

V. OTHER MATTERS

A. Discuss Slip-and-fall claim.

VI. ADJOURNMENT **THE NEXT REGULAR MEETING IS SCHEDULED FOR JUNE 16, 2021.**

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE CITYSET METROPOLITAN DISTRICT NO. 2 HELD NOVEMBER 18, 2020

A Special Meeting of the Board of Directors (hereinafter referred to as the “Board”) of CitySet Metropolitan District No. 2 (hereinafter referred to as the “District”) was held on Wednesday, November 18, 2020, at 9:30 a.m. Due to concerns regarding the spread of the coronavirus (COVID-19) and the benefits to the control of the spread of the virus by limiting in-person contact, this District Board Meeting was held by conference call without any individuals (neither district representatives nor the general public) attending in person. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Navin Dimond
Jason Gaede
William G. Martinic
Aly-Khan Merali

Following discussion, upon motion made by Director N. Dimond, seconded by Director Martinic, the absence of Director A. Dimond was excused.

Also In Attendance Were:

David Solin; Special District Management Services, Inc.

Paula Williams, Esq.; McGeady Becher P.C.

Kimberly Johans; Simmons & Wheeler, P.C.

Howard Pollack and Dave Womack; Stonebridge Companies (“SBCO”)

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

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

RECORD OF PROCEEDINGS

ADMINISTRATIVE MATTERS

Agenda: The Board reviewed the proposed Agenda for the District's Special Meeting.

Following discussion, upon motion duly made by Director N. Dimond, seconded by Director Martinic and, upon vote, unanimously carried, the Agenda was approved, as presented.

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, upon motion duly made by Director Dimond, seconded by Director Martinic and, upon vote, unanimously carried, the Board determined that due to concerns regarding the spread of COVID-19 and the spread of the virus by limiting in-person contact, the District Board meeting was held and properly noticed to be held via teleconference. The Board further noted that notice providing the conference bridge information was duly posted and that it had not received any objections or any requests that the means of hosting the meeting be changed by tax paying electors within the District's boundaries.

Minutes: The Board reviewed the Minutes of the September 22, 2020 Special Meeting and the September 30, 2020 Special Meeting.

Following discussion, upon motion duly made by Director N. Dimond, seconded by Director Martinic and, upon vote, unanimously carried, the Minutes of the September 22, 2020 Special Meeting and the September 30, 2020 Special Meeting were approved, as presented.

Resolution No. 2020-11-01; Establishing 2021 Regular Meeting Dates, Time and Location and Designating Location for Posting of 24-Hour Notices: The Board discussed Resolution No. 2020-11-01; Establishing 2021 Regular Meeting Dates, Time and Location and Designating Location for Posting of 24-Hour Notices.

Following discussion, upon motion duly made by Director N. Dimond, seconded by Director Martinic and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-11-01; Establishing 2021 Regular Meeting Dates, Time and Location and Designating Location for Posting of 24-Hour Notices. The Board scheduled regular meetings for June 16, 2021 and November 17, 2021 at 9:30 at Stonebridge Companies, 4949 South Niagara Street, Suite 300, Denver, CO 80207.

RECORD OF PROCEEDINGS

§32-1-809, C.R.S. Reporting Requirements, Mode of Eligible Elector Notification for 2021: The Board entered into discussion regarding §32-1-809, C.R.S. Transparency Notice reporting requirements and mode of eligible elector notification.

Following discussion, the Board directed staff to post the required information to the SDA website, satisfying the statutory requirement.

PUBLIC COMMENT

There was no public comment.

FINANCIAL MATTERS

Claims: The Board reviewed and considered ratifying approval of payment of claims for the periods ending as follows:

Fund	Period Ending Oct. 8, 2020	Period Ending Nov. 11, 2020
General	\$ 20,018.73	\$ 60,300.61
Debt Service	\$ -0-	\$ 52,563.82
Capital Projects	\$ -0-	\$ -0-
Total Claims	\$ 20,018.73	\$ 112,864.43

Following review, upon motion duly made by Director N. Dimond, seconded by Director Martinic and, upon vote, unanimously carried, the Board ratified the payment of claims, as presented.

Unaudited Financial Statements: Ms. Johanns reviewed the unaudited financial statements through the period ending September 30, 2020.

Following review and discussion, upon motion duly made by Director N. Dimond, seconded by Director Martinic and, upon vote, unanimously carried, the Board accepted the unaudited financial statements for the period ending September 30, 2020

2020 Audit: The Board discussed the engagement of Haynie & Company to perform the 2020 audit for an amount not to exceed \$6,000.

Following review and discussion, upon motion duly made by Director N. Dimond, seconded by Director Martinic and, upon vote, unanimously carried, the Board approved the engagement of Haynie & Company to perform the 2020 audit for an amount not to exceed \$6,000.

2020 Budget Amendment Hearing: The President opened the public hearing to consider the Resolution to Amend the 2020 Budget and discuss related issues.

RECORD OF PROCEEDINGS

It was noted that publication of Notice stating that the Board would consider adoption of a Resolution to Amend the 2020 Budget and the date, time, and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to this public hearing. There were no comments from the public in attendance and the public hearing was closed.

Following review and discussion, it was determined an amendment to the 2020 Budget was not needed.

2021 Budget Hearing: The President opened the public hearing to consider the proposed 2021 Budget and discuss related issues.

It was noted that publication of Notice stating that the Board would consider adoption of the 2021 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to this public hearing. No public comments were received and the public hearing was closed.

Ms. Johanns reviewed the estimated 2020 expenditures and the proposed 2021 expenditures.

Following discussion, the Board considered the adoption of Resolution No. 2020-11-02 to Adopt the 2021 Budget and Appropriate Sums of Money. Upon motion duly made by Director N. Dimond, seconded by Director Gaede and, upon vote, unanimously carried, Resolution No. 2020-11-02 to Adopt the 2021 Budget and Appropriate Sums of Money was adopted, as discussed, and execution of the Certification of Budget and Certification of Zero Mill Levies was authorized, prior to receipt of final Certification of Assessed Valuation from the County on or before December 10, 2020. Mr. Solin was authorized to transmit the Certification of Budget to the Division of Local Government not later than January 30, 2021.

DLG-70 Mill Levy Certification Form: The Board considered authorizing the District Accountant to prepare and sign the DLG-70 Mill Levy Certification form for certification to the Board of County Commissioners and other interested parties.

Following discussion, upon motion duly made by Director N. Dimond, seconded by Director Gaede and, upon vote, unanimously carried, the Board authorized the District Accountant to prepare and sign the DLG-70 Mill Levy Certification form for certification to the Board of County Commissioners and other interested parties

2022 Budget Preparation: The Board entered into discussion regarding appointing the District Accountant to prepare the 2022 Budget and setting the date for a Public Hearing to adopt the 2022 Budget for November 17, 2021.

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director N. Dimond, seconded by Director Gaede and, upon vote, unanimously carried, the Board appointed the District Accountant to prepare the 2022 Budget; directed that the 2022 draft budget be the Same as the 2021 adopted budget unless a Board Member provides input to adjust those assumptions, and set the date for a Public Hearing to adopt the 2022 Budget for the November 17, 2021.

LEGAL MATTERS

Resolution Regarding Continuing Disclosure Policies and Procedures: The Board determined to defer discussion until after the Limited Tax General Obligation and Special Revenue Refunding and Improvements Bonds, Series 2020, have closed.

PROJECTS

Parking Lot and Repaving: The Board the parking lot and repaving repairs, noting the repairs are complete.

The Board further discussed reimbursement to the Developer for costs related to the repairs.

Following review and discussion, upon motion duly made by Director N. Dimond, seconded by Director Martinic and, upon vote, unanimously carried, the Board authorized reimbursement to the Developer and authorized Requisition from the project fund, upon final receipt of the Engineer's Verification of costs, subject to final review by Directors Martinic and Gaede.

Following discussion, upon motion duly made by Director N. Dimond, seconded by Director Martinic and, upon vote, unanimously carried, the Board approved the engagement of Element Engineering for Cost Verification Services related to the parking lot repairs.

Landscape Matters: Mr. Solin updated the Board on the following items:

1. Additional planting and refreshing of Landscape.
2. Grounds maintenance.
3. Holiday lighting.

Fountain Repair: The Board deferred discussion.

Ventilation in Camera Room: Mr. Solin reported to the Board that the ventilation in the camera room has been completed.

RECORD OF PROCEEDINGS

UPS back-up for the Security Camera System. Mr. Solin reported to the Board that the UPS back-up for the security camera system has been completed.

Elevator Enclosure: Mr. Solin reported to the Board that an Insurance claim was filed for wind damage to the elevator enclosure.

OTHER MATTERS

None

ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made by Director N. Dimond, seconded by Director Martinic, and upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By _____
Secretary for the Meeting

Check No and Date	Payee	Invoice No	GL Account Title	GL Acct	Amount	Total
1363						
12/09/2020	Centric Elevator Corporation	275052	Repair and maintenance	1-805	293.00	293.00
12/09/2020	Centric Elevator Corporation	275837	Repair and maintenance	1-805	328.01	328.01
Total 1363:						621.01
1364						
12/09/2020	HD Supply Facilities Maintenanc,	9187085665	Repair and maintenance	1-805	2,054.09	2,054.09
12/09/2020	HD Supply Facilities Maintenanc,	9187134739	Repair and maintenance	1-805	2,114.00	2,114.00
Total 1364:						4,168.09
1365						
12/09/2020	Hilton Garden Inn Denver Cherry	113020	Repair and maintenance	1-805	1,113.95	1,113.95
Total 1365:						1,113.95
1366						
12/09/2020	McGeady Becher P.C.	1096W 10/2020	Legal	1-675	1,174.05	1,174.05
Total 1366:						1,174.05
1367						
12/09/2020	Powder Country LLC	2380	Repair and maintenance	1-805	1,693.00	1,693.00
Total 1367:						1,693.00
1368						
12/09/2020	Ramey Environmental, Inc	21462	Repair and maintenance	1-805	524.00	524.00
Total 1368:						524.00
1369						
12/09/2020	Simmons & Wheeler, P.C.	27488	Management and Accoun	1-612	965.80	965.80
Total 1369:						965.80
1370						
12/09/2020	Special Dist Management Srvs	11/2020	Management and Accoun	1-612	1,897.00	1,897.00
12/09/2020	Special Dist Management Srvs	11/2020	Audit	1-615	28.00	28.00
12/09/2020	Special Dist Management Srvs	11/2020	Miscellaneous	1-685	78.76	78.76
Total 1370:						2,003.76
1371						
12/09/2020	Voss Lighting	57090317-00	Repair and maintenance	1-805	59.00	59.00
Total 1371:						59.00
Grand Totals:						12,322.66

Cityset Metro District No.2
December-20

	General	Debt	Capital	Totals
Disbursements	\$ 12,322.66			\$ 12,322.66
	\$ -		\$ -	\$ -
Total Disbursements from Checking Acct	\$12,322.66	\$0.00	\$0.00	\$12,322.66

Check No and Date	Payee	Invoice No	GL Account Title	GL Acct	Amount	Total
1372						
01/13/2021	Advanced Mudjacking, Inc.	2020-600	Repair and maintenance	1-805	545.00	545.00
Total 1372:						545.00
1373						
01/13/2021	Akers Construction Services	110	Repair and maintenance	1-805	4,250.00	4,250.00
Total 1373:						4,250.00
1374						
01/13/2021	Brightview Landscape Services	4525601	Repair and maintenance	1-805	5,200.00	5,200.00
01/13/2021	Brightview Landscape Services	4541069	Repair and maintenance	1-805	1,430.00	1,430.00
Total 1374:						6,630.00
1375						
01/13/2021	Centric Elevator Corporation	276435	Repair and maintenance	1-805	328.01	328.01
Total 1375:						328.01
1376						
01/13/2021	CO Special Districts P & L Pool	POL-0006154	Insurance/SDA Dues	1-670	25,350.00	25,350.00
Total 1376:						25,350.00
1377						
01/13/2021	Hilton Garden Inn Denver Cherry	123120	Repair and maintenance	1-805	1,113.95	1,113.95
Total 1377:						1,113.95
1378						
01/13/2021	McGeady Becher P.C.	1096W 11/2020	Legal	1-675	3,015.00	3,015.00
Total 1378:						3,015.00
1379						
01/13/2021	Omnisite	75860	Miscellaneous	1-685	384.00	384.00
Total 1379:						384.00
1380						
01/13/2021	Powder Country LLC	2955	Repair and maintenance	1-805	2,043.00	2,043.00
Total 1380:						2,043.00
1381						
01/13/2021	Ramey Environmental, Inc	21614	Repair and maintenance	1-805	524.00	524.00
01/13/2021	Ramey Environmental, Inc	21706	Repair and maintenance	1-805	562.50	562.50
Total 1381:						1,086.50
1382						
01/13/2021	Simmons & Wheeler, P.C.	27682	Management and Accoun	1-612	1,934.07	1,934.07
Total 1382:						1,934.07

Check No and Date	Payee	Invoice No	GL Account Title	GL Acct	Amount	Total
1383						
01/13/2021	Special Dist Management Srvs	12/2020	Management and Accoun	1-612	1,925.00	1,925.00
01/13/2021	Special Dist Management Srvs	12/2020	Miscellaneous	1-685	98.75	98.75
Total 1383:						<u>2,023.75</u>
1384						
01/13/2021	Stonebridge Realty Advisors Inc.	12/2020	Legal	1-675	825.00	825.00
Total 1384:						<u>825.00</u>
1385						
01/13/2021	Yesco LLC	INY-0261848	Repair and maintenance	1-805	390.00	390.00
Total 1385:						<u>390.00</u>
1386						
01/13/2021	Zions First National Bank	10/2020-12/2020	Zion's Bank-Pledged Rev	2-117	94,837.94	94,837.94
Total 1386:						<u>94,837.94</u>
Grand Totals:						<u><u>144,756.22</u></u>

Cityset Metro District No.2
January-21

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 49,918.28	\$ 94,837.94		\$ 144,756.22
	\$ -		\$ -	\$ -
Total Disbursements from Checking Acct	\$49,918.28	\$94,837.94	\$0.00	\$144,756.22

Check No and Date	Payee	Invoice No	GL Account Title	GL Acct	Amount	Total
1387						
02/10/2021	Ambius	014756DE77426	Miscellaneous	1-685	7,542.50	7,542.50
Total 1387:						7,542.50
1388						
02/10/2021	Apollo Security USA, Inc	5015	Miscellaneous	1-685	345.00	345.00
Total 1388:						345.00
1389						
02/10/2021	Brightview Landscape Services	7214432	Repair and maintenance	1-805	1,580.00	1,580.00
Total 1389:						1,580.00
1390						
02/10/2021	Centric Elevator Corporation	277020	Repair and maintenance	1-805	339.61	339.61
Total 1390:						339.61
1391						
02/10/2021	Generator Source, LLC	148000897	Repair and maintenance	1-805	13,998.16	13,998.16
Total 1391:						13,998.16
1392						
02/10/2021	HD Supply Facilities Maintenanc,	9188605084	Repair and maintenance	1-805	558.98	558.98
Total 1392:						558.98
1393						
02/10/2021	Horizon Glass	55617	Repair and maintenance	1-805	2,023.51	2,023.51
Total 1393:						2,023.51
1394						
02/10/2021	McGeady Becher P.C.	1096W 12/2020	Legal	1-675	499.55	499.55
Total 1394:						499.55
1395						
02/10/2021	Ramey Environmental, Inc	21769	Repair and maintenance	1-805	544.00	544.00
02/10/2021	Ramey Environmental, Inc	21849	Repair and maintenance	1-805	166.56	166.56
Total 1395:						710.56
1396						
02/10/2021	Restoration Specialists Inc.	PAY APP 1	Repair and maintenance	1-805	1,825.00	1,825.00
Total 1396:						1,825.00
1397						
02/10/2021	Simmons & Wheeler, P.C.	27886	Management and Accoun	1-612	531.89	531.89
Total 1397:						531.89
1398						
02/10/2021	Special Dist Management Srvs	01/2021	Management and Accoun	1-612	1,897.00	1,897.00

Check No and Date	Payee	Invoice No	GL Account Title	GL Acct	Amount	Total
02/10/2021	Special Dist Management Svcs	01/2021	Insurance/SDA Dues	1-670	28.00	28.00
02/10/2021	Special Dist Management Svcs	01/2021	Miscellaneous	1-685	75.26	75.26
Total 1398:						<u>2,000.26</u>
1399						
02/10/2021	Special District Association	D1 2021 DUES	Insurance/SDA Dues	1-670	150.00	150.00
02/10/2021	Special District Association	D2 2021 DUES	Insurance/SDA Dues	1-670	712.03	712.03
Total 1399:						<u>862.03</u>
1400						
02/10/2021	Stonebridge Realty Advisors Inc.	01/2021	Legal	1-675	1,100.00	1,100.00
Total 1400:						<u>1,100.00</u>
Grand Totals:						<u><u>33,917.05</u></u>

Cityset Metro District No.2

February-21

	General	Debt	Capital	Totals
Disbursements	\$ 33,917.05			\$ 33,917.05
	\$ -		\$ -	\$ -
Total Disbursements from Checking Acct	\$33,917.05	\$0.00	\$0.00	\$33,917.05

CitySet Metropolitan District No. 2
Financial Statements
December 31, 2020

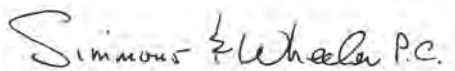
ACCOUNTANT'S COMPILATION REPORT

Board of Directors
CitySet Metropolitan District No. 2

Management is responsible for the accompanying financial statements of each major fund of CitySet Metropolitan District No. 2, as of and for the period December 31, 2020, which are comprised of the Balance Sheet and the related Statement of Revenues, Expenditures and Changes in Fund Balance – Budget and Actual – Governmental Funds and account groups for the twelve months then ended in accordance with accounting principles generally accepted in the United States of America. We have performed a compilation engagement in accordance with the Statements on Standards for Accounting and Review Services promulgated by the Accounting and Review Services Committee of the AICPA. We did not audit or review the financial statements nor were we required to perform any procedures to verify the accuracy or completeness of the information provided by management. Accordingly, we do not express an opinion, a conclusion, nor provide any form of assurance on these financial statements.

Management has elected to omit the Statement of Net Position, Statement of Activities, Management Discussion and Analysis and all of the disclosures required by accounting principles generally accepted in the United States of America. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the District's financial position and results of operations. Accordingly, the financial statements are not designed for those who are not informed about such matters.

We are not independent with respect to CitySet Metropolitan District No. 2 because we performed certain accounting services that impaired our independence.



February 18, 2021
Englewood, Colorado

CitySet Metropolitan District No. 2
 Combined Balance Sheet
 December 31, 2020

See Accountant's Compilation Report

	<u>General Fund</u>	<u>Capital Projects Fund</u>	<u>Debt Service Fund</u>	<u>Account Groups</u>	<u>Total All Funds</u>
Assets					
Current assets					
Cash in Bank - BOK	\$ -	\$ -	\$ 110,992	\$ -	\$ 110,992
Zion's Bank	-	16,065	806,723	-	822,788
Prepaid Expense	1,300	-	-	-	1,300
Sales and Lodging Receivable	-	-	29,568	-	29,568
PIF Receivable	67,116	-	-	-	67,116
Developer advances receivable	144,579	-	-	-	144,579
Due to/from other funds	<u>(164,742)</u>	<u>(798)</u>	<u>165,540</u>	<u>-</u>	<u>-</u>
	<u>48,253</u>	<u>15,267</u>	<u>1,112,823</u>	<u>-</u>	<u>1,176,343</u>
Other assets					
Land Easements	-	-	-	3,707,541	3,707,541
Phase I & II - Parking Garage	-	-	-	11,786,861	11,786,861
Lift Station	-	-	-	208,100	208,100
Accumulated Depreciation	-	-	-	(2,180,662)	(2,180,662)
Amount available in debt service fund	-	-	-	1,112,823	1,112,823
Amount to be provided for retirement of debt	<u>-</u>	<u>-</u>	<u>-</u>	<u>16,502,177</u>	<u>16,502,177</u>
	<u>-</u>	<u>-</u>	<u>-</u>	<u>31,136,840</u>	<u>31,136,840</u>
	<u>\$ 48,253</u>	<u>\$ 15,267</u>	<u>\$ 1,112,823</u>	<u>\$ 31,136,840</u>	<u>\$ 32,313,183</u>
Liabilities and Equity					
Current liabilities					
Accounts payable	<u>\$ 48,253</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 48,253</u>
	<u>48,253</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>48,253</u>
2020 Bonds	<u>-</u>	<u>-</u>	<u>-</u>	<u>17,615,000</u>	<u>17,615,000</u>
Total liabilities	<u>48,253</u>	<u>-</u>	<u>-</u>	<u>17,615,000</u>	<u>17,663,253</u>
Fund Equity					
Investment in improvements	-	-	-	13,521,840	13,521,840
Fund balance (deficit)	<u>-</u>	<u>15,267</u>	<u>1,112,823</u>	<u>-</u>	<u>1,128,090</u>
	<u>-</u>	<u>15,267</u>	<u>1,112,823</u>	<u>13,521,840</u>	<u>14,649,930</u>
	<u>\$ 48,253</u>	<u>\$ 15,267</u>	<u>\$ 1,112,823</u>	<u>\$ 31,136,840</u>	<u>\$ 32,313,183</u>

CitySet Metropolitan District No. 2
Statement of Revenues, Expenditures and Changes in Fund Balance
Budget and Actual
For Twelve Months Ended December 31, 2020
General Fund

See Accountant's Compilation Report

	<u>Annual Budget</u>	<u>Actual</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues			
PIF Collections	\$ 830,000	\$ 453,006	\$ (376,994)
Developer advances	-	144,579	144,579
Other income	<u>1,000</u>	<u>-</u>	<u>(1,000)</u>
	<u>831,000</u>	<u>597,585</u>	<u>(233,415)</u>
Expenditures			
Management & Accounting	30,000	34,108	(4,108)
Audit	6,000	5,978	22
Election Expense	10,000	1,031	8,969
Insurance/SDA Dues	28,000	27,368	632
Legal	10,000	38,881	(28,881)
PIF Collection Fee	16,600	-	16,600
Miscellaneous	2,000	24,582	(22,582)
Repairs & Maintenance	110,000	106,615	3,385
Snow Removal	-	35,265	(35,265)
Furnishings	5,000	751	4,249
Transfer to Debt Service	600,000	323,006	276,994
Contingency	6,872	-	6,872
Emergency reserve	<u>6,528</u>	<u>-</u>	<u>6,528</u>
	<u>831,000</u>	<u>597,585</u>	<u>233,415</u>
Excess (deficiency) of revenues over expenditures	-	-	-
Fund balance - beginning	<u>-</u>	<u>-</u>	<u>-</u>
Fund balance - ending	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

CitySet Metropolitan District No. 2
Statement of Revenues, Expenditures and Changes in Fund Balance
Budget and Actual
For Twelve Months Ended December 31, 2020
Capital Projects Fund

See Accountant's Compilation Report

	<u>Annual Budget</u>	<u>Actual</u>	<u>Variance Favorable (Unfavorable)</u>
Revenues			
Bond/Loan proceeds	\$ 500,000	\$ 171,919	\$ (328,081)
Developer advances	<u> -</u>	<u>151,307</u>	<u>151,307</u>
	<u>500,000</u>	<u>323,226</u>	<u>(176,774)</u>
Expenditures			
Bond issuance costs	-	4,548	(4,548)
Developer repayment	-	151,307	(151,307)
Engineering	-	797	(797)
Capital Improvements	-	151,307	(151,307)
Paving and landscape	<u>400,000</u>	<u> -</u>	<u>400,000</u>
	<u>400,000</u>	<u>307,959</u>	<u>92,041</u>
Excess (deficiency) of revenues over expenditures	100,000	15,267	(84,733)
Fund balance - beginning	<u> -</u>	<u> -</u>	<u> -</u>
Fund balance - ending	<u>\$ 100,000</u>	<u>\$ 15,267</u>	<u>\$ (84,733)</u>

CitySet Metropolitan District No. 2
Statement of Revenues, Expenditures and Changes in Fund Balance
Budget and Actual
For Twelve Months Ended December 31, 2020
Debt Service Fund

See Accountant's Compilation Report

	Amended <u>Budget</u>	<u>Actual</u>	Variance Favorable (Unfavorable)
Revenues			
Sales and Lodging Tax - TIF Collection	\$ 385,000	\$ 209,876	\$ (175,124)
Property Tax Increment Rev	360,000	395,798	35,798
Transfer from General Fund	600,000	323,006	(276,994)
Bond/Loan proceeds	17,800,000	17,443,081	(356,919)
Interest income	5,000	2,318	(2,682)
	<u>19,150,000</u>	<u>18,374,079</u>	<u>(775,921)</u>
Expenditures			
Debt service - loan principal	12,660,000	12,660,000	-
Debt service - loan interest	1,151,729	351,729	800,000
Bond issuance costs	-	456,752	(456,752)
Sub Debt payment	6,000,000	5,462,296	537,704
TIF Collection Fee	3,271	-	3,271
Tax increment collection	2,000	1,979	21
Paying agent fees	3,000	-	3,000
	<u>19,820,000</u>	<u>18,932,756</u>	<u>887,244</u>
Excess (deficiency) of revenues over expenditures	(670,000)	(558,677)	111,323
Fund balance - beginning	<u>1,719,631</u>	<u>1,671,500</u>	<u>(48,131)</u>
Fund balance - ending	<u>\$ 1,049,631</u>	<u>\$ 1,112,823</u>	<u>\$ 63,192</u>

CITYSET METROPOLITAN DISTRICT NO. 2
2021
BUDGET MESSAGE

Attached please find a copy of the adopted 2021 budget for the CitySet Metropolitan District No. 2.

The CitySet Metropolitan District No. 2 has adopted budgets for three funds, a General Fund to provide for operating and maintenance expenditures; a Capital Projects Fund to provide for the regional improvements that are to be built for the benefit of the District and a Debt Service Fund to account for the repayment of principal and interest on the outstanding general obligation bonds.

The District's accountants have utilized the modified accrual basis of accounting and the budget has been adopted after proper postings, publications and public hearing.

The primary sources of revenue for the District in 2021 will be PIF collections and TIF collections. The District does not intend to impose a mill levy on property within the District for 2021.

CitySet Metropolitan District No. 2
Adopted Budget
General Fund
For the Year ended December 31, 2021

	Actual 2019	Adopted Budget 2020	Actual 6/30/2020	Estimate 2020	Adopted Budget 2021
Beginning fund balance	\$ 24,938	\$ -	\$ -	\$ -	\$ -
Revenues:					
PIF Collections	750,692	830,000	225,671	455,000	616,000
Miscellaneous Income	600	1,000	-	500	500
Total revenues	<u>751,292</u>	<u>831,000</u>	<u>225,671</u>	<u>455,500</u>	<u>616,500</u>
Total funds available	<u>776,230</u>	<u>831,000</u>	<u>225,671</u>	<u>455,500</u>	<u>616,500</u>
Expenditures:					
Management	34,613	30,000	15,351	30,000	20,000
Accounting	-	-	-	-	12,000
Audit	5,903	6,000	5,838	6,000	6,000
Election	-	10,000	1,030	1,100	-
Insurance/ SDA Dues	26,571	28,000	27,235	28,000	30,000
Legal	11,477	10,000	7,858	17,000	17,000
PIF Collection Fee	15,014	16,600	4,514	9,100	12,320
Miscellaneous	10,054	2,000	6,360	6,500	2,000
Repair and Maintenance	56,151	110,000	14,323	65,000	15,000
Security Systems Repair and maintenance	-	-	-	-	3,000
Landscape Maintenance	-	-	13,589	14,000	10,000
Landscape Improvements	-	-	-	-	13,000
Holiday Lighting	-	-	-	7,800	8,000
Garage Repair and Maintenance	-	-	-	-	5,000
Elevator Repair and Maintenance	-	-	-	-	4,750
Surface Parking Repair and Maintenance	-	-	-	-	8,000
Lift Station Operations	-	-	-	-	8,000
Snow Removal	-	-	24,899	26,000	40,000
Furnishings	-	5,000	751	1,000	6,000
General Labor	-	-	-	-	13,500
Transfer to Debt Service Fund	616,447	600,000	103,923	244,000	356,328
Contingency	-	6,872	-	-	20,000
Emergency Reserve	-	6,528	-	-	6,602
Total expenditures	<u>776,230</u>	<u>831,000</u>	<u>225,671</u>	<u>455,500</u>	<u>616,500</u>
Ending fund balance	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Gross Total Taxable AV		\$ 13,280,083			\$ 13,125,757
Lss Total TIF		<u>4,842,726</u>			<u>4,758,617</u>
Assessed valuation		<u>\$ 8,437,357</u>			<u>\$ 8,367,140</u>
Mill Levy		<u>-</u>			<u>-</u>

CitySet Metropolitan District No. 2
Adopted Budget
Capital Projects Fund
For the Year ended December 31, 2021

	Actual <u>2019</u>	Adopted Budget <u>2020</u>	Actual <u>6/30/2020</u>	Estimate <u>2020</u>	Adopted Budget <u>2021</u>
Beginning fund balance	\$ -	\$ -	\$ -	\$ -	\$ 15,266
Revenues:					
Developer Advances	-	-	-	151,307	-
Bond proceeds	-	500,000	-	171,919	-
Total revenues	-	500,000	-	323,226	-
Total funds available	-	500,000	-	323,226	15,266
Expenditures:					
Engineering	-	-	798	798	-
Paving and Landscape	-	400,000	-	151,307	15,266
Developer repayment	-	-	-	151,307	-
Costs of Issuance	-	-	-	4,548	-
Total expenditures	-	400,000	798	307,960	15,266
Ending fund balance	\$ -	\$ 100,000	\$ (798)	\$ 15,266	\$ -

CitySet Metropolitan District No. 2
Adopted Budget
Debt Service Fund
For the Year ended December 31, 2021

	Actual <u>2019</u>	Adopted Budget <u>2020</u>	Actual 6/30/2020	Estimate <u>2020</u>	Adopted Budget <u>2021</u>
Beginning fund balance	\$ 1,598,981	\$ 1,719,631	\$ 1,671,500	\$ 1,671,500	\$ 1,023,523
Revenues:					
Sales Tax - TIF Collections	199,847	225,000	57,867	125,000	169,000
Lodging Tax - TIF Collections	146,972	160,000	38,456	83,500	113,000
Property Tax Increment Revenue	359,932	360,000	394,076	396,000	396,000
Transfer from General Fund	616,447	600,000	103,923	244,000	356,328
Bond/Loan proceeds	-	12,000,000	-	17,443,081	-
Interest Income	5,243	5,000	1,861	3,000	2,000
Total revenues	<u>1,328,441</u>	<u>13,350,000</u>	<u>596,183</u>	<u>18,294,581</u>	<u>1,036,328</u>
Total funds available	<u>2,927,422</u>	<u>15,069,631</u>	<u>2,267,683</u>	<u>19,966,081</u>	<u>2,059,851</u>
Expenditures:					
Loan Principal	620,000	12,660,000	315,000	12,660,000	-
Loan Interest	369,388	351,729	178,112	351,729	-
2020 Bond Interest	-	-	-	-	841,721
Costs of Issuance	-	-	-	461,510	-
Sub Debt Payment	260,000	500,000	-	5,462,296	-
Paying Agent Fees	3,000	3,000	-	3,000	4,000
TIF Collection Fee	1,734	1,925	481	1,043	1,410
Tax Increment Collection Fee	1,800	1,800	1,970	1,980	1,980
Miscellaneous	-	-	-	1,000	-
Total expenditures	<u>1,255,922</u>	<u>13,518,454</u>	<u>495,563</u>	<u>18,942,558</u>	<u>849,111</u>
Ending fund balance	<u>\$ 1,671,500</u>	<u>\$ 1,551,177</u>	<u>\$ 1,772,120</u>	<u>\$ 1,023,523</u>	<u>\$ 1,210,740</u>
Assessed valuation		<u>\$ 8,437,357</u>			<u>\$ 8,367,140</u>
Mill Levy		<u>0.000</u>			<u>0.000</u>
Total Mill Levy		<u>0.000</u>			<u>0.000</u>
Required Reserve Fund		<u>\$ 987,340</u>		2020 Surplus	<u>\$ 749,269</u>

2021 OPERATION FUNDING AGREEMENT

This **2021 OPERATION FUNDING AGREEMENT** (“**Agreement**”) is made and entered into this 15th day of February, 2021, with an effective date of the 1st day of January, 2021, by and between **CITYSET METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **STONEBRIDGE REALTY ADVISORS, INC.**, a Colorado corporation (the “**Developer**”) (individually, each a “**Party**” and collectively, the “**Parties**”).

RECITALS

- A. The Developer owns property within a project located in the City of Glendale, Arapahoe County, Colorado, commonly known as CitySet (the “**Property**”).
- B. The Property is within the boundaries and/or service area of the District.
- C. Pursuant to the authority granted to the District by its Service Plan, as approved by City of Glendale on August 3, 2010, as it may be amended from time to time (the “**Service Plan**”), the District intends to provide certain services to benefit properties within its boundaries and/or service area (the “**District Services**”).
- D. The District Services will benefit the Property.
- E. The District anticipates that it will not have sufficient revenues to make payment of its operations, maintenance and administrative expenses for fiscal year 2021.
- F. In order to enable the District to provide District Services, the Developer is willing to advance funds to the District or to pay consultants directly for operations, maintenance and administrative expenses pursuant to the terms of this Agreement.
- G. The District’s Service Plan authorizes the repayment of amounts advanced for operations, maintenance and administrative expenses, together with interest thereon, by the District.
- H. The District and the Developer desire to set forth the rights, obligations and procedures for the Developer to advance funds and for the District to reimburse the Developer for the advances made hereunder.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. Acknowledgement of Anticipated Shortfall. The District anticipates a shortfall in revenues available for operations, maintenance and administrative expenses to be incurred for fiscal year 2021 in an aggregate amount of One Hundred Thousand Dollars (\$100,000.00) (the “**Shortfall Amount**”).

2. Payment of Shortfall. The Developer shall advance funds necessary to fund, or shall directly pay, the District's operations, maintenance and administrative expenses on a periodic basis as needed for the fiscal year 2021 up to the Shortfall Amount. The District shall, from time to time, provide written notice to the Developer that an advance of all or part of the Shortfall Amount is required. The Developer shall make an advance of funds to the District within fifteen (15) days of receipt from the District of any such written notice that an advance of funds is required ("**Developer Advance**").

3. Request for Additional Developer Advance. If the District requires additional advances above the Shortfall Amount from the Developer in order to meet its operation and maintenance expenses, the District shall request such additional funds in writing. Such request shall be accompanied by written explanation regarding the reasons additional funds are required. The Developer shall provide such additional funds within fifteen (15) days of receipt of notice requesting such funds. The amount of the additional funds shall be added to and included in the Shortfall Amount.

4. Accounting. The Developer shall provide the District with written documentation relative to any expenses paid directly to consultants. The District shall keep an accounting of each advance made by the Developer, including the accrued and unpaid interest on such advances, and shall provide unaudited financial statements reflecting this accounting to the Developer on a quarterly basis.

5. Repayment. The District hereby agrees that it is its intention to repay the amounts the Developer has advanced or directly paid pursuant to this Agreement, to the extent it has funds available from the imposition of its taxes, fees, rates, tolls, penalties and charges, and from any other revenue legally available, after the payment of its annual debt service obligations and annual operations, maintenance and administrative expenses, which repayment is subject to annual budget and appropriation. Simple interest shall accrue on each Developer Advance from the date of deposit into the District's account or from the date of direct payment by the Developer, until paid, at the rate of eight percent (8%) per annum. It is hereby agreed and acknowledged that this Agreement evidences an intent to reimburse the Developer hereunder, but that this Agreement shall not constitute a debt or indebtedness of the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial obligation, and the making of any reimbursement hereunder shall be at all times subject to annual appropriation by the District in its absolute discretion. By acceptance of this Agreement, the Developer agrees and consents to all of the limitations in respect of the payment of the principal and interest due hereunder and in the District's Service Plan.

6. Priority of Payments. Subject to the provisions of Section 5 above, payments to reimburse the Developer shall be made on December 2 of each year and shall be applied as follows: first to the accrued and unpaid interest and then to the principal amount due pursuant to this Agreement.

7. Representations. The Developer hereby represents and warrants to and for the benefit of the District as follows:

(a) The Developer is a Colorado corporation in good standing and qualified to conduct business under the laws of the State of Colorado.

(b) The Developer has the full power and legal authority to enter into this Agreement. Neither the execution and delivery of this Agreement nor the compliance by the Developer with any of its terms, covenants or conditions is or shall become a default under any other agreement or contract to which the Developer is a party or by which the Developer is or may be bound. The Developer has taken or performed all requisite acts or actions which may be required by its organizational or operational documents to confirm its authority to execute, deliver and perform each of its obligations under this Agreement.

(c) The Developer represents that it has sufficient available funds to fulfill its obligations under this Agreement.

The foregoing representations and warranties are made as of the date hereof and shall be deemed continually made by the Developer to the District for the entire term of this Agreement.

8. Term/Repose. Any obligation of the Developer to advance funds will expire upon advance to the District of amounts sufficient to pay expenses incurred in 2021, not to exceed the Shortfall Amount unless agreed to in writing by the Parties. Any obligation of the District to reimburse the Developer shall expire on December 31, 2061. In the event the District has not reimbursed the Developer for any Developer Advance(s) made pursuant to this Agreement on or before December 31, 2061, any amount of principal and accrued interest outstanding on such date shall be deemed to be forever discharged and satisfied in full.

9. Termination of Reimbursement Obligations. Notwithstanding any provision herein to the contrary, the District's obligations to reimburse the Developer for any and all funds advanced or otherwise payable to the Developer under and pursuant to this Agreement (whether the Developer has already advanced or otherwise paid such funds or intends to make such advances or payments in the future) shall terminate automatically and be of no further force or effect upon the occurrence of: (a) the Developer's voluntary dissolution, liquidation, winding up, or cessation to carry on business activities as a going concern; (b) administrative dissolution (or other legal process not initiated by the Developer dissolving the Developer as a legal entity) that is not remedied or cured within sixty (60) days of the effective date of such dissolution or other process; or (c) the initiation of bankruptcy, receivership or similar process or actions with regard to the Developer (whether voluntary or involuntary). The termination of the District's reimbursement obligations as set forth in this Section shall be absolute and binding upon the Developer, its successors and assigns. The Developer, by its execution of this Agreement, waives and releases any and all claims and rights, whether existing now or in the future, against the District relating to or arising out of the District's reimbursement obligations under this Agreement in the event that any of the occurrences described in this Section occur.

10. 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 FedEx 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: CitySet Metropolitan District No. 2
c/o Special District Management Services, Inc.
141 Union Boulevard, Suite 150
Lakewood, Colorado 80228
Attention: David Solin
Phone: 303-987-0835
Email: dsolin@sdmsi.com

With a copy to: McGeady Becher P.C.
450 East 17th Avenue, Suite 400
Denver, CO 80203-1254
Attention: Paula Williams
Phone: 303-592-4380
Email: legalnotices@specialdistrictlaw.com

To Developer: Stonebridge Realty Advisors, Inc.
4949 S. Niagara Street, Suite 300
Denver, Colorado 80237
Attention: Bill Martinic
Phone: 303-785-3106
Email: bmartinic@sbcos.com

With a copy to: Stonebridge Realty Advisors, Inc.
4949 S. Niagara Street, Suite 300
Denver, Colorado 80237
Attention: Howard Pollack
Phone: 303-785-3106
Email: hpollack@sbcos.com

All notices, demands, requests or other communications shall be effective upon such personal delivery, one (1) business day after being deposited with FedEx or other nationally recognized overnight air courier service, on the date of transmission if sent by electronically-confirmed 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 or contact information.

11. Assignment. The Developer 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 ineffectual.

12. 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 Developer 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 Developer shall be for the sole and exclusive benefit of the District and the Developer.

13. Default/Remedies. In the event of a breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall obtain as part of its judgment or award its reasonable attorneys' fees.

14. 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 Arapahoe, Colorado.

15. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

16. 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.

17. 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.

18. 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.

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

20. 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 Developer unless the same is in writing and duly executed by the Parties hereto.

SIGNATURE PAGE FOLLOWS

[SIGNATURE PAGE TO 2021 OPERATION FUNDING AGREEMENT]

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

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

By: _____
President

Attest:

Secretary

STONEBRIDGE REALTY ADVISORS, INC.,
a Colorado corporation

By: _____
Name: _____
Title: _____

SERVICE AGREEMENT FOR ELEVATOR MAINTENANCE SERVICES

THIS SERVICE AGREEMENT FOR ELEVATOR MAINTENANCE SERVICES (“**Agreement**”) is entered into and effective as of the **1st** day of **December, 2020**, by and between **CITYSET METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **HORIZON GLASS.**, a Colorado corporation (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, as set forth in **Exhibit A** hereto, attached and incorporated 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 highest 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) Refrain from entering 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 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 B** 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. COMPENSATION

2.1 Compensation. The Consultant shall be paid as set forth in **Exhibit A** attached hereto, unless otherwise approved in advance by the District through a written change order in form substantially as attached hereto as **Exhibit C** ("**Change Order**").

2.2 Monthly Invoices and Payments. The Consultant shall submit to the District a monthly invoice, in a form acceptable to the District. Invoices shall be submitted and paid no more frequently than once a month.

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 **Exhibit A**, unless otherwise approved in advance by the District in writing.

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 upon satisfactory completion of services. Extensions of this Agreement must be pursuant to a Change Order 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 Consultant may terminate this Agreement 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 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 non-owned 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 design, 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 Arapahoe, 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: CitySet Metropolitan District No. 2
c/o Special District Manager Services, Inc.
141 Union Blvd., Suite 150
Lakewood, CO 80228
Phone: 303-987-0835
Email: dsolin@sdmsi.com
Attn: David Solin

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

To Consultant: Horizon Glass.
500 West Tennessee
Denver, CO 80223
Phone: 303-293-9377
Email: DEaton@HorizonGlass.net
Attn: D. Eaton

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, 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 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:
HORIZON GLASS.

By: _____
Its: _____

STATE OF COLORADO)
) ss.
COUNTY OF [])

The foregoing instrument was acknowledged before me this [] day of [], 2020, by [], as [] of Horizon Glass.

Witness my hand and official seal.

My commission expires: _____

Notary Public

District:
CITYSET METROPOLITAN DISTRICT NO. 2

By: Navin Dimond
President

STATE OF COLORADO)
) ss.
COUNTY OF [Jefferson])

The foregoing instrument was acknowledged before me this [11th] day of [January], 2021, by [Navin Dimond], as [President] of CitySet Metropolitan District No. 2.

Witness my hand and official seal.

My commission expires: 08/07/2023

AMANDA BROWER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20094037381
MY COMMISSION EXPIRES AUGUST 07, 2023

Amanda Brower
Notary Public

EXHIBIT A
SCOPE OF SERVICES AND COMPENSATION



E-mail: DEaton@HorizonGlass.net Main: 303-293-9377 Direct: 720-407-7876

Proposal

Date: November 18, 2020	Proposal Number: 11-1820
Client: CitySet Metro District Address: 141 Union Blvd., Suite 150 City/State: Lakewood, CO 80228 Attention: Pat Reynolds Telephone: 30-754-9800 Ext. 4914 Fax/Email: Pat.Reynolds@hilton.com	Job Name: Address: 600 S. Colorado Blvd. City/State: Denver, CO 80246

Horizon Glass Company proposes the following:

Remove sidlite to re-anchor frame that moved from wind damage.
Re-Anchor frame and re-install sidelite glass.
Re-Caulk sidelite frame

Furnish and Install new Dorma RTS 88 Overhead concealed closer with 105 degree Non-Hold Open and Extended spindle, size 4 spring power Install new end-load closer arm

Note: Repair to the stainless cladding at the top door rail is excluded from this proposal and if desired would be at an additional cost.

Field verification is required to validate this proposal. Horizon Glass must receive a signed proposal prior to ordering materials or performing any work.

All material is guaranteed to be as approved and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manor for the sum of..... **\$2,072.00**

EXCLUSIONS :

CLEANING AND PROTECTION OF MATERIALS, TEMPORARY GLAZING, SPECIAL TESTING, MOCK-UPS, PERFORMANCE AND PAYMENT BOND, COLORADO ENGINEERS STAMP, STEEL EMBEDS/ANGLES/ CHANNELS/ETC, BLOCKING, HOOK UP OF ELECTRICAL DOOR HARDWARE, HOLLOW METAL FRAMING, CUTTING AND DRILLING OF HOLLOW METAL STOPS, WOOD FRAMING, MIRROR FRAMES, INSULATION AND FIRESAFING, LOUVERS AND GRILLS, HANDRAILS, FIRE RATED GLAZING, OVERTIME AND AFTER HOURS WORK, DEMOLITION AND RELOCATION WORK, HAZARDOUS MATERIAL REMOVAL, OWNER CONTROLLED INSURANCE PROGRAMS, GUARANTEE'S ON DAMAGE TO MATERIAL CAUSED BY VANDALISM/ACCIDENTS/NATURAL CAUSES, DAMAGE TO LANDSCAPE AND SURROUNDING FINISHES

QUALIFICATIONS:

1. Horizon Glass Company will accept no charges or back charges of any kind unless agreed to in writing prior to work.
2. Extra or change order work will not proceed without written authorization.
3. Materials will be furnished in accordance with published product and finish tolerances.
4. Installation shall be per manufactures installation instructions.
5. To insure proper installation, openings must be level, plumb and square.
6. Overtime and work outside of our normal business hours will be provided only when delays caused by Horizon Glass Company deem it necessary.
7. There are no guarantees on damage to material caused by vandalism, accidents, natural causes and due to modifications by others.
8. Hook-up of electrical hardware, when applicable, is by others.

Respectfully Submitted,
Horizon Glass Company

We appreciate the opportunity to be of service!

This bid may be withdrawn by Horizon Glass Company if not accepted within 30 Days.

Having fully read and understanding the contents and intent of the above scope of work and associated costs, I hereby authorize Horizon Glass & Glazing Co Inc. to proceed with the procurement and fabrication of materials and their installation (if installation included) and application, to be approved. Accounts going over 30 days are subject to collection procedures.

Accepted by:

Date:

Printed Name:

PO#:

Company Name (if applicable):

Title:

EXHIBIT B
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.

EXHIBIT C
FORM OF CHANGE ORDER

Change Order No:	Date Issued:
Name of Agreement:	
Date of Agreement:	District(s):
Other Party/Parties:	

CHANGE IN SCOPE OF SERVICES (describe):

CHANGE IN AGREEMENT PRICE:	CHANGE IN TERM OF AGREEMENT:
Original Price: \$ _____	Original Term: Expires _____, 20____
Increase of this Change Order: \$ _____	New Term: Expires _____, 20____
Price with all Approved Change Orders: \$ _____	Agreement Time with all Approved Change Orders:

APPROVED:	
By:	
	District

APPROVED:	
By:	
	Consultant

TITLE	CitySet Agreements Signature Requests
FILE NAME	Ambius Holiday Lighting SA.pdf and 5 others
DOCUMENT ID	da07d76a3512378809ab2a4a5c1e298a3a894f8d
AUDIT TRAIL DATE FORMAT	MM / DD / YYYY
STATUS	● Completed

Document History



SENT

01 / 08 / 2021

22:13:54 UTC

Sent for signature to Navin Dimond (ndimond@sbcos.com) from dsolin@sdmsi.com
IP: 50.78.200.153



VIEWED

01 / 08 / 2021

22:14:03 UTC

Viewed by Navin Dimond (ndimond@sbcos.com)
IP: 209.222.82.230



SIGNED

01 / 09 / 2021

22:09:31 UTC

Signed by Navin Dimond (ndimond@sbcos.com)
IP: 50.198.195.73



COMPLETED

01 / 09 / 2021

22:09:31 UTC

The document has been completed.

**SERVICE AGREEMENT FOR
INDEPENDENT ENGINEERING SERVICES**

THIS SERVICE AGREEMENT FOR INDEPENDENT ENGINEERING SERVICES (“Agreement”) is entered into and effective as of the 15th day of November, 2020, by and between CITYSET METROPOLITAN DISTRICT NO.2, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), and ELEMENT ENGINEERING, LLC, a Colorado Corporation (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, as set forth in Exhibit A hereto, attached and incorporated 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

I.1 Duties of Consultant. The Consultant shall:

(a) Perform the Services, safely and in accordance with the highest 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) Refrain from entering 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 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 B** 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. COMPENSATION

2.1 Compensation. The Consultant shall be paid as set forth in Exhibit A attached hereto, unless otherwise approved in advance by the District through a written change order in form substantially as attached hereto as Exhibit C ("Change Order").

2.2 Monthly Invoices and Payments. The Consultant shall submit to the District a monthly invoice, in a form acceptable to the District. Invoices shall be submitted and paid no more frequently than once a month.

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 Exhibit A, unless otherwise approved in advance by the District in writing.

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 date satisfactory completion of the Services. Extensions of this Agreement must be pursuant to a Change Order 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 Consultant may terminate this Agreement 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 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 design, 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 Arapahoe 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 FedEx 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: CitySet Metropolitan District No. 2
141 S. Union Blvd. #150
Lakewood, CO 80228
Phone: 303.987.0835
Email: dsolin@sdmsi.com
Attn: David Solin

With a Copy To: McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203
Phone: 303.592.4380
Email: pwilliams@specialdistrictlaw.com
Attn: Paula Williams

To Consultant: Element Engineering, LLC
12687 W. Cedar Dr., Suite 300
Lakewood, CO 80228
Phone: 303.378.2969
Email: nmarcotte@elementengineering.net
Attn: Nick Marcotte

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with FedEx 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, 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 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.

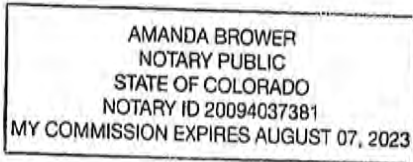
Consultant:
ELEMENT ENGINEERING, LLC
 By: Nicholaus P. Marcotte
 Its: President

STATE OF COLORADO)
) ss.
 COUNTY OF Jefferson)

The foregoing instrument was acknowledged before me this 7 day of December,
2020, by Nicholaus Marcotte, as President of Element Engineering, LLC

Witness my hand and official seal.

My commission expires: 08/07/2023



Amanda Brower
 Notary Public

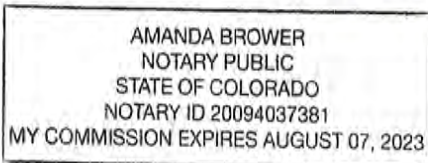
District:
CITYSET METROPOLITAN DISTRICT NO. 2
 By: Navin Dirnad
 President

STATE OF COLORADO)
) ss.
 COUNTY OF Jefferson)

The foregoing instrument was acknowledged before me this 11 day of January,
2021, by Navin Dirnad, as President of CitySet Metropolitan District.

Witness my hand and official seal.

My commission expires: 08/07/2023



Amanda Brower
 Notary Public

EXHIBIT A
SCOPE OF SERVICES AND COMPENSATION

EXHIBIT A



RATE SCHEDULE FOR PROFESSIONAL ENGINEERING SERVICES

<u>LABOR CLASSIFICATION</u>	<u>HOURLY BILLING RATE</u>
Project Manager	\$140.00
Project Engineer	\$120.00
Design Engineer	\$110.00
Construction Manager	\$130.00
Construction Observer	\$95.00
Office Assistant	\$45.00
 <u>DIRECT EXPENSES</u>	
Prints/Copies	At Cost
Mileage	No Charge
Travel Time	No Charge
Sub-Consultants	At Cost

EXHIBIT B
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.

EXHIBIT C
FORM OF CHANGE ORDER

Change Order No:	Date Issued:
Name of Agreement:	
Date of Agreement:	District(s):
Other Party/Parties:	

CHANGE IN SCOPE OF SERVICES (describe):

CHANGE IN AGREEMENT PRICE:	CHANGE IN TERM OF AGREEMENT:
Original Price: \$	Original Term: Expires _____, 20
Increase of this Change Order: \$	New Term: Expires _____, 20
Price with all Approved Change Orders: \$	Agreement Time with all Approved Change Orders:

APPROVED:

By: _____
District

APPROVED:

By: _____
Consultant

SERVICE AGREEMENT FOR GENERATOR MAINTENANCE

THIS SERVICE AGREEMENT FOR GENERATOR MAINTENANCE (“**Agreement**”) is entered into and effective as of the **1st** day of **December, 2020**, by and between **CITYSET METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **GENERATOR SOURCE, LLC.**, a Colorado corporation (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, as set forth in **Exhibit A** hereto, attached and incorporated 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 highest 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) Refrain from entering 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 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 B** 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. COMPENSATION

2.1 Compensation. The Consultant shall be paid as set forth in **Exhibit A** attached hereto, unless otherwise approved in advance by the District through a written change order in form substantially as attached hereto as **Exhibit C** ("**Change Order**").

2.2 Monthly Invoices and Payments. The Consultant shall submit to the District a monthly invoice, in a form acceptable to the District. Invoices shall be submitted and paid no more frequently than once a month.

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 **Exhibit A**, unless otherwise approved in advance by the District in writing.

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 **December 31, 2021**. Extensions of this Agreement must be pursuant to a Change Order 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 Consultant may terminate this Agreement 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 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 non-owned 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 design, 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 Arapahoe, 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: CitySet Metropolitan District No. 2
c/o Special District Manager Services, Inc.
141 Union Blvd., Suite 150
Lakewood, CO 80228
Phone: 303-987-0835
Email: dsolin@sdmsi.com
Attn: David Solin

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

To Consultant: Generator Source, LLC.
625 Baseline Road
Brighton CO 80603
Phone: 303-833-5505
Email: sales@generatorsource.com
Attn: Ron Brooks

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, 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 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:
GENERATOR SOURCE, LLC.

By: [Signature]
Its: Director Service/Rental

STATE OF COLORADO)
) ss.
COUNTY OF Weld)

The foregoing instrument was acknowledged before me this 7 day of December, 2020, by Ben Brooks, as Director of Service/Rental.

Witness my hand and official seal.

My commission expires: 2-1-2023

CARRIE J SCHARA
Notary Public
State of Colorado
Notary ID # 20194004196
My Commission Expires 02-01-2023

[Signature]
Notary Public

District:
CITYSET METROPOLITAN DISTRICT NO. 2

By: Navin Dima
President

STATE OF COLORADO)
) ss.
COUNTY OF Jefferson)

The foregoing instrument was acknowledged before me this 11 day of January, 2021, by Navin Dima, as President of CitySet Metropolitan District No. 2.

Witness my hand and official seal.

My commission expires: 08/07/2023

[Signature]
Notary Public

EXHIBIT A
SCOPE OF SERVICES AND COMPENSATION

EXHIBIT B
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.

EXHIBIT C
FORM OF CHANGE ORDER

Change Order No:	Date Issued:
Name of Agreement:	
Date of Agreement:	District(s):
Other Party/Parties:	

CHANGE IN SCOPE OF SERVICES (describe):
--

CHANGE IN AGREEMENT PRICE:	CHANGE IN TERM OF AGREEMENT:
Original Price: \$	Original Term: Expires _____, 20
Increase of this Change Order: \$	New Term: Expires _____, 20
Price with all Approved Change Orders: \$	Agreement Time with all Approved Change Orders:

APPROVED:	
By:	
	District

APPROVED:	
By:	
	Consultant

SERVICE AGREEMENT FOR SNOW REMOVAL SERVICES

THIS SERVICE AGREEMENT FOR SNOW REMOVAL SERVICES (“**Agreement**”) is entered into and effective as of the 14th day of **December, 2020**, by and between **CITYSET METROPOLITAN DISTRICT No. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **BRIGHTVIEW LANDSCAPE SERVICES, INC.**, a Colorado corporation (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; and

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; and

C. The Consultant has experience in providing the services, as set forth in **Exhibit A** hereto, attached and incorporated herein (the “**Services**”), and is willing to provide such Services to the District for reasonable consideration; and

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 normal 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.

(c) Take 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) Refrain from entering 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 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 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 C** 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. COMPENSATION

2.1 Compensation. The Consultant shall be paid as set forth in **Exhibit A** attached hereto, unless otherwise approved in advance by the District through a written change order in form substantially as attached hereto as **Exhibit C** ("Change Order").

2.2 Monthly Invoices and Payments. The Consultant shall submit to the District a monthly invoice, in a form acceptable to the District. Invoices shall be submitted and paid no more frequently than once a month.

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 **Exhibit A**, unless otherwise approved in advance by the District in writing.

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 December 13, 2021. Extensions of this Agreement must be pursuant to a Change Order 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 Consultant may terminate this Agreement 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 through the termination date.

IV. INDEMNIFICATION AND INSURANCE

4.1 Indemnification. The Consultant hereby agrees to indemnify, 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, and employees (collectively, the “**Indemnitees**”), harmless from liability for damage, including, but not limited to, the reimbursement of attorneys’ fees and costs, to the extent damages are caused by design professionals’ negligence.

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 design, 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 Arapahoe, 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 facsimile transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To District: CitySet Metropolitan District No. 2
141 Union Blvd., Suite 150
Lakewood, CO 80228
Phone: 303.987.0835
Fax: 303.987.2032
Email: dsolin@sdmsi.com
Attn: David Solin

With a Copy To: McGeedy Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Phone: 303.592.4380
Fax: 303.592.4385
Email: pwilliams@specialdistrictlaw.com
Attn: Paula Williams, Esq.

To Consultant: Brightview Landscape Services, Inc.
12570 E. 39th Avenue
Denver, CO 80239
Phone: (303) 288-2701
Email: Shad.Parrish@Brightview.com
Attn: Shad Parrish

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 facsimile 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, 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 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:
BRIGHTVIEW LANDSCAPE SERVICES, INC.
By: [Signature] 12/22/2020
Its: David L Hanson / Senior Vice President

STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 22nd day of December, 2020, by David L Hanson, as Senior Vice President of Brightview Landscape Services, Inc.

Witness my hand and official seal.

My commission expires: July 21, 2023

MARTHA J MICELI
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20034023907
MY COMMISSION EXPIRES JULY 21, 2023

Martha Miceli
Notary Public

District:
CITYSET METROPOLITAN DISTRICT NO. 2
By: Nan Dimond

STATE OF COLORADO)
) ss.
COUNTY OF Jefferson)

The foregoing instrument was acknowledged before me this 11 day of January, 2021, by Nan Dimond, as President of CitySet Metropolitan District No. 2.

Witness my hand and official seal.

My commission expires: 08/07/2023

AMANDA BROWER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20094037381
MY COMMISSION EXPIRES AUGUST 07, 2023

Amanda Brower
Notary Public

EXHIBIT A
SCOPE OF SERVICES AND COMPENSATION

CLIENT PRICING AGREEMENT

EXHIBIT A

Annual Snow Service Order

SCOPE OF SERVICES AND COMPENSATION

BrightView

BrightView Landscape Services, Inc. (BrightView)

40030_BVLS Denver South

8888 N. Molsenbocker Road Suite A Parker CO 80134

Ph: (303) 841-3003

11/17/2020 15:37

• SERVICE LOCATION (Location)

Loc ID Location Name Estimate

0 CITYSET METROPOLITAN DISTRICT I

Location Address

650 S. COLORADO BLVD., GLENDALE, CO 80247

• CLIENT INFORMATION (Client)

Client ID

Company Name

CITYSET METROPOLITAN DISTRICT NO. 2

Billing Address

141 UNION BLVD., SUITE 150, LAKEWOOD, CO 80228

• SCOPE OF SERVICES

Service Start: **12/14/2020**

Service End: **12/13/2021**

Start Season: **2020**

<u>Vehicle Site Area(s) (VEH)</u>	<u>Service Start Trigger</u>	<u>Pedestrian Sites Areas (PED)</u>	<u>Service Start Trigger</u>
Full Parking Lot (PK LOT)	2"	Building Entrances/Exits (PRI WALKS)	2"
Drive Lanes (DR LANE)	2"	Sidewalks (WALKS)	2"

BrightView is only responsible for performing Services in the selected Site Areas after the indicated Service Trigger is reached. Services requested before the Trigger is met shall begin upon a reasonable period after notification from the Client and may result in additional fees. Services provided under this agreement shall be directed and managed by BrightView in order to maintain safe conditions in the Site Areas indicated.

- BrightView will stake curbs and obstacles in the indicated site areas by N/A of each season and will invoice Client N/A for staking.
- Bulk de-icing material will be purchased (Supplied) by BrightView and applied by BrightView.
- Bagged de-icing material will be purchased (Supplied) by BrightView and applied by BrightView.
- All Time & Material Rates are Port-to-Port, and are subject to minimum fees as noted in the Price Schedule
- All prices exclude any applicable sales tax, should client request tax to be included BrightView may automatically adjust the price if tax laws change to reflect such increase.

By signing this Service Order, Client acknowledges and agrees that (a) snow or ice may accumulate while Services are being performed, (b) even when there is no precipitation present, snow may blow or drift onto a Service Location or be brushed onto cars, parking, and driving areas or walkways, and (c) properly plowed snow may melt and refreeze after Services are fully performed. Accordingly, Client understands and agrees that (i) BrightView cannot guarantee that the performance of the Services will remove all snow and ice from any Service Location, and (ii) some snow or ice may still be present at a Service Location during or after the performance of Services.

CLIENT PRICING AGREEMENT

2020.0

Annual Snow Service Order

BrightView 

BrightView Landscape Services, Inc. (BrightView)

11/17/2020 15:37

40030_BVLS Denver South

8888 N. Molsenbocker Road Suite A Parker CO 80134

Ph: (303) 841-3003

• **PRICE SCHEDULE** BrightView will be compensated for work performed at the Service Location according to the agreed to prices shown below. All listed equipment items includes the respective equipment and required operator.

Category	Area	Service/Unit Description	Unit	Min. Chg.	Price	Price	Price	Price	2020 Price
TM	ALL AREAS	Truck with Plow	Hr	1 Hr					\$115.00
TM	ALL AREAS	Truck with Spreader/Sprayer	Hr	1 Hr					\$115.00
TM	ALL AREAS	Skid Steer	Hr	2 Hr					\$155.00
TM	ALL AREAS	Loader 3CY+ Bucket	Hr	4 Hr					\$302.00
TM	ALL AREAS	Crew Member	Hr	1 Hr					\$65.00
TM	ALL AREAS	Supervisor	Hr	1 Hr					\$65.00
TM	ALL AREAS	Utility Vehicles (ATV, Kubota, etc.)	Hr	1 Hr					\$98.00
TM	ALL AREAS	Hauling/Relocating Snow (note)	Hr	4 Hr					\$155.00
TM	ALL AREAS	Bag Ice Melt	EA	1 Bag					\$45.00
TM	ALL AREAS	Ice Slicer	TN	1 Ton					\$270.00

• **ORDER EFFECTIVE DATE:**

12/14/2020

This Service Order is accepted by BrightView and Client and forms part of the Master Snow Management Agreement signed by the parties and restates and replaces any Service Order previously agreed to for the above Location.

For BrightView:

Printed: David L Hanson
Email: _____
Title: Senior Vice President

12/14/2020
12/22/2020

For Client:

Printed: _____
Email: _____
Title: _____
12/14/2020

SERVICE AGREEMENT FOR CONSTRUCTION SERVICE

THIS SERVICE AGREEMENT FOR CONSTRUCTION SERVICES (“**Agreement**”) is entered into and effective as of the **1st** day of **NOVEMBER, 2020**, by and between **CITYSET METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **AKERS CONSTRUCTION SERVICES.**, a Colorado corporation (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, as set forth in **Exhibit A** hereto, attached and incorporated 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 highest 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.

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. COMPENSATION

2.1 Compensation. The Consultant shall be paid as set forth in **Exhibit A** attached hereto, unless otherwise approved in advance by the District through a written change order in form substantially as attached hereto as **Exhibit C** ("Change Order").

2.2 Monthly Invoices and Payments. The Consultant shall submit to the District a monthly invoice, in a form acceptable to the District. Invoices shall be submitted and paid no more frequently than once a month.

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 **Exhibit A**, unless otherwise approved in advance by the District in writing.

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 upon satisfactory completion of the work. Extensions of this Agreement must be pursuant to a Change Order 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 Consultant may terminate this Agreement 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.

(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) Refrain from entering 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 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 B** 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 shall pay the Consultant for all Services satisfactorily performed 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 non-owned 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 design, 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 Arapahoe, 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: CitySet Metropolitan District No. 2
c/o Special District Manager Services, Inc.
141 Union Blvd., Suite 150
Lakewood, CO 80228
Phone: 303.987.0835
Email: dsolin@sdmsi.com
Attn: David Solin

With a Copy To: McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Phone: 303.592.4380
Email: pwilliams@specialdistrictlaw.com
Attn: Paula Williams

To Consultant: Akers Construction Services
48065 E. 38th Ave.
Bennet, CO 80102
Phone: 720.505.7523
Email: akersconstructionservices@gmail.com
Attn: Jim Akers

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, 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 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:
Akers Construction Services

By: *James Akers*
Its: OWNER

STATE OF COLORADO)
COUNTY OF Adams) ss.
)

The foregoing instrument was acknowledged before me this 9th day of December, 2020, by James Akers, as Owner of Akers Construction Services

Witness my hand and official seal.

My commission expires: 01/29/2022

ROBIN L. ROMERO
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20184004687
MY COMMISSION EXPIRES 01/29/2022

[Signature]
Notary Public

District:
CITYSET METROPOLITAN DISTRICT NO. 2

By: *Mark D'Amico*
President

STATE OF COLORADO)
COUNTY OF Jefferson) ss.
)

The foregoing instrument was acknowledged before me this 11 day of January, 2021, by Robin Romero, as President of CitySet Metropolitan District No. 2.

Witness my hand and official seal.

My commission expires: 08/07/2023

AMANDA BROWER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20094037381
MY COMMISSION EXPIRES AUGUST 07, 2023

Amanda Brower
Notary Public

EXHIBIT A
SCOPE OF SERVICES AND COMPENSATION

Akers Construction Services

48065 E 38th Ave
Bennett, CO 80102
720-505-7523

October 15, 2020
Special District Management Services
City Set
141 Union Blvd Ste 150
Lakewood, CO 80228

BID PROPOSAL AND AGREEMENT TO:
Install exhaust fan in yellow room of parking structure

Akers Construction Services will provide all materials and workmanship necessary to perform the following services:

SCOPE OF WORK:

Provide and install 19 x 19 intake grill.
Provide and install 19 x 19 louvered exhaust fan.

Project Inclusions:

- All materials and labor for above scope.
- Any necessary electrical to install new fan.
- Concrete cutting and demo.
- Work to be performed during normal business hours (Mon-Fri. 8 am – 5 pm)

EXCLUSIONS:

Per this pricing all work not described above, as well as the following items are excluded:

- Not liable for any other mechanical/plumbing/electrical not described in the above scope of work.
- No work to be performed on any other system.
- No work not specifically listed above.

Total Due Net 30: \$4,250.00

ACCEPTANCE OF BID PROPOSAL AND AGREEMENT: The above prices, specifications, terms and conditions are satisfactory and accepted by the undersigned. MAI Service Corporation is authorized to do the work as specified. Payment will be made as outlined in Terms above. Customers' acceptance shall also be evidenced by Customer allowing Akers Construction Services to undertake commencement of the project referenced herein.

Authorized Signature: _____ Date: _____

EXHIBIT B
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.

EXHIBIT C

FORM OF CHANGE ORDER

Change Order No:	Date Issued:
Name of Agreement:	
Date of Agreement:	District(s):
Other Party/Parties:	

CHANGE IN SCOPE OF SERVICES (describe):

CHANGE IN AGREEMENT PRICE:	CHANGE IN TERM OF AGREEMENT:
Original Price: \$ _____	Original Term: Expires _____, 20____
Increase of this Change Order: \$ _____	New Term: Expires _____, 20____
Price with all Approved Change Orders: \$ _____	Agreement Time with all Approved Change Orders: _____

APPROVED:

By: _____

District

APPROVED:

By: _____

Consultant

EXHIBIT C

FORM OF CHANGE ORDER

Change Order No: 3	Date Issued: 12/3/2020
Name of Agreement: Service Agreement for Security Camera Installation Services	
Date of Agreement: June 24, 2019	District(s): City Set
Other Party/Parties: Apollo Security, USA.	

<p>CHANGE IN SCOPE OF SERVICES (describe):</p> <p align="center">As per attached proposal dated November 4, 2020</p>

CHANGE IN AGREEMENT PRICE:	CHANGE IN TERM OF AGREEMENT:
Original Price: \$ 1,740	Original Term: _____, 2020
Increase of Change Order #1: \$ 2,850	New Term: Expires _____, 2020
Increase of Change Order #2: \$ 9,970	
Increase of Change Order #3: \$ 2,450	
Price with all Approved Change Orders: \$ 17,010	Agreement Time with all Approved Change Orders: _____

APPROVED:
By: _____
District

APPROVED:
By: _____
Consultant

Proposal



November 4
2020

Apollo Security USA, Inc. | 4401 S Broadway Unit 204, Englewood, CO 80113
Wayne Rostad | 720 495-1238 | wdr@apollosecurityusa.com
Grant Wittenwyler | [303] 881-9914 | grant@apollosecurityusa.com

City Set
600 S. Colorado Blvd.
Denver, CO 80246

Remote Access

Equipment: [Necessary for Remote Access]

Wi-Fi Extender

- 1 [ONE] PVC Box
- 1 [ONE] Access Point
- 1 [ONE] Antenna
- 1 [ONE] Antenna Cable
- 1 [ONE] Power Supply
- [ALL] CAT6 cable [outdoor rated], connectors, etc.
- [ALL] PVC Conduit

Installation - Cabling – Hardware - Training

Purchase Price: \$2,450.00

Terms

Note: This gives the client the ability to remotely access to the system, but it needs to be set-up by the client.
Payment: 50% Due to begin installation, balance due upon completion of installation [3% service charge on credit card payments]
2 (TWO) Year Warranty (New Equipment & Installation)
Any unforeseen complications could result in additional costs.

Signature: _____ Date of Acceptance: _____

Apollo Security USA
Salesperson: _____ Date Installation begins: _____

Proposal for Extra Work at CitySet Metro District

Property Name	CitySet Metro District	Contact	David Solin
Property Address	650 S. Coloado Blvd. Glendale, CO 80247	To	Cityset Metro District
		Billing Address	c/o SDMSI 141 Union Ave Ste 150 Lakewood, CO 80228
Project Name	Landscape Refresh		
Project Description	Install Rock, Mulch, and Perennials		

Scope of Work

QTY	UoM/Size	Material/Description	Unit Price	Total
Coloardo/Cherry Street Dr.			Subtotal	\$21,606.22
16.00	EACH	DAISY, BECKY SHASTA - 1 gal. Shrub/Perennial Installed (Northwest Corner)	\$20.83	\$333.22
16.00	EACH	BLACK EYED SUSAN - 1 gal. Shrub/Perennial Installed (Northwest Corner)	\$20.83	\$333.22
6.00	EACH	DAISY, BECKY SHASTA - 1 gal. Shrub/Perennial Installed (Northwest Corner)	\$20.83	\$124.96
7.00	EACH	BLACK EYED SUSAN - 1 gal. Shrub/Perennial Installed (Northwest Corner)	\$20.83	\$145.78
32.00	EACH	DAYLILY, HAPPY RETURNS - 1 gal. Shrub/Perennial Installed (Southwest Corner)	\$24.05	\$769.65
32.00	EACH	DAYLILY, AUTUMN RED - 1 gal. Shrub/Perennial Installed (Cherry Creek Dr. Entrance)	\$24.05	\$769.65
1.00	BOX	TULIPS, MIX Perennial Installed (Cherry Creek Dr. Entrance)(Spring)	\$122.36	\$122.36
12.00	EACH	GRASS, KARL FORESTER - 1 gal. Shrub/Perennial Installed (Northwest Entrance Cherry Creek Drive)	\$29.09	\$349.05
1.00	LUMP SUM	Irrigation T&M (Cap unused Irrigation)(New Planting)	\$811.41	\$811.41
22.00	LINEAR FEET	Green Pro - Edging Installed	\$6.89	\$151.55
2,000.00	SQUARE FEET	Filter Fabric Installed	\$0.19	\$373.20
60.00	CUBIC YARD	Gorilla Hair Mulch - CUBIC YARD Mulch (Southwest, and Northwest Corner/Chery Creek Dr.)	\$161.38	\$9,683.02
30.00	TON	1-1/2" Cheyenne Grey Rock - TON Rock/Gravel (Colorado BLVD)	\$152.85	\$4,585.42
50.00	HOUR	Install Labor/Delivery	\$61.07	\$3,053.73
Vellet			Subtotal	\$2,395.43
150.00	LINEAR FEET	Green Pro - Edging Installed	\$6.89	\$1,033.29
12.00	EACH	DAYLILY, HAPPY RETURNS - 1 gal. Shrub/Perennial Installed	\$24.05	\$288.62
1.00	LUMP SUM	Irrigation T&M	\$140.00	\$140.00
2.00	CUBIC YARD	Gorilla Hair Mulch - CUBIC YARD Mulch (Between Mulch/Rock)	\$161.38	\$322.77
10.00	HOUR	Install Labor/Delivery	\$61.07	\$610.75

THIS IS NOT AN INVOICE

This proposal is valid for 60 days unless otherwise approved by BrightView Landscape Services, Inc.
8888 Molsenbocker Road, Suite A, Parker, CO 80134 ph. (303) 841-3003 fax (303) 841-3177

Proposal for Extra Work at CitySet Metro District

Juniper Transplants				Subtotal	\$2,595.54
20.00	HOUR	Transplant Labor/Delivery (19 Uprights)	\$61.07		\$1,221.49
1.00	LUMP SUM	Irrigation T&M	\$160.00		\$160.00
5.00	CUBIC YARD	BioComp Compost - Amendment Installed (Fill Pots)	\$121.45		\$607.24
5.00	CUBIC YARD	Planters mix - Amendment Installed	\$121.36		\$606.81
Southeast Parking Lot Drain				Subtotal	\$654.85
2.00	TON	Local River Rock 2-4 - TON Rock/Gravel Installed (Mix with existing Rock)	\$163.40		\$326.81
1.00	HOUR	Boulder Labor (Move Boulder into Place)	\$61.07		\$61.07
1.00	LUMP SUM	Freight/Delivery	\$266.97		\$266.97
Jax Raised Bed				Subtotal	\$3,586.72
3.00	CUBIC YARD	Gorilla Hair Mulch - CUBIC YARD Mulch	\$161.38		\$484.15
6.00	HOUR	Remove Washington Cedar Mulch	\$61.08		\$366.45
1.00	CUBIC YARD	BioComp Compost - Amendment Installed	\$121.45		\$121.45
20.00	HOUR	Install Labor/Delivery	\$61.07		\$1,221.49
3.00	CUBIC YARD	Planters mix - Amendment Installed	\$121.36		\$364.09
6.00	EACH	CLEMATIS, BROTHER STEFAN - 1 gal. Shrub/Perennial Installed	\$37.38		\$224.27
1.00	FLAT	SALVIA, VISTA PURPLE Installed	\$59.18		\$59.18
2.00	FLAT	PETUNIA, DREAMS PURPLE Installed	\$59.18		\$118.36
2.00	FLAT	PETUNIA, DREAMS WHITE Installed	\$59.18		\$118.36
2.00	FLAT	HERBS, CHIVES ONION Installed	\$63.61		\$127.23
2.00	FLAT	HERBS, DILL FERNLEAF Installed	\$63.61		\$127.23
2.00	FLAT	HERBS, ROSEMAR UPRIGHT BLUE Installed	\$63.61		\$127.23
2.00	FLAT	HERBS, PARSLEY ITALIAN Installed	\$63.61		\$127.23

THIS IS NOT AN INVOICE

This proposal is valid for 60 days unless otherwise approved by BrightView Landscape Services, Inc.
8888 Molsenbocker Road, Suite A, Parker, CO 80134 ph. (303) 841-3003 fax (303) 841-3177

Proposal for Extra Work at CitySet Metro District

Images

CitySet



Jax



For internal use only

SO# 7430490
JOB# 400300580
Service Line 130

Total Price \$30,838.76

THIS IS NOT AN INVOICE

This proposal is valid for 60 days unless otherwise approved by BrightView Landscape Services, Inc.
8888 Molsenbocker Road, Suite A, Parker, CO 80134 ph. (303) 841-3003 fax (303) 841-3177

TERMS & CONDITIONS

1. The Contractor shall recognize and perform in accordance with written terms, written specifications and drawings only, contained or referred to herein. All materials shall conform to bid specifications.
2. **Work Force:** Contractor shall designate a qualified representative with experience in landscape maintenance/construction upgrades or when applicable in tree management. The workforce shall be competent and qualified, and shall be legally authorized to work in the U.S.
3. **License and Permits:** Contractor shall maintain a Landscape Contractor's license, if required by State or local law; and will comply with all other license and permit requirements of the City, State and Federal Governments, as well as all other requirements of law.
4. **Taxes:** Contractor agrees to pay all applicable taxes, including sales tax where applicable on material supplied.
5. **Insurance:** Contractor agrees to provide General Liability Insurance, Automotive Liability Insurance, Worker's Compensation Insurance, and any other insurance required by law or Client/Owner, as specified in writing prior to commencement of work. If not specified, Contractor will furnish insurance with \$1,000,000 limit of liability.
6. **Liability:** Contractor shall indemnify the Client/Owner and its agents and employees from and against any third party liabilities that arise out of Contractor's work to the extent such liabilities are adjudicated to have been caused by Contractor's negligence or willful misconduct. Contractor shall not be liable for any damage that occurs from Acts of God are defined as those caused by windstorm, hail, fire, flood, earthquake, hurricane and freezing, etc. Under these circumstances, Contractor shall have the right to renegotiate the terms and prices of this agreement within sixty (60) days. Any illegal trespass, claims and/or damages resulting from work requested that is not on property owned by Client/Owner or not under Client/Owner management and control shall be the sole responsibility of the Client/Owner.
7. **Subcontractors:** Contractor reserves the right to hire qualified subcontractors to perform specialized functions or work requiring specialized equipment.
8. **Additional Services:** Any additional work not shown in the above specifications involving extra costs will be executed only upon signed written orders, and will become an extra charge over and above the estimate.
9. **Access to Jobsite:** Client/Owner shall provide all utilities to perform the work. Client/Owner shall furnish access to all parts of jobsite where Contractor is to perform work as required by the Contract or other functions related thereto, during normal business hours and other reasonable periods of time. Contractor will perform the work as reasonably practical after the owner makes the site available for performance of the work.
10. **Invoicing:** Client/Owner shall make payment to Contractor within fifteen (15) days upon receipt of invoice. In the event the schedule for the completion of the work shall require more than thirty (30) days, a progress bill will be presented by month end and shall be paid within fifteen (15) days upon receipt of invoice.
11. **Termination:** This Work Order may be terminated by the either party with or without cause, upon seven (7) work days advance written notice. Client/Owner will be required to pay for all materials purchased and work completed to the date of termination and reasonable charges incurred in demobilizing.
12. **Assignment:** The Owner/Client and the Contractor respectively, bind themselves, their partners, successors, assignees and legal representative to the other party with respect to all covenants of this Agreement. Neither the Owner/Client nor the Contractor shall assign or transfer any interest in this Agreement without the written consent of the other provided, however, that consent shall not be required to assign this Agreement to any company which controls, is controlled by, or is under common control with Contractor or in connection with assignment to an affiliate or pursuant to a merger, sale of all or substantially all of its assets or equity securities, consolidation, change of control or corporate reorganization.
13. **Disclaimer:** This proposal was estimated and priced based upon a site visit and visual inspection from ground level using ordinary means, at or about the time this proposal was prepared. The price quoted in this proposal for the work described, is the result of that ground level visual inspection and therefore our company will not be liable for any additional costs or damages for additional work not described herein, or liable for any incidents/accidents resulting from conditions, that were not ascertainable by said ground level visual inspection by ordinary means at the time said inspection was performed. Contractor cannot be held responsible for unknown or otherwise hidden defects. Any corrective work proposed herein cannot guarantee exact results. Professional engineering, architectural, and/or landscape design services ("Design Services") are not included in this Agreement and shall not be provided by the Contractor. Any design defects in the Contract Documents are the sole responsibility of the Owner. If the Client/Owner must engage a licensed engineer, architect and/or landscape design professional, any costs concerning these Design Services are to be paid by the Client/Owner directly to the designer involved.

14. **Cancellation:** Notice of Cancellation of work must be received in writing before the crew is dispatched to their location or Client/Owner will be liable for a minimum travel charge of \$150.00 and billed to Client/Owner.

The following sections shall apply where Contractor provides Customer with tree care services:

15. **Tree & Stump Removal:** Trees removed will be cut as close to the ground as possible based on conditions to or next to the bottom of the tree trunk. Additional charges will be levied for unseen hazards such as, but not limited to concrete brick filled trunks, metal rods, etc. If requested mechanical grinding of visible tree stump will be done to a defined width and depth below ground level at an additional charge to the Client/Owner. Defined backfill and landscape material may be specified. Client/Owner shall be responsible for contacting Underground Service Alert to locate underground utility lines prior to start of work. Contractor is not responsible damage done to underground utilities such as but not limited to, cables, wires, pipes, and irrigation parts. Contractor will repair damaged irrigation lines at the Client/Owner's expense.
16. **Waiver of Liability:** Requests for crown thinning in excess of twenty-five percent (25%) or work not in accordance with ISA (International Society of Arboricultural) standards will require a signed waiver of liability.

Acceptance of this Contract

Contractor is authorized to perform the work stated on the face of this Contract. Payment will be 100% due at time of billing. If payment has not been received by BrightView within fifteen (15) days after billing, BrightView shall be entitled to all costs of collection, including reasonable attorneys' fees and it shall be relieved of any obligation to continue performance under this or any other Contract with Client/Owner. Interest at a per annum rate of 1.5% per month (18% per year), or the highest rate permitted by law, may be charged on unpaid balance 30 days after billing.

NOTICE: FAILURE TO MAKE PAYMENT WHEN DUE FOR COMPLETED WORK ON CONSTRUCTION JOBS, MAY RESULT IN A MECHANIC'S LIEN ON THE TITLE TO YOUR PROPERTY

Customer

District Manager

Signature

Title

David Solin

March 02, 2021

Printed Name

Date

BrightView Landscape Services, Inc. "BrightView"

Associate Account Manager

Signature

Title

Brian Charles Marciniowski

March 02, 2021

Printed Name

Date

Job #: 400300580 Proposed Price: \$30,838.76
SO # 7430490

Proposal for Extra Work at CitySet Metro District

Property Name	CitySet Metro District	Contact	David Solin
Property Address	650 S. Coloado Blvd. Glendale, CO 80247	To	Cityset Metro District
		Billing Address	c/o SDMSI 141 Union Ave Ste 150 Lakewood, CO 80228
Project Name	2021 Summer Annuals		
Project Description	Summer Annuals		

Scope of Work

QTY	UoM/Size	Material/Description	Unit Price	Total	
Residence Inn				Subtotal	\$1,422.77
1.00	HOUR	Spring Bed Prep	\$55.00	\$55.00	
2.00	HOUR	Planting Hours	\$55.00	\$110.01	
1.00	CUBIC YARD	Biocomp Amendment	\$121.35	\$121.35	
3.00	HOUR	Summer Maintenance Hours (12 Visits)	\$55.00	\$165.01	
12.00	FLAT	Mix of Flowers 10-4 MIX	\$62.70	\$752.40	
6.00	EACH	Center Piece (Ornamental Grasses)	\$18.00	\$108.00	
1.00	BAG	Fertilizer 40lb Bag (5-3-2)	\$56.00	\$56.00	
1.00	HOUR	Fall Removal	\$55.00	\$55.00	
CitySet				Subtotal	\$18,855.16
17.00	HOUR	Spring Bed Prep	\$55.00	\$935.00	
3.00	CUBIC YARD	Biocomp Amendment	\$121.35	\$364.04	
40.00	HOUR	Planting Hours	\$55.00	\$2,200.05	
120.00	FLAT	Mix of Flowers 10-4 MIX	\$62.70	\$7,523.96	
99.00	EACH	Center Piece (Ornamental Grasses)	\$18.00	\$1,782.00	
18.00	CUBIC YARD	Small Bark Mulch	\$116.00	\$2,088.00	
6.00	HOUR	1 Time Watering after Planting	\$55.00	\$330.01	
2.00	BAG	Fertilizer 40lb Bag (5-3-2)	\$56.00	\$112.01	
60.00	HOUR	Summer Maintenance Hours (12 Visits)	\$55.00	\$3,300.08	
4.00	HOUR	Fall Removal	\$55.00	\$220.01	
Hilton Garden				Subtotal	\$4,267.42
2.00	HOUR	Spring Bed Prep	\$55.00	\$110.00	
3.00	HOUR	Planting Hours	\$55.00	\$165.01	
2.00	CUBIC YARD	Biocomp Amendment	\$121.35	\$242.70	
6.00	HOUR	Summer Maintenance Hours (12 Visits)	\$55.00	\$330.02	
41.00	EACH	Center Piece (Ornamental Grasses)	\$18.00	\$738.00	
41.00	FLAT	Mix of Flowers 10-4 MIX	\$62.70	\$2,570.69	
1.00	BAG	Fertilizer 40lb Bag (5-3-2)	\$56.00	\$56.00	

THIS IS NOT AN INVOICE

This proposal is valid for 60 days unless otherwise approved by BrightView Landscape Services, Inc.
8888 Molsenbocker Road, Suite A, Parker, CO 80134 ph. (303) 841-3003 fax (303) 841-3177

Proposal for Extra Work at CitySet Metro District

1.00	HOUR	Fall Removal	\$55.00	\$55.00
------	------	--------------	---------	---------

For internal use only

SO# 7431348
JOB# 400300580
Service Line 130

Total Price \$24,545.35

THIS IS NOT AN INVOICE

This proposal is valid for 60 days unless otherwise approved by BrightView Landscape Services, Inc.
8888 Molsenbocker Road, Suite A, Parker, CO 80134 ph. (303) 841-3003 fax (303) 841-3177

TERMS & CONDITIONS

1. The Contractor shall recognize and perform in accordance with written terms, written specifications and drawings only, contained or referred to herein. All materials shall conform to bid specifications.
2. **Work Force:** Contractor shall designate a qualified representative with experience in landscape maintenance/construction upgrades or when applicable in tree management. The workforce shall be competent and qualified, and shall be legally authorized to work in the U.S.
3. **License and Permits:** Contractor shall maintain a Landscape Contractor's license, if required by State or local law; and will comply with all other license and permit requirements of the City, State and Federal Governments, as well as all other requirements of law.
4. **Taxes:** Contractor agrees to pay all applicable taxes, including sales tax where applicable on material supplied.
5. **Insurance:** Contractor agrees to provide General Liability Insurance, Automotive Liability Insurance, Worker's Compensation Insurance, and any other insurance required by law or Client/Owner, as specified in writing prior to commencement of work. If not specified, Contractor will furnish insurance with \$1,000,000 limit of liability.
6. **Liability:** Contractor shall indemnify the Client/Owner and its agents and employees from and against any third party liabilities that arise out of Contractor's work to the extent such liabilities are adjudicated to have been caused by Contractor's negligence or willful misconduct. Contractor shall not be liable for any damage that occurs from Acts of God are defined as those caused by windstorm, hail, fire, flood, earthquake, hurricane and freezing, etc. Under these circumstances, Contractor shall have the right to renegotiate the terms and prices of this agreement within sixty (60) days. Any illegal trespass, claims and/or damages resulting from work requested that is not on property owned by Client/Owner or not under Client/Owner management and control shall be the sole responsibility of the Client/Owner.
7. **Subcontractors:** Contractor reserves the right to hire qualified subcontractors to perform specialized functions or work requiring specialized equipment.
8. **Additional Services:** Any additional work not shown in the above specifications involving extra costs will be executed only upon signed written orders, and will become an extra charge over and above the estimate.
9. **Access to Jobsite:** Client/Owner shall provide all utilities to perform the work. Client/Owner shall furnish access to all parts of jobsite where Contractor is to perform work as required by the Contract or other functions related thereto, during normal business hours and other reasonable periods of time. Contractor will perform the work as reasonably practical after the owner makes the site available for performance of the work.
10. **Invoicing:** Client/Owner shall make payment to Contractor within fifteen (15) days upon receipt of invoice. In the event the schedule for the completion of the work shall require more than thirty (30) days, a progress bill will be presented by month end and shall be paid within fifteen (15) days upon receipt of invoice.
11. **Termination:** This Work Order may be terminated by the either party with or without cause, upon seven (7) work days advance written notice. Client/Owner will be required to pay for all materials purchased and work completed to the date of termination and reasonable charges incurred in demobilizing.
12. **Assignment:** The Owner/Client and the Contractor respectively, bind themselves, their partners, successors, assignees and legal representative to the other party with respect to all covenants of this Agreement. Neither the Owner/Client nor the Contractor shall assign or transfer any interest in this Agreement without the written consent of the other provided, however, that consent shall not be required to assign this Agreement to any company which controls, is controlled by, or is under common control with Contractor or in connection with assignment to an affiliate or pursuant to a merger, sale of all or substantially all of its assets or equity securities, consolidation, change of control or corporate reorganization.
13. **Disclaimer:** This proposal was estimated and priced based upon a site visit and visual inspection from ground level using ordinary means, at or about the time this proposal was prepared. The price quoted in this proposal for the work described, is the result of that ground level visual inspection and therefore our company will not be liable for any additional costs or damages for additional work not described herein, or liable for any incidents/accidents resulting from conditions, that were not ascertainable by said ground level visual inspection by ordinary means at the time said inspection was performed. Contractor cannot be held responsible for unknown or otherwise hidden defects. Any corrective work proposed herein cannot guarantee exact results. Professional engineering, architectural, and/or landscape design services ("Design Services") are not included in this Agreement and shall not be provided by the Contractor. Any design defects in the Contract Documents are the sole responsibility of the Owner. If the Client/Owner must engage a licensed engineer, architect and/or landscape design professional, any costs concerning these Design Services are to be paid by the Client/Owner directly to the designer involved.

14. **Cancellation:** Notice of Cancellation of work must be received in writing before the crew is dispatched to their location or Client/Owner will be liable for a minimum travel charge of \$150.00 and billed to Client/Owner.

The following sections shall apply where Contractor provides Customer with tree care services:

15. **Tree & Stump Removal:** Trees removed will be cut as close to the ground as possible based on conditions to or next to the bottom of the tree trunk. Additional charges will be levied for unseen hazards such as, but not limited to concrete brick filled trunks, metal rods, etc. If requested mechanical grinding of visible tree stump will be done to a defined width and depth below ground level at an additional charge to the Client/Owner. Defined backfill and landscape material may be specified. Client/Owner shall be responsible for contacting Underground Service Alert to locate underground utility lines prior to start of work. Contractor is not responsible damage done to underground utilities such as but not limited to, cables, wires, pipes, and irrigation parts. Contractor will repair damaged irrigation lines at the Client/Owner's expense.
16. **Waiver of Liability:** Requests for crown thinning in excess of twenty-five percent (25%) or work not in accordance with ISA (International Society of Arboricultural) standards will require a signed waiver of liability.

Acceptance of this Contract

Contractor is authorized to perform the work stated on the face of this Contract. Payment will be 100% due at time of billing. If payment has not been received by BrightView within fifteen (15) days after billing, BrightView shall be entitled to all costs of collection, including reasonable attorneys' fees and it shall be relieved of any obligation to continue performance under this or any other Contract with Client/Owner. Interest at a per annum rate of 1.5% per month (18% per year), or the highest rate permitted by law, may be charged on unpaid balance 30 days after billing.

NOTICE: FAILURE TO MAKE PAYMENT WHEN DUE FOR COMPLETED WORK ON CONSTRUCTION JOBS, MAY RESULT IN A MECHANIC'S LIEN ON THE TITLE TO YOUR PROPERTY

Customer

District Manager

Signature

Title

David Solin

March 02, 2021

Printed Name

Date

BrightView Landscape Services, Inc. "BrightView"

Associate Account Manager

Signature

Title

Brian Charles Marciniowski

March 02, 2021

Printed Name

Date

Job #: 400300580 Proposed Price: \$24,545.35
SO # 7431348