

## DISTRICT ENGINEER SERVICES AGREEMENT ROXBOROUGH VILLAGE METROPOLITAN DISTRICT

This District Engineer Services Agreement (“*Agreement*”), effective the 19<sup>th</sup> day of May, 2023 (“*Effective Date*”), is entered into by and between Roxborough Village Metropolitan District, a political subdivision of the State of Colorado (“*District*”), and Farnsworth Group, Inc., an Illinois corporation (“*Engineer*”). The District and the Engineer are individually referred to as a “*Party*” and collectively as the “*Parties*.”

### I. RECITALS

**WHEREAS**, the District was organized pursuant to the Colorado Special District Act, C.R.S. 32-1-101, *et seq.*, to construct, operate and maintain mosquito control systems, traffic safety protection, parks and recreation improvements, drainage improvements, and street improvements (collectively, the “*Improvements*”) within and outside its jurisdictional boundaries for the benefit of existing and future inhabitants and taxpayers of the District pursuant to the March 10, 2015 *Amended and Restated Service Plan for Roxborough Village Metropolitan District* (“*Service Plan*”);

**WHEREAS**, the District’s Board of Directors (“*Board*”) desires to retain the Engineer to perform professional general engineering services in connection with the existing and future Improvements on the terms and conditions set forth in this Agreement; and,

**WHEREAS**, the Engineer desires to perform said services on the terms and conditions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, agreements, and compensation set forth herein the Parties agree as follows:

### II. AGREEMENT

1. **Scope of Services.** The Engineer shall perform the engineering services set forth in the attached **Exhibit A** (“*Services*”). The Engineer shall perform the Services using that degree of skill and knowledge customarily employed by other professionals performing similar services in the State of Colorado. The Engineer shall be responsible for providing, at the Engineer’s sole cost and expense, all management, supervision, engineers and other skilled professionals, labor, materials, administrative support, supplies, and equipment necessary to perform the Services, all in accordance with this Agreement. The District has the right to solicit and contract with other or additional engineers/professional consultants and contractors to perform of any of the Services.

2. **Term and Termination.**

(a) ***Term:*** The initial term of this Agreement shall begin on the Effective Date and shall continue until December 31, 2023 (“*Initial Term*”) and shall thereafter automatically renew for successive one-year terms (each a “*Renewal Term*” and with the Initial Term, the “*Term*”), unless this Agreement is terminated in accordance with the provisions herein.

(b) **Termination:** Either Party may terminate this Agreement, with or without cause, by delivering to the other Party at least sixty (60) days prior written notice of such termination. If this Agreement is terminated, the District shall pay the Engineer for Services timely and satisfactorily performed prior to the designated termination date, including any reimbursable costs due.

(c) **Non-Appropriation:** Notwithstanding anything in this Agreement to the contrary, all direct and indirect financial obligations of the District are subject to the Board's annual appropriation of funds to meet such financial obligations for the next calendar year. If the Board fails to appropriate funds for the next calendar year, this Agreement shall automatically terminate, and the District shall have no liability to the Engineer beyond those financial obligations for which the Board previously appropriated funds.

3. **Time of the Essence.** The Engineer agrees to undertake and complete the Services according to a mutually agreed upon schedule, and in such a manner and in such a sequence as to assure their expeditious completion in light of the purposes of this Agreement. Time is of the essence in the performance of this Agreement.

4. **Engineer's Representations.** The Engineer represents that:

(a) **Required Skills:** The Engineer represents that it has the required authority, licenses, certifications, knowledge, expertise, ability, skills, and capacity (collectively, the "**Skills**") to, and shall, perform the Services in a manner consistent with this Agreement. Further, any employees and subcontractors of the Engineer employed in performing the Services shall have the Skills required to perform the Services assigned to them.

(b) **Applicable Law:** The Engineer has knowledge of all the applicable requirements under federal, state, and local laws, ordinances, regulations, and rules (collectively, "**Applicable Law**") and shall perform its Services in conformance with such Applicable Law.

(c) **Good Standing:** The Engineer represents it is validly organized and exists in good standing under Illinois law, and the Engineer is duly qualified, registered to do business, and in good standing in the State of Colorado.

5. **Fees, Costs, and Payments.**

(a) **Fees and Costs:** In exchange for satisfactory performance of the Services, the Engineer shall be compensated in accordance with the rate schedule attached as **Exhibit B**. The costs incurred by the Engineer that are set forth in Exhibit B shall be charged as set forth therein. Costs incurred by consultants and any other reimbursable costs not listed in Exhibit B shall be charged at cost with no markup. The Engineer shall not charge the District for travel time to and from the District or within the District's service area. The Engineer may adjust its rates no more than once per year with thirty (30) calendar days prior written notice to the District. Time shall be billed in no more than 1/10<sup>th</sup> of an hour (i.e., 6 minute) increments. Block billing is prohibited unless previously authorized by the District for a specific project.

(b) ***Payment:***

(i) Invoices. The Engineer shall submit to the District monthly invoices by the tenth (10<sup>th</sup>) business day of each month for payment for Services satisfactorily performed during the prior month and any reimbursable costs. The Engineer shall make no more than one invoice submittal per month to the District for payment. Any invoices submitted after the tenth (10<sup>th</sup>) business day of any month shall be deemed received by the District on the first business day of the following month. All invoices shall be subject to the review and approval of the District.

(ii) Invoice Documentation. Each invoice shall be accompanied by all documentation supporting the fees and costs set forth in the invoice, including, at a minimum:

- A. The name of the person(s) who performed the Services;
- B. The date and time when the Services were performed;
- C. A detailed description of the Services performed;
- D. Receipts, invoices, purchase orders, or other documentation that substantiates the costs for which reimbursement is being requested; and,
- E. Photographs where necessary or appropriate to support the Services being invoiced, or when required by the District.

(iii) Payment Process. The District shall pay the Engineer undisputed amounts within thirty (30) calendar days of the District's receipt of an invoice. If the District fails to pay any undisputed amount within thirty (30) days of receiving the invoice, interest at the rate of eight percent (8%) per annum, compounded annually, shall accrue on the undisputed amount until paid in full.

6. **Engineer's Insurance**. During the Term, the Engineer shall maintain the following insurance. Except for workers' compensation insurance and the professional liability insurance, each policy shall include the District as an additional insured and shall state that it is primary, and the District's insurance is non-contributory. Each policy shall also state that it cannot be cancelled or modified without thirty (30) days prior written notice to the District. Prior to commencing the Services, the Engineer shall provide the District with a certificate(s) of insurance or endorsements evidencing the required insurance.

- (a) Workers' compensation insurance in compliance with Colorado law;
- (b) Commercial general liability insurance in the amount of \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate;
- (c) Commercial automobile liability insurance in the amount of \$1,000,000 per occurrence;

(d) Professional liability insurance in the amount of \$2,000,000.00 per claim; and,

(e) Excess or umbrella liability insurance in the amount of \$2,000,000.00 each occurrence, and \$4,000,000.00 aggregate.

7. **Indemnification.** The Engineer, to the fullest extent permitted by law, shall indemnify and defend the District and its directors, officers, and employees from and against any losses, damages, costs, expenses (including reasonable attorneys' fees), or liabilities to the extent they are caused, in whole or in part, by the intentional or negligent acts or omissions of the Engineer or any of its subcontractors, employees, consultants, or agents (“collectively, the “**Engineer Parties**”) in connection with this Agreement and/or the Services. If the losses, damages, costs, expenses, or liabilities are caused in part by the intentional or negligent act or omission of the Engineer and/or the Engineer Parties, the Engineer’s indemnification obligation shall be in proportion to the percentage of the losses, damages, costs, expenses, or liabilities a Court attributes to the Engineer or the Engineer Parties. This Section 7 shall survive termination of this Agreement. The District shall have the right to select legal counsel to represent it in any matter arising under this Section 7, notwithstanding the Engineer’s obligation to pay for the reasonable legal fees, costs, and expenses incurred by such legal counsel.

8. **Work Product.** Regardless whether it is in preliminary or final form, all work product of the Engineer prepared pursuant to this Agreement or in performance of the Services, including but not limited to, all maps, plans, drawings, specifications, reports, electronic files, and other documents, information and data in whatever form (collectively, “**Work Product**”), shall be solely the property of the District upon the District’s payment of all undisputed amounts owed to the Engineer. All Work Product shall be provided to the District upon request or at the time this Agreement is terminated, whichever event first occurs. Work Product is not intended or represented to be suitable for reuse by the District or others for any purpose other than the purpose for which it was prepared. Any reuse without specific written verification or adaptation by Engineer will be at the District’s sole risk, and without liability to Engineer.

9. **Notice.** Any notice or other communication required or permitted by this Agreement shall be in writing and hand delivered, or sent by certified or registered mail, return receipt requested, to the address on the signature page below, or at another address previously furnished in writing to the other Party pursuant to this Section 9. A notice or other communication sent by certified or registered mail shall be deemed given three business days after deposit in the mail or when received by the intended Party, whichever occurs first.

10. **Governmental Immunity.** This Agreement is not intended, and shall not be construed, as a waiver of the limitations on damages or any of the privileges, immunities, or defenses provided to, or enjoyed by, the District and its current or past directors, officers, and employees under federal or state law, including but not limited to, the Colorado Governmental Immunity Act, C.R.S. §24-10-101, *et seq.*

11. **Independent Contractor.** The relationship of the Parties shall be deemed that of an independent contractor. Nothing contained herein shall be deemed to constitute a partnership between or a joint venture by the Parties, and under no circumstance shall a Party or its

employees be considered the employee of the other Party. THE ENGINEER UNDERSTANDS AND AGREES: (A) NEITHER THE ENGINEER NOR ITS EMPLOYEES ARE ENTITLED TO WORKERS' COMPENSATION INSURANCE OR UNEMPLOYMENT COMPENSATION INSURANCE UNLESS WORKERS' COMPENSATION OR UNEMPLOYMENT COMPENSATION INSURANCE IS PROVIDED BY THE ENGINEER OR SOME ENTITY OTHER THAN THE DISTRICT; AND (B) THE ENGINEER IS OBLIGATED TO PAY FEDERAL, STATE, AND LOCAL INCOME TAX ON ANY MONEYS PAID PURSUANT TO THIS AGREEMENT. THE DISTRICT WILL NOT MAKE FEDERAL, STATE, AND LOCAL WITHHOLDINGS AND WILL NOT PROVIDE WORKERS' COMPENSATION INSURANCE OR UNEMPLOYMENT COMPENSATION INSURANCE.

Under penalties of perjury, the Engineer certifies that 37-1123236 (Must be inserted by the Engineer) is the Engineer's correct Federal Taxpayer Identification Number. By signing this Agreement, the Engineer certifies that it assumes full responsibility for the payment of all contributions, payroll taxes, income taxes, withholdings and backup withholdings or assessments under federal, state, and local law.

12. **Limitation of Liability.** Except with respect to the Engineer's indemnification, reimbursement, and defense obligations under Section 7, above: a) neither Party shall be liable to the other Party, whether in contract, tort or otherwise, for payment of any special, indirect, incidental, punitive, or consequential damages; b) the District's liability shall under no circumstances exceed the caps on liability set forth in the Colorado Governmental Immunity Act, C.R.S. 24-10-101, *et seq.*; or c) to the maximum extent permitted by law, the Engineer's liability in respect to the Engineer's and/or the Engineer Parties' intentional or negligent act or omission in performance of this Agreement or the Services shall not exceed the greater of: i) the sum of \$1,000,000.00; or, ii) the proceeds from insurance required hereunder.

13. **Additional Provisions.** Colorado law governs this Agreement. Jurisdiction and venue shall lie exclusively in the District Court for Douglas County, Colorado. This Agreement is the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This Agreement may only be amended by a document signed by the Parties. Course of dealing, not matter how long, shall not constitute an amendment to this Agreement. If any provision is held invalid or unenforceable, all other provisions shall continue in full force and effect. In any civil action or proceeding arising from or relating to this Agreement or the Services, the substantially prevailing Party shall be awarded its reasonable attorney's fees, costs, and expenses, including the attorneys' fees, costs, and expenses incurred in any appellate action and in collecting or executing upon any judgment, order, or award. This Agreement may be executed in counterparts and by facsimile or electronic pdf, each of which shall be deemed an original and all of which shall constitute one valid and binding instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**Roxborough Village Metropolitan District**, a political subdivision of the State of Colorado

By: Mark Rubic 05 / 23 / 2023  
Mark Rubic, Board President Date

Attest: Travis C Jensen 05 / 22 / 2023  
By: Travis C Jensen  
Travis Jensen, Board Secretary Date

Address: Roxborough Village Metropolitan District  
c/o Special District Management Services, Inc.  
141 Union Boulevard, Suite 150  
Lakewood, CO 80228-1898

**Farnsworth Group, Inc.**, an Illinois corporation

By: J.C. Cundall May 22, 2023  
J.C. Cundall (May 22, 2023 09:23 MDT)  
J.C. Cundall, PE Date  
Sr. Engineering Manager

By: Theodore R. Barela May 22, 2023  
Theodore R. Barela (May 22, 2023 10:37 MDT)  
Theodore R. Barela, PE Date  
Principal

Address: Farnsworth Group, Inc.  
223 Willow Street  
Fort Collins, CO 80524

## EXHIBIT A

### SCOPE OF SERVICES

At the request of the District, the Engineer shall provide the following general engineering, consulting, and administration services (collectively, the “*Services*”):

1. **Meetings:** The Engineer shall attend Board meetings and will also be available to meet as requested on general issues.
2. **District Information:** The Engineer will be available to provide information regarding the District and its existing facilities to interested parties, such as District vendors, consultants, and others.
3. **Coordination and Meetings:** The Engineer will meet with appropriate agencies, vendors, or entities regarding coordination of work and general rules and regulations involving the District.
4. **Mapping:** The Engineer will prepare and maintain maintenance maps, irrigation maps, boundary maps, inclusion drawings, and other such maps or drawings as assigned. The Engineer will also coordinate with vendors installing or changing District infrastructure, including irrigation lines, to ensure as-built changes are mapped.
5. **Maintenance:** The Engineer will provide consulting services related to maintenance issues, construction and/or repair projects, and other programs and areas as directed.
6. **Emergencies:** The Engineer will be available in case of emergencies. Engineering evaluation will be provided, as required, as well as coordination and consultation regarding appropriate action.
7. **Budgets:** The Engineer will provide input regarding engineering issues and capital improvement plan budgets.
8. **Rules, Regulations and Standards:** The Engineer will assist with the development of rules, regulations, and standards that establish technical and procedural guidelines for the design, maintenance, and repair of facilities and general operations.
9. **Reports, Studies, Evaluations and Analysis:** The Engineer will prepare any reports, studies, evaluations, or analysis, including engineering opinions, as requested.
10. **Testing:** The Engineer will observe any facility testing required by the District, in accordance with the District's specifications and other requirements.
11. **Special Project Services:** The Engineer shall work on special projects, such as specific analysis reports, modeling, mapping, planning, opinion of cost estimating, design, bidding coordination, construction management, and infrastructure rehabilitation.

**EXHIBIT B**  
**FEES AND COSTS**



**Standard Schedule of Charges**

<b>Engineering / Surveying / Commissioning Professional Staff</b>	<b>Per Hour</b>
Administrative Support.....	\$ 88.00
Engineering Associate I / Cx Specialist I.....	\$ 131.00
Engineering Associate II / Cx Specialist II.....	\$ 145.00
Engineer / Land Surveyor / Senior Cx Specialist .....	\$ 153.00
Senior Engineer / Senior Land Surveyor / Cx Project Manager .....	\$ 161.00
Project Engineer / Project Land Surveyor / Senior Cx Project Manager.....	\$ 173.00
Senior Project Engineer / Senior Project Land Surveyor / Cx Manager.....	\$ 193.00
Engineering Manager / Land Surveying Manager / Senior Cx Manager .....	\$ 218.00
Senior Engineering Manager / Senior Land Surveying Manager / Senior Cx Director.....	\$ 233.00
Principal / Vice President.....	\$ 253.00

<b>Technical Staff</b>	<b>Per Hour</b>
Technician I.....	\$ 90.00
Technician II.....	\$ 113.00
Senior Technician / Cx Technician .....	\$ 123.00
Chief Technician.....	\$ 141.00
Designer / Computer Specialist / Lead Technician .....	\$ 153.00
Senior Designer .....	\$ 158.00
Project Designer / Project Technician.....	\$ 173.00
Senior Project Designer / Systems Integration Manager .....	\$ 193.00
Design Manager / Grants Manager .....	\$ 198.00
Technical Manager.....	\$ 208.00
Senior Technical Manager .....	\$ 228.00

<b>Architecture / Landscape Architecture / Interior Design Professional Staff</b>	<b>Per Hour</b>
Architectural Associate I / Landscape Associate I / Interiors Associate I.....	\$ 119.00
Architectural Associate II / Landscape Associate II, Interiors Associate II / Interior Designer.....	\$ 129.00
Architect / Architectural Associate III / Landscape Associate III .....	\$ 145.00
Project Coordinator / Urban Planner I / Senior Interior Designer .....	\$ 145.00
Senior Architect / Senior Project Coordinator/ Urban Planner II / Interior Design Manager .....	\$ 155.00
Project Architect / Project Manager.....	\$ 166.00
Senior Project Architect / Senior Project Manager .....	\$ 183.00
Architectural Manager.....	\$ 196.00
Senior Architectural Manager / Senior Urban and Community Planner.....	\$ 213.00
Architecture Principal .....	\$ 233.00
Principal / Vice President.....	\$ 253.00

<b>Units</b>	
Expert Testimony.....	2.0x bill rate
ATV & Trailer.....	\$15.00 / hr
Field Vehicle.....	\$25.00 / hr
Automobile mileage.....	IRS Rate
Hand Held GPS.....	\$11.00 / hr
GPS Unit (each).....	\$22.00 / hr
Environmental GPS Data Collector .....	\$75.00 / day
Utility Locator / Robotic Total Station .....	\$26.00 / hr
Stationary Scanner (low res)   High Def Scanner / UAV.....	\$300 / day   \$500 / day
Subconsultants & Other Reimbursable Expenses Related to Project*.....	Cost+ 10%

At cost with no markup

\*Includes the actual cost of prints / copies, supplies, travel charges, testing services, conferencing services, and other costs directly incidental to the performance of the above services.









# Roxborough Village Metro Dstrct Final 5-19-2023 2023 Dstrct Eng Srvs Agrmn 05222023 v.3

Final Audit Report

2023-05-22

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-  Signer tbarela@f-w.com entered name at signing as Theodore R. Barela  
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✔ Agreement completed.

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