

# RUDOLPH FARMS METROPOLITAN DISTRICT NOS. 1-6

8390 E. Crescent Pkwy., Suite 300  
Greenwood Village, CO 80111  
(P) 303-779-5710 / (F) 303-779-0348

## **NOTICE OF SPECIAL MEETING AND AGENDA**

<b>DATE:</b>	Friday, August 4, 2023
<b>TIME:</b>	1:00 p.m.
<b>LOCATION:</b>	<b><i>THIS MEETING WILL BE HELD BY VIDEO/TELEPHONIC MEANS.</i></b>
<p>You can attend the meeting in one of the following ways:</p> <ol style="list-style-type: none"><li>1. To attend via Microsoft Teams select this link (or copy link into your browser): <a href="https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDhmNDI2NzgtMzc1Yy00MWMxLWIwNTYtNDBkNWE4ZDk2Mzhi%40thread.v2/0?context=%7b%22id%22%3a%224aaa468e-93ba-4ee3-ab9f-6a247aa3ade0%22%2c%22oid%22%3a%227e78628f-89cd-4e97-af6c-60df84b55ffe%22%7d">https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDhmNDI2NzgtMzc1Yy00MWMxLWIwNTYtNDBkNWE4ZDk2Mzhi%40thread.v2/0?context=%7b%22id%22%3a%224aaa468e-93ba-4ee3-ab9f-6a247aa3ade0%22%2c%22oid%22%3a%227e78628f-89cd-4e97-af6c-60df84b55ffe%22%7d</a></li><li>2. To attend via telephone, dial 1-720-547-5281 and enter the following: Phone Conference ID: 138 203 990#</li></ol>	

<u>Board of Directors</u>	<u>Office</u>	<u>Term Expires</u>
Rudy Byler	President	May, 2025
Michael Kleinman	Secretary/Treasurer	May, 2025
Jesse L. Weiland		May, 2027
VACANT		May, 2027
VACANT		May, 2025

Note: For ease and presentation, the Rudolph Farms Metropolitan District Nos. 1 through 6 (each a “District,” and collectively, the “Districts”) will be meeting at the same time and considering the agenda below. However, each Board of Directors of the Districts (“Board”) will consider agenda items separately and take separate actions. If an agenda item is to be considered by a single District, it will be so noted on the agenda.

### **I. ADMINISTRATIVE MATTERS**

- A. Confirm quorum and call meeting to order. Present disclosures of potential conflicts of interest.
- B. Confirm location of meeting and posting of meeting notices. Approve agenda.

- C. Discuss May 2, 2023 Election results. Consider appointing officers of the Board:

<b>Office:</b>	
President	
Secretary	
Treasurer	
Assistant Secretary	
Assistant Secretary	

- D. Public Comment.

*(Members of the public may express their views to the Board on matters that affect the Districts that are otherwise not on the agenda. Comments will be limited to three (3) minutes per person.)*

## II. CONSENT AGENDA

These items are considered to be routine and will be approved and/or ratified by one motion. There will be no separate discussion of these items unless a Board member so requests; in which event, the item(s) will be removed from the Consent Agenda and considered in the Regular Agenda.

- A. Approval of March 23, 2023 Special Meeting Minutes (enclosures).  
B. **District No. 6 Only:** Ratify approval of request for extension to file 2022 Audit (enclosure).

## III. LEGAL MATTERS

- A. **District No. 6 Only:** Consider Acceptance of Eligible Professional Service Costs Pursuant to the Advance and Reimbursement and Facilities Acquisition Agreement (Capital Expenses) and Adoption of Resolutions and/or Requisitions Necessary for Approval and Reimbursement of Eligible Professional Service Costs (enclosure).  
B. 2023 Legislative Memorandum (enclosures).

## IV. OTHER BUSINESS

## V. ADJOURNMENT

**NEXT REGULAR BOARD MEETING  
NOVEMBER 29, 2023 AT 6:00 P.M.**

## RECORD OF PROCEEDINGS

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MINUTES OF A SPECIAL MEETING OF  
THE BOARD OF DIRECTORS OF THE  
RUDOLPH FARMS METROPOLITAN DISTRICT NO. 1  
(THE "DISTRICT")  
HELD  
MARCH 23, 2023

A special meeting of the Board of Directors of the Rudolph Farms Metropolitan District No. 1 (referred to hereafter as the "Board") was convened on Thursday, March 23, 2023, at 12:30 p.m. This meeting was held via Microsoft Teams. The meeting was open to the public.

### ATTENDANCE

#### Directors in Attendance Were:

Rudy Byler, President  
Michael Kleinman, Secretary/Treasurer

#### Also in Attendance Were:

Shannon Smith Johnson, Esq.; Icenogle Seaver Pogue, P.C.  
Lisa Johnson, Shauna D'Amato, and Zach Leavitt; CliftonLarsonAllen LLP  
Bryan Byler and Lisa Lyscio; Pacific North Enterprises, LLC

### ADMINISTRATIVE MATTERS

**Call to Order / Confirm Quorum:** The Board meeting was called to order at 12:30 p.m. and the presence of a quorum was confirmed.

**Disclosure of Potential Conflicts of Interest:** Ms. Smith Johnson advised the Board that, pursuant to Colorado law, certain disclosures may be required prior to taking official action at the meeting. Ms. Smith Johnson confirmed that disclosures of conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting for those Directors with potential conflicts of interest.

Additionally, the Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

Mr. Kleinman disclosed his legal services to various entities owned or managed by members of the Byler family, including Rudy and Bryan Byler, Pacific North Enterprises LLC, the developer for the property, and his contract to purchase taxable property within the District. He further disclosed the purpose of the services are construction related issues and general business. These disclosures are associated with approval of items on the agenda which may affect his interests.

Mr. Byler disclosed his interest in Pacific North Enterprises, LLC and Sunland Development Company, Inc. and his contract to purchase taxable property

## RECORD OF PROCEEDINGS

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within the District. This disclosure is associated with approval of items on the agenda which may affect his interests.

The Board reviewed the Agenda for the meeting, following which, Directors Byler and Kleinman confirmed that they had no additional conflicts of interest in connection with any of the matters listed on the Agenda beyond those already disclosed.

**Meeting Location / Posting of Meeting Notice / Agenda:** The Board reviewed the Agenda for the meeting. Following discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Agenda as presented, and Ms. Johnson confirmed the location of the meeting and confirmed posting of the meeting notice.

**Public Comment:** None.

### CONSENT AGENDA

The Board considered the following actions:

- **Approval of Minutes of the November 30, 2022 Special Meeting**
- **Ratify Approval of Application for 2022 Audit Exemption**

Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Consent Agenda items as listed above.

### LEGAL MATTERS

**Engagement of Brownstein Hyatt Farber Schreck, LLP as Water Legal Counsel:** Ms. Smith Johnson presented the engagement letter to the Board. Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the engagement of Brownstein Hyatt Farber Schreck, LLP as special water counsel.

### OTHER BUSINESS

None.

### ADJOURNMENT

There being no further business to come before the Board, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board adjourned the meeting at 12:43 p.m.

## RECORD OF PROCEEDINGS

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Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting

## RECORD OF PROCEEDINGS

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MINUTES OF A SPECIAL MEETING OF  
THE BOARD OF DIRECTORS OF THE  
RUDOLPH FARMS METROPOLITAN DISTRICT NO. 2  
(THE "DISTRICT")  
HELD  
MARCH 23, 2023

A special meeting of the Board of Directors of the Rudolph Farms Metropolitan District No. 2 (referred to hereafter as the "Board") was convened on Thursday, March 23, 2023, at 12:30 p.m. This meeting was held via Microsoft Teams. The meeting was open to the public.

### ATTENDANCE

#### Directors in Attendance Were:

Rudy Byler, President  
Michael Kleinman, Secretary/Treasurer

#### Also in Attendance Were:

Shannon Smith Johnson, Esq.; Icenogle Seaver Pogue, P.C.  
Lisa Johnson, Shauna D'Amato, and Zach Leavitt; CliftonLarsonAllen LLP  
Bryan Byler and Lisa Lyscio; Pacific North Enterprises, LLC

### ADMINISTRATIVE MATTERS

**Call to Order / Confirm Quorum:** The Board meeting was called to order at 12:30 p.m. and the presence of a quorum was confirmed.

**Disclosure of Potential Conflicts of Interest:** Ms. Smith Johnson advised the Board that, pursuant to Colorado law, certain disclosures may be required prior to taking official action at the meeting. Ms. Smith Johnson confirmed that disclosures of conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting for those Directors with potential conflicts of interest.

Additionally, the Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

Mr. Kleinman disclosed his legal services to various entities owned or managed by members of the Byler family, including Rudy and Bryan Byler, Pacific North Enterprises LLC, the developer for the property, and his contract to purchase taxable property within the District. He further disclosed the purpose of the services are construction related issues and general business. These disclosures are associated with approval of items on the agenda which may affect his interests.

Mr. Byler disclosed his interest in Pacific North Enterprises, LLC and Sunland Development Company, Inc. and his contract to purchase taxable property

## RECORD OF PROCEEDINGS

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within the District. This disclosure is associated with approval of items on the agenda which may affect his interests.

The Board reviewed the Agenda for the meeting, following which, Directors Byler and Kleinman confirmed that they had no additional conflicts of interest in connection with any of the matters listed on the Agenda beyond those already disclosed.

**Meeting Location / Posting of Meeting Notice / Agenda:** The Board reviewed the Agenda for the meeting. Following discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Agenda as presented, and Ms. Johnson confirmed the location of the meeting and confirmed posting of the meeting notice.

**Public Comment:** None.

### CONSENT AGENDA

The Board considered the following actions:

- **Approval of Minutes of the November 30, 2022 Special Meeting**
- **Ratify Approval of Application for 2022 Audit Exemption**

Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Consent Agenda items as listed above.

### LEGAL MATTERS

**Engagement of Brownstein Hyatt Farber Schreck, LLP as Water Legal Counsel:** Ms. Smith Johnson presented the engagement letter to the Board. Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the engagement of Brownstein Hyatt Farber Schreck, LLP as special water counsel.

### OTHER BUSINESS

None.

### ADJOURNMENT

There being no further business to come before the Board, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board adjourned the meeting at 12:43 p.m.

## RECORD OF PROCEEDINGS

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Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting



## RECORD OF PROCEEDINGS

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MINUTES OF A SPECIAL MEETING OF  
THE BOARD OF DIRECTORS OF THE  
RUDOLPH FARMS METROPOLITAN DISTRICT NO. 3  
(THE "DISTRICT")  
HELD  
MARCH 23, 2023

A special meeting of the Board of Directors of the Rudolph Farms Metropolitan District No. 3 (referred to hereafter as the "Board") was convened on Thursday, March 23, 2023, at 12:30 p.m. This meeting was held via Microsoft Teams. The meeting was open to the public.

### ATTENDANCE

#### Directors in Attendance Were:

Rudy Byler, President  
Michael Kleinman, Secretary/Treasurer

#### Also in Attendance Were:

Shannon Smith Johnson, Esq.; Icenogle Seaver Pogue, P.C.  
Lisa Johnson, Shauna D'Amato, and Zach Leavitt; CliftonLarsonAllen LLP  
Bryan Byler and Lisa Lyscio; Pacific North Enterprises, LLC

### ADMINISTRATIVE MATTERS

**Call to Order / Confirm Quorum:** The Board meeting was called to order at 12:30 p.m. and the presence of a quorum was confirmed.

**Disclosure of Potential Conflicts of Interest:** Ms. Smith Johnson advised the Board that, pursuant to Colorado law, certain disclosures may be required prior to taking official action at the meeting. Ms. Smith Johnson confirmed that disclosures of conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting for those Directors with potential conflicts of interest.

Additionally, the Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

Mr. Kleinman disclosed his legal services to various entities owned or managed by members of the Byler family, including Rudy and Bryan Byler, Pacific North Enterprises LLC, the developer for the property, and his contract to purchase taxable property within the District. He further disclosed the purpose of the services are construction related issues and general business. These disclosures are associated with approval of items on the agenda which may affect his interests.

Mr. Byler disclosed his interest in Pacific North Enterprises, LLC and Sunland Development Company, Inc. and his contract to purchase taxable property

## RECORD OF PROCEEDINGS

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within the District. This disclosure is associated with approval of items on the agenda which may affect his interests.

The Board reviewed the Agenda for the meeting, following which, Directors Byler and Kleinman confirmed that they had no additional conflicts of interest in connection with any of the matters listed on the Agenda beyond those already disclosed.

**Meeting Location / Posting of Meeting Notice / Agenda:** The Board reviewed the Agenda for the meeting. Following discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Agenda as presented, and Ms. Johnson confirmed the location of the meeting and confirmed posting of the meeting notice.

**Public Comment:** None.

### CONSENT AGENDA

The Board considered the following actions:

- **Approval of Minutes of the November 30, 2022 Special Meeting**
- **Ratify Approval of Application for 2022 Audit Exemption**

Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Consent Agenda items as listed above.

### LEGAL MATTERS

**Engagement of Brownstein Hyatt Farber Schreck, LLP as Water Legal Counsel:** Ms. Smith Johnson presented the engagement letter to the Board. Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the engagement of Brownstein Hyatt Farber Schreck, LLP as special water counsel.

### OTHER BUSINESS

None.

### ADJOURNMENT

There being no further business to come before the Board, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board adjourned the meeting at 12:43 p.m.

## RECORD OF PROCEEDINGS

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Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting

## RECORD OF PROCEEDINGS

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MINUTES OF A SPECIAL MEETING OF  
THE BOARD OF DIRECTORS OF THE  
RUDOLPH FARMS METROPOLITAN DISTRICT NO. 4  
(THE “DISTRICT”)  
HELD  
MARCH 23, 2023

A special meeting of the Board of Directors of the Rudolph Farms Metropolitan District No. 4 (referred to hereafter as the “Board”) was convened on Thursday, March 23, 2023, at 12:30 p.m. This meeting was held via Microsoft Teams. The meeting was open to the public.

### ATTENDANCE

#### Directors in Attendance Were:

Rudy Byler, President  
Michael Kleinman, Secretary/Treasurer

#### Also in Attendance Were:

Shannon Smith Johnson, Esq.; Icenogle Seaver Pogue, P.C.  
Lisa Johnson, Shauna D’Amato, and Zach Leavitt; CliftonLarsonAllen LLP  
Bryan Byler and Lisa Lyscio; Pacific North Enterprises, LLC

### ADMINISTRATIVE MATTERS

**Call to Order / Confirm Quorum:** The Board meeting was called to order at 12:30 p.m. and the presence of a quorum was confirmed.

**Disclosure of Potential Conflicts of Interest:** Ms. Smith Johnson advised the Board that, pursuant to Colorado law, certain disclosures may be required prior to taking official action at the meeting. Ms. Smith Johnson confirmed that disclosures of conflicts of interest were filed with the Secretary of State’s Office and the Board at least 72 hours prior to the meeting for those Directors with potential conflicts of interest.

Additionally, the Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

Mr. Kleinman disclosed his legal services to various entities owned or managed by members of the Byler family, including Rudy and Bryan Byler, Pacific North Enterprises LLC, the developer for the property, and his contract to purchase taxable property within the District. He further disclosed the purpose of the services are construction related issues and general business. These disclosures are associated with approval of items on the agenda which may affect his interests.

Mr. Byler disclosed his interest in Pacific North Enterprises, LLC and Sunland Development Company, Inc. and his contract to purchase taxable property

## RECORD OF PROCEEDINGS

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within the District. This disclosure is associated with approval of items on the agenda which may affect his interests.

The Board reviewed the Agenda for the meeting, following which, Directors Byler and Kleinman confirmed that they had no additional conflicts of interest in connection with any of the matters listed on the Agenda.

**Meeting Location / Posting of Meeting Notice / Agenda:** The Board reviewed the Agenda for the meeting. Following discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Agenda as presented, and Ms. Johnson confirmed the location of the meeting and confirmed posting of the meeting notice.

**Public Comment:** None.

### CONSENT AGENDA

The Board considered the following actions:

- **Approval of Minutes of the November 30, 2022 Special Meeting**
- **Ratify Approval of Application for 2022 Audit Exemption**

Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Consent Agenda items as listed above.

### LEGAL MATTERS

**Engagement of Brownstein Hyatt Farber Schreck, LLP as Water Legal Counsel:** Ms. Smith Johnson presented the engagement letter to the Board. Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the engagement of Brownstein Hyatt Farber Schreck, LLP as special water counsel.

### OTHER BUSINESS

None.

### ADJOURNMENT

There being no further business to come before the Board, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board adjourned the meeting at 12:43 p.m.

## RECORD OF PROCEEDINGS

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Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting

## RECORD OF PROCEEDINGS

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MINUTES OF A SPECIAL MEETING OF  
THE BOARD OF DIRECTORS OF THE  
RUDOLPH FARMS METROPOLITAN DISTRICT NO. 5  
(THE "DISTRICT")  
HELD  
MARCH 23, 2023

A special meeting of the Board of Directors of the Rudolph Farms Metropolitan District No. 5 (referred to hereafter as the "Board") was convened on Thursday, March 23, 2023, at 12:30 p.m. This meeting was held via Microsoft Teams. The meeting was open to the public.

### ATTENDANCE

#### Directors in Attendance Were:

Rudy Byler, President  
Michael Kleinman, Secretary/Treasurer

#### Also in Attendance Were:

Shannon Smith Johnson, Esq.; Icenogle Seaver Pogue, P.C.  
Lisa Johnson, Shauna D'Amato, and Zach Leavitt; CliftonLarsonAllen LLP  
Bryan Byler and Lisa Lyscio; Pacific North Enterprises, LLC

### ADMINISTRATIVE MATTERS

**Call to Order / Confirm Quorum:** The Board meeting was called to order at 12:30 p.m. and the presence of a quorum was confirmed.

**Disclosure of Potential Conflicts of Interest:** Ms. Johnson advised the Board that, pursuant to Colorado law, certain disclosures may be required prior to taking official action at the meeting. Ms. Smith Johnson confirmed that disclosures of conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting for those Directors with potential conflicts of interest.

Additionally, the Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

Mr. Kleinman disclosed his legal services to various entities owned or managed by members of the Byler family, including Rudy and Bryan Byler, Pacific North Enterprises LLC, the developer for the property, and his contract to purchase taxable property within the District. He further disclosed the purpose of the services are construction related issues and general business. These disclosures are associated with approval of items on the agenda which may affect his interests.

Mr. Byler disclosed his interest in Pacific North Enterprises, LLC and Sunland Development Company, Inc. and his contract to purchase taxable property

## RECORD OF PROCEEDINGS

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within the District. This disclosure is associated with approval of items on the agenda which may affect his interests.

The Board reviewed the Agenda for the meeting, following which, Directors Byler and Kleinman confirmed that they had no additional conflicts of interest in connection with any of the matters listed on the Agenda beyond those already disclosed.

**Meeting Location / Posting of Meeting Notice / Agenda:** The Board reviewed the Agenda for the meeting. Following discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Agenda as presented, and Ms. Johnson confirmed the location of the meeting and confirmed posting of the meeting notice.

**Public Comment:** None.

### CONSENT AGENDA

The Board considered the following actions:

- **Approval of Minutes of the November 30, 2022 Special Meeting**
- **Ratify Approval of Application for 2022 Audit Exemption**

Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Consent Agenda items as listed above.

### LEGAL MATTERS

**Engagement of Brownstein Hyatt Farber Schreck, LLP as Water Legal Counsel:** Ms. Smith Johnson presented the engagement letter to the Board. Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the engagement of Brownstein Hyatt Farber Schreck, LLP as special water counsel.

### OTHER BUSINESS

None.

### ADJOURNMENT

There being no further business to come before the Board, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board adjourned the meeting at 12:43 p.m.



## RECORD OF PROCEEDINGS

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Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting

## RECORD OF PROCEEDINGS

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MINUTES OF A SPECIAL MEETING OF  
THE BOARD OF DIRECTORS OF THE  
RUDOLPH FARMS METROPOLITAN DISTRICT NO. 6  
(THE "DISTRICT")  
HELD  
MARCH 23, 2023

A special meeting of the Board of Directors of the Rudolph Farms Metropolitan District No. 6 (referred to hereafter as the "Board") was convened on Thursday, March 23, 2023, at 12:30 p.m. This meeting was held via Microsoft Teams. The meeting was open to the public.

### ATTENDANCE

#### Directors in Attendance Were:

Rudy Byler, President  
Michael Kleinman, Secretary/Treasurer

#### Also in Attendance Were:

Shannon Smith Johnson, Esq.; Icenogle Seaver Pogue, P.C.  
Lisa Johnson, Shauna D'Amato, and Zach Leavitt; CliftonLarsonAllen LLP  
Bryan Byler and Lisa Lyscio; Pacific North Enterprises, LLC

### ADMINISTRATIVE MATTERS

**Call to Order / Confirm Quorum:** The Board meeting was called to order at 12:30 p.m. and the presence of a quorum was confirmed.

**Disclosure of Potential Conflicts of Interest:** Ms. Smith Johnson advised the Board that, pursuant to Colorado law, certain disclosures may be required prior to taking official action at the meeting. Ms. Smith Johnson confirmed that disclosures of conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting for those Directors with potential conflicts of interest. Additionally, the Board determined that the participation of the members present was necessary to obtain a quorum or otherwise enable the Board to act.

Mr. Kleinman disclosed his legal services to various entities owned or managed by members of the Byler family, including Rudy and Bryan Byler, Pacific North Enterprises LLC, the developer for the property, and his contract to purchase taxable property within the District. He further disclosed the purpose of the services are construction related issues and general business. These disclosures are associated with approval of items on the agenda which may affect his interests.

Mr. Byler disclosed his interest in Pacific North Enterprises, LLC and Sunland Development Company, Inc. and his contract to purchase taxable property within the District. This disclosure is associated with approval of items on the

## RECORD OF PROCEEDINGS

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agenda which may affect his interests.

The Board reviewed the Agenda for the meeting, following which, Directors Byler and Kleinman confirmed that they had no additional conflicts of interest in connection with any of the matters listed on the Agenda beyond those already disclosed.

**Meeting Location / Posting of Meeting Notice / Agenda:** The Board reviewed the Agenda for the meeting. Following discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Agenda as presented, and Ms. Johnson confirmed the location of the meeting and confirmed posting of the meeting notice.

**Public Comment:** None.

### CONSENT AGENDA

The Board considered the following actions:

- **Approval of Minutes of the November 30, 2022 Special Meeting**

Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Consent Agenda items as listed above.

### LEGAL MATTERS

**Engagement of Brownstein Hyatt Farber Schreck, LLP as Water Legal Counsel:** Ms. Smith Johnson presented the engagement letter to the Board. Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the engagement of Brownstein Hyatt Farber Schreck, LLP as special water counsel.

**Authorization Notice No. 1 for Integrated Project Delivery Agreement with PNE Prospect Road Constructors, LLC:** Ms. Smith Johnson presented to the Board Authorization Notice No. 1 under the Integrated Project Delivery Agreement and PNE Prospect Road Constructors, LLC's initial request for payment thereunder in the amount of \$3,558,794.21 to be formally submitted as Pay Application No. 1 thereunder. Following review and discussion, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board approved the Authorization Notice No. 1 for Integrated Project Delivery Agreement with PNE Prospect Road Constructors, LLC and payment of Pay Application No. 1 thereunder in the amount of \$3,558,794.21 subject to review and approval of Pay Application No. 1 by General Counsel, the District Engineer, and the District Accountant.

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### OTHER BUSINESS

None.

### ADJOURNMENT

There being no further business to come before the Board, upon a motion duly made by Director Kleinman, seconded by Director Byler and, upon vote, unanimously carried, the Board adjourned the meeting at 12:43 p.m.

Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting

**APPROVED***By Justin L. Smith at 8:45 am, Jul 26, 2023*

OFFICE OF THE STATE AUDITOR • LOCAL GOVERNMENT AUDIT DIVISION  
 KERRI L. HUNTER, CPA, CFE • STATE AUDITOR

## Request for Extension of Time to File Audit for Year End December 31, 2022 ONLY

Requests may be submitted via internet portal: <https://apps.leg.co.gov/osa/lg>.

<b>Government Name:</b>	<u>Rudolph Farms Metro District No. 6</u>
<b>Name of Contact:</b>	<u>Katie Suhanyi</u>
<b>Address:</b>	<u>8390 E Crescent Pkwy Suite 300</u>
<b>City/Zip Code</b>	<u>Greenwood Village 80111</u>
<b>Phone Number:</b>	<u>303-779-5710</u>
<b>E-mail</b>	<u>Katherine.suhanyi@claconnect.com</u>
<b>Fiscal Year Ending (mm/dd/yyyy):</b>	<u>12/31/2022</u>
<b>Amount of Time Requested (in days):</b> (Not to exceed 60 calendar days)	<u>60 days</u> <u>Audit Due:</u> <u>September 30, 2023</u>

**Comments (optional):** \_\_\_\_\_

I understand that if the audit is not submitted within the approved extension of time, the government named in the extension request will be considered in default without further notice, and the State Auditor shall take further action as prescribed by Section 29-1-606(5)(b), C.R.S.

**Must be signed by a member of the governing board.**

Signature

DocuSigned by:  
  
 98C912E00679473...

Printed Name:

Michael Kleinman

Title:

Secretary Treasurer

Date:

7/23/2023

**Certificate Of Completion**

Envelope Id: 13E5691C3CEF4B968078CBA531B60FD9

Status: Completed

Subject: Complete with DocuSign: RFMD 6 - Audit Extension.pdf

Client Name: RFMD6

Client Number: 011

Source Envelope:

Document Pages: 1

Signatures: 1

Envelope Originator:

Certificate Pages: 5

Initials: 0

CLA Operations

AutoNav: Enabled

220 S 6th St Ste 300

Enveloped Stamping: Enabled

Minneapolis, MN 55402-1418

Time Zone: (UTC-08:00) Pacific Time (US &amp; Canada)

Holly.Hayes@claconnect.com

IP Address: 66.190.105.251

**Record Tracking**

Status: Original

Holder: CLA Operations

Location: DocuSign

7/21/2023 7:33:34 AM

Holly.Hayes@claconnect.com

**Signer Events**

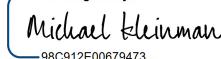
Michael Kleinman

michaeljkleinmanlaw@gmail.com

Secretary Treasurer

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Completed	Security Checked	7/23/2023 4:31:53 AM
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ii. send us an email to [BusinessTechnology@CLAconnect.com](mailto:BusinessTechnology@CLAconnect.com) and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

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- Until or unless you notify CliftonLarsonAllen LLP as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by CliftonLarsonAllen LLP during the course of your relationship with CliftonLarsonAllen LLP.

**RESOLUTION OF  
THE BOARD OF DIRECTORS OF  
RUDOLPH FARMS METROPOLITAN DISTRICT NO. 6**

**REGARDING ACCEPTANCE OF DISTRICT ELIGIBLE COSTS PURSUANT TO THE  
ADVANCE AND REIMBURSEMENT AND FACILITIES ACQUISITION AGREEMENT  
(CAPITAL EXPENSES)**

At a special meeting of the Board of Directors of the Rudolph Farms Metropolitan District No. 6, City of Fort Collins, Larimer County, Colorado, held at 1:00 P.M., on Friday, August 4, 2023, via video conference at [https://teams.microsoft.com/l/meetup-join/19%3ameeting\\_MDhmNDI2NzgtMzc1Yy00MWMxLWIwNTYtNDBkNWE4ZDk2Mzhi%40thread.v2/0?context=%7b%22Tid%22%3a%224aaa468e-93ba-4ee3-ab9f-6a247aa3ade0%22%2c%22Oid%22%3a%227e78628f-89cd-4e97-af6c-60df84b55ffe%22%7d](https://teams.microsoft.com/l/meetup-join/19%3ameeting_MDhmNDI2NzgtMzc1Yy00MWMxLWIwNTYtNDBkNWE4ZDk2Mzhi%40thread.v2/0?context=%7b%22Tid%22%3a%224aaa468e-93ba-4ee3-ab9f-6a247aa3ade0%22%2c%22Oid%22%3a%227e78628f-89cd-4e97-af6c-60df84b55ffe%22%7d) and via telephone conference at Dial-In: 1-720-547-5281, Conference ID: 138 203 990#, at which a quorum was present, the following resolution was adopted:

**WHEREAS**, the Rudolph Farms Metropolitan District No. 6 (the “District”) is a quasi-municipal corporation and political subdivision of the State of Colorado duly organized and existing pursuant to Article 1 of Title 32, Colorado Revised Statutes (the “Special District Act”); and

**WHEREAS**, on June 30, 2022, the District and PNE Prospect Road Holdings, LLC (the “Developer”) entered into that certain Advance and Reimbursement and Facilities Acquisition Agreement (Capital Expenses) (the “Reimbursement Agreement”), which sets forth the procedures for documenting and certifying costs related to the provision of Public Improvements, as defined therein, that may be lawfully accepted and repaid by the District; and

**WHEREAS**, pursuant to Section 5.C. of the Reimbursement Agreement, the Developer has initiated a request for reimbursement for certain professional service costs related to the provision of Public Improvements for the benefit of the District (the “District Eligible Costs”) which is attached hereto as Exhibit A (the “Application for Acceptance of District Eligible Costs”); and

**WHEREAS**, pursuant to Section 6 of the Reimbursement Agreement, the District shall consider acceptance of the District Eligible Costs, subject to any variances or waivers which the District may allow in its sole and absolute discretion, with any reasonable conditions the District may specify after the receipt, review, and certification from the District’s legal counsel, engineer, and accountant; and

**WHEREAS**, pursuant to Section 6.A. of the Reimbursement Agreement, Icenogle Seaver Pogue, P.C. (“District Counsel”) has reviewed the Application for Acceptance of District Eligible Costs and notified the Board of Directors of the District (the “Board”) of all potential variances; and

**WHEREAS**, pursuant to Section 6.B. of the Reimbursement Agreement, Merrick and Company (the “District Engineer”) has reviewed the Application for Acceptance of Eligible Professional Service Costs and had provided certification of the same in the form of the “Rudolph

Farms Metropolitan District No. 6 Reimbursement Request from PNE” dated August 3, 2023 (the “Engineer Certification), which is attached hereto as Exhibit B; and

**WHEREAS**, pursuant to Section 6.C. of the Reimbursement Agreement, CliftonLarsonAllen, LLC (the “District Accountant”) shall review the Engineer Certification and the Application for Acceptance of Eligible Professional Service Costs to substantiate District Eligible Costs (the “Accountant Certification”); and

**WHEREAS**, the District has reviewed the Application for Acceptance of Eligible Professional Service Costs and the Engineer Certification, and other information as deemed necessary and appropriate, and has determined that the best interest of the District, its residents, users, and property owners would be served by the District’s recognition and acceptance of the District Eligible Costs and the District should expend funds for such purpose; and

**WHEREAS**, the District desires to recognize and reimburse the Developer for the District Eligible Costs subject to the terms and conditions set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Rudolph Farms Metropolitan District No. 6 as follows:

1. The above recitals and the exhibits are hereby incorporated into this Resolution as if fully set forth herein.
2. Acknowledgement of Receipt, Review, and Approval of the Application for Acceptance of Eligible Professional Service Costs. The District hereby acknowledges satisfaction and approval of the Application for Acceptance of Eligible Professional Service Costs submitted by the Developer and approves of any variance from the requirements set forth in Sections 5.C. of the Reimbursement Agreement.
3. District Eligible Costs. The Developer has represented that it has funded, or caused others to fund, certain District Eligible Costs, which District Eligible Costs are directly related and incidental to the Public Improvements constructed for the benefit of the District. The District further finds and determines, based on the information available to the District, including the Application for Acceptance of Eligible Professional Costs and Engineering Certification, that the Public Improvements are in the nature of professional services for community improvements intended for the general or indirect benefit of development with the Service Area of Rudolph Farms Metropolitan District Nos. 1-6, and constitute professional services for Public Improvements that may be lawfully funded by the District under the Special District Act and the Consolidated Service Plan for Rudolph Farms Metropolitan District Nos. 1-6, approved by the City Council of the City of Fort Collins, Colorado on March 6, 2016.
4. Cost Certification. As required under Section 6.B. of the Reimbursement Agreement, the District Engineer has issued its Engineering Certification in order to certify the amount of District Eligible Costs to be reimbursed to the Developer. At the direction of the Board and as required by Section 6.C. of the Reimbursement Agreement, the District Accountant shall review the Engineering Certification to substantiate District Eligible Costs prior to any reimbursement being made to the

Developer. To the extent the District Accountant cannot certify all District Eligible Costs, the District Accountant shall work to resolve any discrepancies with the District Engineer and seek additional approval from the Board.

5. Acceptance of District Eligible Costs. The District, having reviewed the Application for Acceptance of Eligible Professional Service Costs, the Engineering Certification, and in light of the District Accountant's substantiation of the District Eligible Costs, find and determine that the total amount of District Eligible Costs to be reimbursed to the Developer is \$1,092,279.98. Subject to the conditions set forth herein, the District Eligible Costs are hereby accepted by the District. This Resolution shall constitute "District Acceptance" for such District Eligible Costs in accordance with Section 6.D. of the Reimbursement Agreement and such accepted District Eligible Costs are deemed "Certified District Eligible Costs" in accordance with Section 1 of the Reimbursement Agreement.

6. Repayment of Certified District Eligible Costs. Subject to the conditions set forth herein, the District shall repay the Certified District Eligible Costs pursuant to this Resolution and the Reimbursement Agreement from the proceeds of loans or bonds issued by the District, and/or other legally available funds of the District not otherwise required for operations, maintenance, capital improvements, and debt service costs, and other expenses of the District.

7. Actions to Effectuate Resolution. The District Accountant and District Counsel are authorized and directed to take all actions necessary and appropriate to effectuate this Resolution and the repayment of the Developer as contemplated thereunder. All actions not inconsistent with the provision of this Resolution heretofore taken by members of the Board, the District Manager, the District Accountant, District Counsel, or District Engineer and directed toward effectuating the purposes state herein are hereby ratified, approved, and confirmed.

**[Remainder of page intentionally left blank.]**

**ADOPTED AND APPROVED THIS 4TH DAY OF AUGUST 2023.**

**RUDOLPH FARMS METROPOLITAN DISTRICT NO. 6**

---

By: Rudy Byler  
Its: President

ATTEST:

---

By: Michael Kleinman  
Its: Secretary/Treasurer

DRAFT

## **EXHIBIT A**

### **Application for Acceptance of Eligible Professional Service Costs**

DRAFT

# **Rudolph Farms Metropolitan District No. 6** **Application for Acceptance of Eligible Professional Service Costs**

**Applicant Name:** PNE Prospect Road Holdings, LLC  
**Applicant Address:** 900 Castleton Rd Ste 118 Castle Rock **State:** CO **Zip:** 80109  
**Daytime Phone #:** (907) 299-6811 **Alt./Cell:** (603) 549-7509  
**Email:** bryan@pacificnorthent.com

**Description of the nature of the Eligible Professional Service Costs, including the relationship to Public Infrastructure:** See PNE Prospec Holdings Engineers Report 003  
   
   
 

**Public Improvement Category and Costs:**

Description of Improvement	Entity(ies) That Will Own, Operate and/or Maintain Improvements	Improvements located within Public Property, Public Easements, or Public ROW (please specify)	Soft Costs (including engineering, legal, planning, landscape & irrigation design) <i>Please include name of vendor next to dollar amount</i>
District Organizational Costs			
Street Improvements			\$115,767.87
Water Improvements			\$212,716.01
Sanitary Sewer Improvements			\$135,509.13
Parks & Recreation, Landscaping & Irrigation			\$874,212.77



Traffic & Safety			
Public Transportation			
Television Relay & Translation			
Mosquito Control			
Security Improvements			

PRIOR COSTS	
Amount	Description of Costs

**Required to be submitted:**

- ☐ Completed and Signed Application
- ☐ Contracts and Approved Change Orders/Engagement Letters
- ☐ Invoices and Pay Applications
- ☐ Evidence of Payment
- ☐ Any other information reasonably requested by District

If any of the materials above are not included in the submission, please provide reason: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Total amount of District Eligible Costs requested for reimbursement: \$** 1,338,205.79

**By its signature below,** Applicant certifies that this Application for Acceptance of Eligible Professional Service Costs and all documents submitted in support of this application are true and correct, that the Applicant is authorized to sign this application, and the costs submitted for reimbursement herein qualify as District Eligible Costs in accordance with the Advance and Reimbursement and Facilities Acquisition Agreement, dated \_\_\_\_\_.

**Signature:** Rudy Byler

**Date:** 7/12/2023

For Internal Use Only	
<b>District Accountant's Review</b>  I have reviewed the Engineer's Cost Certification (if applicable) and the Application for Acceptance of District Eligible Costs and documentation in support thereof (the "Application"). I hereby recommend the District accept the Application for consideration of the total amount of District Eligible Costs associated with the Public Improvements as set forth in the attached Engineer's Cost Certification (if applicable) or in the following amount \$ _____.	Signature: _____  Name: _____  Title: _____  Company: _____  Date: _____
<b>Notes:</b>	_____



**NORTHERN**  
ENGINEERING

## **Engineer's Report and Certification #003**

# **RUDOLPH FARMS LAND DEVELOPMENT**

**July 03, 2023**

### **PREPARED BY:**

**NORTHERNENGINEERING.COM**

**970.221.4158**

**FORT COLLINS**


**GREELEY**

### **PREPARED FOR:**

**PNE Prospect Road Holdings, LLC**

**900 Castleton Road, Suite 118**

**Castle Rock, CO 80109**

 This Engineer's Report is consciously provided as a PDF. Please consider the environment before printing this document in its entirety. When a hard copy is necessary, we recommend double-sided printing.

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## ENGINEER'S REPORT

### INTRODUCTION

Northern Engineering Services, Inc. ("Northern") was retained by PNE Prospect Road Holdings, LLC (the "Developer") as an Independent Consulting Engineer to review the costs of improvements for the Rudolph Farms development.

An Advance and Reimbursement Agreement and Facilities Acquisition Agreement (the "Agreement") by and between the Rudolph Farms Metropolitan District No. 6 (the "District") and the Developer, dated effective July 17, 2022, considers a portion of the costs are eligible to be reimbursed by the District. This report intends to provide a review of applicable costs, materials, and construction activities before the Developer submits for reimbursement to the District in an effort to expedite the District Engineer and District Attorney review and approvals.

The District service area is located within the City of Fort Collins, Colorado, generally located directly northwest of the Interstate 25 and Prospect Road intersection encompassing, approximately 115.5 acres of land ("Service Area"). This certification considers constructed improvements, public infrastructure, facilities, services, and associated soft, hard, and indirect construction costs ("Public Improvements") to advance or expended funds to an amount not to exceed Nine million Eight Hundred Thousand Dollars (\$9,800,000) (the "Maximum Advance Amount") per the Agreement through the Metropolitan District No. 6, which encompasses work for Metropolitan Districts 1-6. However, the Developer has coordinated with the District to increase the Maximum Advance Amount to Twenty Million (\$20,000,000).

### PUBLIC IMPROVEMENTS AS AUTHORIZED BY THE SERVICE PLAN

Northern understands the City of Fort Collins City Council approved the "Consolidated Service Plan for Rudolph Farms Metropolitan Districts Nos. 1-6" (the "Service Plan") on March 6, 2016, to provide certain public improvements and facilities authorized by the Special District Act and their Service Plan and has reviewed the Agreement dated effective July 17, 2022.

The Agreement provides certain parameters for the financing, development, and administration of certain public facilities, improvements, and appurtenances within the District Service Area.

Northern has determined the Public Improvements under consideration in this report and certification for reimbursement by the District are indeed authorized by the Service Plan and the Agreement. Additionally, certain services directly related to the provision of Public Improvements also permit purposes, including but not limited to, engineering, architectural, surveying, construction management, testing, planning, legal, accounting, and other professional services.

The Agreement defines three (3) areas of reimbursable costs, which are further separated into three (3) Exhibits. Exhibit A, Application for Acceptance of District Eligible Costs, Exhibit B – Application for Acceptance of Public Infrastructure, and Exhibit C – Application for Acceptance of Eligible Professional Service Costs. However, due to the nature of the Agreement, the costs to be certified within this report are intended to apply to District Eligible Costs, which include hard and soft costs.

### SCOPE OF CERTIFICATION

The Agreement has identified cost categories eligible for reimbursement and reviewed for this report including improvements associated with streets, water, wastewater, parks, recreation, landscaping,

irrigation, traffic & safety, public transportation, television, mosquito control, and security improvements.

### **GENERAL METHODOLOGY**

Northern employed a phased approach toward the preparation of this Engineer's Report and Certification of District Eligible Costs ("Engineer's Certification").

### **PHASE I – AUTHORIZATION TO PROCEED AND DOCUMENT GATHERING**

Northern was authorized to proceed with the Engineer's Certification with an agreement formalized on September 12, 2022, with the Developer. The initial documentation was provided by the Developer on September 15, 2022. Subsequent documents were provided on February 5, 2023 for Engineer's Certification #002, and most recently June 26, 2023 for Engineer's Certification #003.

### **PHASE II – REVIEW OF DOCUMENTATION**

See Appendix B for a complete listing of documents reviewed, as deemed necessary, by Northern. Documentation included, but was not limited to, professional service costs between January 2020 and June 2023, such as Invoices, proof of payments, Lien Releases. Additionally, documents to support said invoices included, but not limited to, Construction/Infrastructure Plans, Reports, Plat, etc.

### **PHASE III - SITE VISITS AND MEETINGS**

No site visits were made during this period as part of project monitoring as no further construction has commenced during completion of the construction documents.

### **PHASE IV – VERIFICATION OF CONSTRUCTION QUANTITIES**

No construction pay applications were received to review against applicable construction drawings.

### **PHASE V – VERIFICATION OF CONSTRUCTION UNIT COSTS AND INDIRECT COSTS**

Professional Service Costs were reviewed for market reasonableness as applicable to expected work efforts and scope intentions. In general, the majority of the associated costs are related to the development of the 110+ acre property through attorney support, engineering design, land planning, coordination, agency review, fees and approvals. It should be understood that the volatility of the current market may not align with traditional costs nor site conditions. Furthermore, professional services costs can vary based on size, firm profit, billing practices, ownership, client base, etc. In general, Northern reviewed the professional service costs relative to the anticipated infrastructure construction costs, and signed IPD of Fifty-Nine Million (\$59,000,000). Through various resources, such as RSMeans, American Society of Civil Engineers (ASCE), and FEMA, estimates for engineering and design services can range greatly from 3% to 9%. In general, compensation can vary dependent on other factors, such as this Project, which requires surveys, soil investigations, planning, landscaping, etc. As such, Northern took into consideration the site conditions, market demand for professional services, type of construction and the anticipated timeframe expected for construction buildout. To the extent possible, Northern determined that the costs incurred were within a reasonable range.

The attached Engineer's Certification states the Independent Consulting Engineer finds and determines the professional service value of the Public Improvements considered in this Engineer's Report, including both soft and hard costs from approximately the month of January, 2020, through June 26<sup>th</sup>, 2023, is valued at \$1,338,205.79, to be funded by the District. Table I summarizes costs certified to date as Eligible District Costs, as part of the Agreement. Additional details, forms, and/or applications may be submitted under separate cover as requested by the District.

**Table I – Cost Certified to Date - Summary**

<b>Certification No.</b>	<b>Application Period</b>	<b>Date Received</b>	<b>Project Cost</b>	<b>District Eligible Costs (Exhibit A)</b>	<b>Cumulative Project Costs</b>	<b>Cumulative District Eligible Costs</b>
<b>1</b>	<b>Sept '21 – June '22</b>	<b>Sept 15, 2022</b>	<b>\$6,657,729.60</b>	<b>\$6,657,729.60</b>	<b>\$6,657,729.60</b>	<b>\$6,657,729.60</b>
<b>2</b>	<b>June '22- February '23</b>	<b>Feb 05, 2023</b>	<b>\$3,746,099.17</b>	<b>\$3,746,099.17</b>	<b>\$10,403,828.77</b>	<b>\$10,403,828.77</b>
<b>3</b>	<b>February '23-Jun '23</b>	<b>Jun 26,2023</b>	<b>\$1,338,205.79</b>	<b>\$1,338,205.79</b>	<b>\$11,742,034.56</b>	<b>\$11,742,034.56</b>

## ENGINEER'S CERTIFICATION

I, Bradley A Curtis, PE of Northern Engineering Services, licensed in the State of Colorado, hereby state the following:

1. I am an engineer duly qualified to issue a professional opinion respecting the fitness and condition of the improvements and costs described in Appendix A attached hereto which have required professional services and are proposed to be conveyed to Rudolph Farms Metropolitan District No. 6 (the "District") pursuant to a certain Advance and Reimbursement and Facilities Acquisition Agreement (the "Agreement") by and between the District and PNE Prospect Road Holdings, LLC (the "Developer"), dated effective July 17, 2022.
2. I have reviewed the professional services required for the development's improvements described in Appendix A attached hereto (the "Improvements") and have reviewed the costs therein, including applicable soft and indirect, District funded, and hard costs from approximately the month of January, 2020, through June 26<sup>th</sup>, 2023, is valued at \$1,338,205.79, to be funded by the District.
3. I have found the Improvements to be constructed in general conformance with the approved design documents and it is my professional opinion the Improvements are fit for the purpose intended by the Agreement.
4. I have found the costs outlined in Appendix A to be reasonable and consistent with the costs of similar Professional Services for similar purposes.

**Independent Consulting Engineer**



By: Bradley A Curtis, PE, CPM, LEED AP  
Northern Engineering Services, Inc.



## APPENDIX A

### COSTS OF SERVICES

DESCRIPTION	SG QTY	SG UNIT	SG UNIT \$	SG TOTAL	NOTES
<b>HARD COSTS</b>					
<b>Engineering and Land Planning - Related Consultants</b>					
Fully Developed FDP and Infrastructure Package					
AJ Ventures - Utility locator for design				\$ 2,600.00	
Davis Graham and Stubbs - Attorney Fees for FDP and project related costs				\$ 283,543.35	
City of Ft. Collins - fees				\$ 81,845.98	
Earth Engineering				\$ 2,856.85	
ELB Engineering				\$ 1,760.00	
Fox Tuttle				\$ 12,086.25	
Galloway				\$ 56,932.24	
Goddard Sudik				\$ 16,200.00	
High Country - Testing				\$ 29,651.38	
Hines - Irrigation Design				\$ 60,760.00	
Kimley Horn - Land Planner				\$ 22,742.66	
Lake Canal				\$ 114,200.00	
North Atlantic - Land Planning consultant				\$ 300,000.00	
Norris Design - Lead Planner and landscape architect				\$ 69,588.25	
Northern Engineering - Infrastructure Engineer				\$ 109,805.15	
Schubert Group - Metro Engineering Consultant				\$ 4,000.00	
SWCA - Environmental Consultant				\$ 4,419.84	
WSP - Storm water consultant				\$ 7,002.80	
<b>Subtotal</b>				\$ 1,180,075.65	
<b>Total Hard Costs --&gt;</b>				\$ 1,180,075.65	
<b>CONSTRUCTION MANAGEMENT</b>					
Construction Project Management	8.00%	LS		\$ 94,406.05	
<b>Total Construction Project Management --&gt;</b>				\$ 94,406.05	
<b>Total Hard Costs + Construction Project Management --&gt;</b>				\$ 1,274,481.70	
<b>Total Costs</b>					
<b>Total Hard Costs, Construction Management --&gt;</b>				\$ 1,274,481.70	
<b>PROGRAM MANAGEMENT</b>					
Program Management	5.00%	LS		\$ 63,724.09	% of Total Hard Costs
<b>Total Program Management --&gt;</b>				\$ 63,724.09	
<b>Total Project --&gt;</b>				\$ 1,338,205.79	

## APPENDIX B

### SUPPORT DOCUMENTATION

#### OVERALL REFERENCE/SUPPORT DOCUMENTS

- Final Drainage Report for Rudolph Farm ( dated 02.21.2023)
- Initial/Interim/Final Erosion and Sediment Control Escrow/Security Calculation for the City of Fort Collins ( dated 02.22.2023)
- Infrastructure Final Development Plan (dated 03.08.2023 for hearing)
- Subdivision Plat (dated 02.22.2023)
- Final Utility Plans for Rudolph Farm (03.09.2023)
- Stormwater Management Plan Rudolph Farm (02.22.2023)
- Legal Description and Exhibit Easement 1 (dated 02.23.2023)
- Legal Description and Exhibit Easement 1 (dated 02.23.2023)
- Legal Description and Exhibit Easement 2 (dated 02.23.2023)
- Legal Description and Exhibit Easement 3 (dated 02.23.2023)

#### CERTIFICATION #003 SPECIFIC DOCUMENTS

- A.J. Ventures Invoice (dated 06.14.2023)
- City of Fort Collins Invoices (dated 06.09.2023)
- David Graham & Stubbs Invoices (01.21.2020 – 05.31.2023)
- Davis Graham & Stubbs Master Bill Activity (dated 06.26.2023)
- Earth Engineering Consultants Invoices (dated 01.25.2023-02.23.2023)
- Earth Engineering Consultants Lien Release (dated 06.22.2023)
- ELB Engineering Invoice (dated 04.29.2022)
- Fox Tuttle Invoices (05.11-2023-06.15.2023)
- Fox Tuttle Lien Release (dated 06.20.2023)
- Fort Collins Invoices file (dated 06.30.2023)
- Galloway Invoices (dated 12.12.2022-05.11.2023)
- Galloway Lien Release (dated 02.21.2023-06.14.2023)
- Godden Sudik Architects Invoices (dated 03.20.2022-05.20.2023)
- Godden Sudik Architects Lien Release (dated 02.22.2023)
- Galloway Invoices (dated 12.12.2022-05.11.2023)
- Galloway Lien Release (dated 02.21.2023-06.14.2023)
- High Country Pipe & Utility Invoices (dated 04.19.2022-03.09.2023)
- High Country Pipe & Utility Lien Release (dated 07.08.2022-05.23.2023)
- Hines Inc. Invoices (dated 02.22.2023-05.22.2023)
- Kimley Horn Invoices (dated 04.30.2023-05.31.2023)
- Lake Canal Company of Colorado Invoices (dated 02.15.2023-06.01.2023)
- Norris Design Invoices (dated 01.31.2023-05.31.2023)
- North Atlantic Invoices (dated 06.01.2021-06.01.2023)
- Northern Engineering Invoices (dated 01.31.2023-06.16.2023)
- Northern Engineering Lien Release (dated 04.18.2023)
- WSP Invoices (dated 01.27.2023-06.01.2023)

- SWCA Invoices (dated 01.11.2023-06.05.2023)
- SWCA Lien Release (dated 05.16.2023)
- Schedio Invoices (dated 12.12.2022-05.11.2023)
- City of Fort Collins Stockpile//Erosion Control ESCROW Submittal Permit Sheet ( date not found)
- City of Fort Collins Erosion and Stormwater Inspection Fee Submittal Sheet ( date not found)

## **EXHIBIT B**

### Engineer Certification

DRAFT



## ICENOGLE SEAVER POGUE

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July 26, 2023

Re: House Bill 23-1105

On May 24, 2023, Governor Polis signed House Bill 23-1105 (“Act”). The Act creates the Metropolitan District Homeowner’s Rights Task Force (“Task Force”), with the Power to “[e]xamine issues confronting communities that are governed by a Board of a Metropolitan District.”

A portion of the Act, Section 12-10-226.5(1)(b)(V), C.R.S., contains an affirmative requirement that certain metropolitan districts must notify residents of the district prior to the Task Force’s first meeting. The Act requires that all members of the Task Force be appointed by November 1, 2023.

There are no specific requirements for the means of communicating this notice, so our interpretation is that the notice may be sent in any way permitted under the law. As such, we suggest providing the notice in the same manner that the district provides notice of its meetings for purposes of Section 24-6-402(2)(c)(I), C.R.S.

Please see the next page for proposed language to provide to residents of the district regarding this matter.

If you have any questions on the matter, please do not hesitate to contact me.

Very truly yours,

ICENOGLE SEAVER POGUE  
A Professional Corporation

NOTICE OF METROPOLITAN DISTRICT HOMEOWNER’S RIGHTS TASK FORCE  
HOUSE BILL 23-1105

Dear Resident of [REDACTED] Metropolitan District,

On May 24, 2023, Governor Polis signed House Bill 23-1105 into law, which, among other actions, created the Metropolitan District Homeowner’s Rights Task Force (“Task Force”). The Task Force will review, among other matters, tax levying authority and practices, foreclosure practices, communications with homeowners, and governance policies. All members of the Task Force will be appointed by November 1, 2023. A requirement of the new law is that we notify you of the creation and existence of the Task Force prior to its first meeting. If you have any questions about the Task Force, please reach out to the Colorado Department of Regulatory Agencies or visit their website at <https://dora.colorado.gov>.



# ICENOGL SEAVR POGUE

## PRIVILEGED & CONFIDENTIAL ATTORNEY/CLIENT COMMUNICATION ATTORNEY WORK PRODUCT

### MEMORANDUM

**TO:** Board of Directors, Managers, and other District Representatives

**FROM:** Icenogle Seaver Pogue, P.C.

**DATE:** July 21, 2023

**RE:** Summary of 2023 Legislation

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### INTRODUCTION

The First Regular Session of the Seventy-Fourth General Assembly of the State of Colorado (the “General Assembly”) convened on January 9, 2023, and adjourned on May 8, 2023. This memorandum summarizes certain bills enacted into law in 2023 that may impact special districts, either directly or indirectly. The Colorado Revised Statutes (“C.R.S.”) should be consulted for the complete statutory requirements of the legislation discussed herein.

### SPECIAL DISTRICTS GENERALLY

#### **Special District Construction Contracts**

**HB 23-1023**

Under current law, a special district is only required to publish a notice for bids on all construction contracts for work, material, or both if the expense is equal to or in excess of \$60,000. House Bill (“HB”) 23-1023, increases the dollar amount threshold from \$60,000 to \$120,000. In addition, this amount shall be adjusted accounting for inflation on July 1, 2028, and every five years thereafter. HB 23-1023 will take effect on August 7, 2023, unless a referendum petition is filed.

#### **Remedies Person with Disabilities**

**HB 23-1032**

This bill prohibits an individual with a disability from being excluded from participation in, or denied the benefits of services, programs, or activities provided by a public entity or a “place of public accommodation.”<sup>1</sup> The bill establishes that a person alleging discrimination on the basis of a disability in employment, housing, or discriminatory advertising must first exhaust available administrative proceedings and remedies before filing an action in district court. In the case of alleged discrimination in a place of public accommodation, an individual may file an action directly with the court. In certain civil suits, the

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<sup>1</sup> “Place of public accommodation” means any place of business engaged in any sales to the public and any place offering services, facilities, privileges, advantages, or accommodations to the public, including but not limited to... any sporting or recreational area and facility; any public transportation facility; ... swimming pool, ..., gymnasium, or other establishment conducted to serve the health, appearance, or physical condition of a person; ... or any public building, park, arena, theater, hall, auditorium, museum, library, exhibit, or public facility of any kind whether indoor or outdoor. C.R.S. § 24-34-601(1).

bill permits a court to require compliance with applicable provisions and award either actual monetary damages or levy a statutory fine. This bill took effect on May 25, 2023, upon signature of the Governor.

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**Homeowners' Association + Metropolitan District Homeowners' Rights Task Forces      HB 23-1105**

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HB 23-1105 creates two task forces: the Homeowners Association Homeowner's Rights Task Force ("HOA Task Force"), and the Metropolitan District Homeowner's Rights Task Force ("Metro Task Force"). Among other things, the HOA Task Force has the authority to investigate Homeowners' Association (HOA) fining authority and practices, foreclosure practices, and communications between HOA and HOA homeowners. The Metro Task Force will be comprised of the State Director of the Division of Housing and the Director of the Division of Real Estate, both *ex officio* members, and two homeowners residing in a metropolitan district, an elected member of a city council, a Colorado licensed attorney who primarily represents homeowners in legal proceedings against metropolitan districts, a representative of a nonprofit organization that represents the affordable housing community, a member of the House of Representatives, a member of the Senate, a Colorado licensed attorney who specializes in metropolitan district law, an elected County Commissioner, a representative of a developer, a representative recommended by a statewide nonprofit organization that represents metropolitan districts in a coalition. Appointments to the Metro Task Force will be made on or before November 1, 2023. The Metro Task Force has the authority to investigate metropolitan district tax levying authority and practices, foreclosure practices, communications between homeowners and metropolitan districts, and metropolitan district governance policies (including voting and elections). The Metro Task Force shall also examine how a metropolitan district that enforces covenants could be transitioned into a common interest community. For purposes of HB 23-1105 a "metropolitan district" is limited to metropolitan districts that were created to finance infrastructure to support a housing subdivision, as such, commercial metropolitan districts would not fall within the purview of HB 23-1105. A metropolitan district shall notify its residents about the task force before the task force holds its first meeting. The Metro Task Force shall prepare an interim report on or before March 1, 2024, and a final report on or before June 15, 2024. HB 23-1105 took effect on May 26, 2023.

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**Transparency for Metropolitan Districts      SB 23-110**

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Starting on January 1, 2024, all metropolitan district service plans submitted to one or more county commissioners or municipalities must set the maximum mill levy for general obligation indebtedness that may be levied and the maximum debt that may be issued by the metropolitan district. SB 23-110 also requires that beginning in 2023 any metropolitan district with residential units within its boundaries that was organized after January 1, 2000 and is not in inactive status, hold an annual meeting at which no official action will be taken, that includes a presentation regarding the current public infrastructure projects within the metropolitan district and outstanding bonds, a review of unaudited financial statements showing year-to-date revenues and expenditures, and an opportunity for members of the public to ask questions. This meeting must be held in person, virtually, or in person and virtually, provided that, an annual meeting that is held solely in person must be held at a physical location that is within the boundaries of the metropolitan district, within the boundaries of any county in which the metropolitan district is located, in whole or in part, or within any other county so long as the location does not exceed five miles from the metropolitan district's boundaries. In addition, at a meeting at which the board adopts the annual budget for the metropolitan district, the board must provide a public comment period during the meeting. SB 23-110 also requires, that prior to issuing debt to a metropolitan district director or any entity with respect to which a director must make disclosure pursuant to Section 24-18-109, C.R.S., the metropolitan district must receive a statement from a registered municipal advisor certifying that the interest rate satisfies certain statutory requirements set forth in SB 23-110. Finally, SB 23-110 also requires that on or after January 1, 2024, a seller of residential real property within a metropolitan district organized on or after January 1, 2000, must provide the purchaser of the property with the metropolitan district's official website, which will be



provided as part of the Colorado Real Estate Commission approved seller's property disclosure or other concurrent writing . SB 23-110 will take effect on August 7, 2023, unless a referendum petition is filed.

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**Waterwise Landscaping****SB 23-178**

SB 23-178 clarifies existing laws and establishes new laws relating to waterwise landscaping in associations, common interest communities, and special districts by allowing homeowners to use non-vegetative landscaping. SB 23-178 also allows an association (or, "unit owners' association"), as defined in Section 38-33.3-301, C.R.S. to adopt and enforce design or aesthetic guidelines. SB 23-178 also clarifies that any restrictive covenant, bylaws, or rules or regulations of a common interest community, as defined by Section 38-33.3-103, C.R.S.; or any rules or policy of a special district, as defined in Section 32-1-103, C.R.S.; that prohibits waterwise landscaping is contrary to public policy and is unenforceable. In addition to an association, a common interest community or special district may adopt design or aesthetic guidelines, provided that they do not: (1) prohibit non-vegetative turf grass from being used in the backyard of a unit owner's property; (2) unreasonably mandate the use of hardscape for more than 20% of landscaping in a unit; (3) prohibit vegetable gardens anywhere in the yard of a unit owner; and (4) prohibit property owners from having the option of utilizing at least 80% drought tolerant plantings. In addition, an association must select at least 3 preplanned and preapproved waterwise garden designs for front yards within each individual common interest community. In order to qualify for preapproval, any design must conform to the waterwise design principles laid out in Section 37-60-135(2)(1), C.R.S. Preapproved designs may be selected from The Colorado State University Extension Plant Select Organization's design list. Through Section 38-33-106.5(1)(i)(I)(A), and Section 37-60-126 (11)(a)(III), C.R.S., the laws adopted by SB 23-178 apply to both detached single family homes and attached single family homes sharing one or more walls with another unit, albeit through different statutory provisions. SB 23-178 does not apply to condominiums.

For every unit owner within an association affected by a violation, the unit owner may bring a civil action so as to prevent further violations and may recover actual damages plus \$500.00, costs, and reasonable attorney's fees. A unit owner must also give an association 45 days' notice to cure any violation before filing suit. SB 23-178 will take on effect on August 7, 2023, unless a referendum petition is filed.

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**EMPLOYMENT**

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**Worker's Compensation****HB 23-1076**

Under current law, if a worker's compensation claim arises out of mental impairment, a claimant is limited to 12 weeks of benefits. HB 23-1076 allows a claimant to claim 36 weeks of benefits. HB 23-1076 also clarifies that, within 45 days of an insurer or self-insured employer terminating an employee's "temporary total disability benefits" as defined in Section 8-42-105(3)(c), C.R.S. an employee may apply for an expedited hearing on any issues stated in Sections 8-42-105(5)(a)(I) – (III), C.R.S. HB 23-1076 also clarifies that all permanent partial disability benefits are not limited to a specific medical treatment. Lastly, HB 23-1076 also clarifies the rules regarding the allocation of costs for an independent medical examination as well as the rules regarding costs and hearings in front of an administrative judge adjudicating worker's compensation disputes. HB 23-1076 will take effect on August 7, 2023, unless a referendum petition is filed.

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**Additional Uses of Paid Sick Leave****SB 23-017**

SB 23-017 expands the Colorado Healthy Families and Workplaces Act to allow an employee to use sick leave for: grieving, attending a funeral or memorial service, or to deal with financial and/or legal matters incidental to the death of a family member; if an employee needs to care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected occurrence; or if an employee needs to evacuate their place of residence due to inclement

weather, loss of power, loss of heating, loss of water, or other unexpected occurrence.<sup>2</sup> SB 23-017 will take effect on August 7, 2023, unless a referendum petition is filed.

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**Average Weekly Wage Paid Benefits Leave****SB 23-046**

SB 23-046 modifies the calculation of an individual's weekly leave benefits under the Colorado Paid Family and Medical Leave Insurance (FAMLI) Act by allowing all jobs worked to be included in the calculation. Under the law prior to SB 23-046, only the individual's average weekly wage from the job or jobs from which the individual was taking leave were included in the calculation. SB 23-046 took effect on March 23, 2023.

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**Fairness in Job Applications****SB 23-058**

SB 23-058 created the Job Application Fairness Act, which, on or after July 1, 2024, prohibits employers from requesting or requiring, on an initial job application, that an applicant disclose their age, date of birth, and/or their dates of attendance/graduation from an educational institution. An employer may request that an applicant provide additional application materials such as certifications, transcripts, and/or other materials, provided that the employer notifies the applicant they may redact the information outlined above. An employer may also request that an individual verify their compliance with age requirements if required by an occupational qualification and/or federal/state law or regulation, provided verification does not violate the nondisclosure requirements outlined above by, for example, asking for the specific age of the individual. SB 23-058 will take effect on August 7, 2023, unless a referendum petition is filed.

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**Ensure Equal Pay for Equal Work****SB 23-105**

SB 23-105 amends the Colorado Equal Pay for Equal Work Act. Section 2 of SB 23-105 directs the Director of the Division of Labor and Statistics to adopt new processes for the mediation of complaints of alleged violations of Section 8-5-102, C.R.S., promulgate rules for enforcement and, when violations are founds, to order compliance and/or other relief. SB 23-105 also increases the allowance for back pay from three to six years. Section 3 of SB 23-105 requires an employer to disclose, on every job posting: the date the application window closes, in addition to the already required inclusion of the hourly or salary compensation or range thereof and description of the job's benefits and other compensation. SB 23-105 also requires that within 30 calendar days of a candidate beginning work, the employer must make reasonable efforts to provide employees whom the employer intends the selected candidate to work with: the selected candidate's name, the selected candidate's former job title if the selected candidate was already employed by the employer, the selected candidate's new job title, and information on how employees may show interest in similar job opportunities should they arise. Additional requirements are applicable for positions with career progression. Nothing in SB 23-105 requires an employer to identify an employee in a way that violates their privacy rights under local, state, or federal law. SB 23-105 will take effect on January 1, 2024, unless a referendum petition is filed.

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**Public Employees Workplace Protection****SB 23-111**

SB 23-111 creates the "Protections for Public Workers Act," Sections 29-33-101, C.R.S., *et. seq.* and adds labor protections for public employees within Colorado, which is defined to include employees of special districts. Under SB 23-111 a public employee has the right to: discuss or express their views regarding public employee representation, workplace issues, or the rights granted to the public employee in Protections for Public Workers Act; engage in protected, concentrated activity for the purpose of mutual aid or protection; fully participate in the political process while off duty and/or not in uniform, including the ability to speak with members of the public employer's governing body on matters related to

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<sup>2</sup> For a more detailed explanation, please consult §§ 8-13.3-404(1)(a)(IV), (e), (f), C.R.S.

employment or a matter of public concern and the ability to engage in other political activities in the same manner as others in Colorado; and organize, form, join, or assist or refrain from, organizing, forming, joining, or assisting an employee organization. Provided, however, an employer may limit these rights to the extent necessary to maintain the nonpartisan role of the employer.

A public employer shall not: discriminate or threaten to discriminate against, coerce, intimidate, interfere with, or impose reprisals against a public employee exercising these rights; interfere in the administration of an employee organization; discharge or discriminate against a public employee because they have filed an affidavit, petition, or complaint or given any information or testimony pursuant to the Protections for Public Workers Act or because they formed, joined, assisted, or chosen to be represented by an employee organization.

Section 29-33-105(3), C.R.S. which grants the Division of Labor Standards the authority to adjudicate unfair labor practices, will take effect on July 1, 2024. The remainder will take effect on August 7, 2023, unless a referendum petition is filed.

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**Protecting Opportunities and Workers' Rights (POWR) Act****SB 23-172**

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SB 23-172 amends the Colorado Anti-Discrimination Act by defining “harassment” as “unwelcome conduct or communication related to an individual’s membership in a protected class where submission to the conduct is a condition of the individual’s employment, is used as a basis for employment decisions or interferes with the individual’s work, or is objectively offensive to a reasonable person in the same protected class.” SB 23-172 specifies that (1) harassment does not need to be severe or pervasive to constitute a discriminatory or unfair practice; (2) petty slights or annoyances or lack of good manners do not constitute harassment unless it meets the totality of the circumstances and the standards in the bill; and (3) various factors are considered under the totality of the circumstances. This bill makes additional changes to anti-discrimination laws including but not limited to the following: adding protections for individuals based on their marital status; eliminating the ability of an employer to assert that an individual’s disability has a significant impact on the job as the rationale for being unable to accommodate an individual who is otherwise qualified for the job; requiring employers to preserve records of complaints related to discriminatory or unfair labor practices for at least five years and include certain information in the complaint repository; and establishing an affirmative defense for an employer if the employer meets certain requirements, including a harassment prevention program. A harassment prevention program satisfies the affirmative defense if the employer promptly investigates complaints and takes reasonable remedial actions when warranted. Additionally, under SB 23-172 a nondisclosure provision in a contract preventing the disclosure of an alleged discriminatory or unfair employment practice is void unless: it provision applies equally to all parties; clearly states that it does not restrain an employee or prospective employee from disclosing the underlying facts of alleged practices, which includes disclosing the existence and terms of a settlement to the people, peoples, groups, agencies, governments, or any other purpose as required by law as listed in Sections 24-34-407(1)(b)(I) – (IV), C.R.S. SB 23-172 also states that any disclosure under (1)(b) of this section is not disparagement; and that if a nondisparagement provision is included in a contract, and if the employer disparages the employee or prospective employee, the employer may not seek enforcement or damages.

Under SB 23-172, an employer must preserve any employment or personal record that the employer made, received, or kept for at least five years after the latter of: the date the employer made or received the record or the date of the personnel action about which the record relates to, or to the final disposition of the issue. SB 23-172 will take effect on August 7, 2023, unless a referendum petition is filed.

## HOUSING

### **Regulating Local Housing Growth Restrictions**

**HB 23-1255**

HB 23-1255 prohibits a governmental entity (inclusive of special districts) from enacting or enforcing an anti-growth law affecting non-publicly owned property, except in certain circumstances. HB 23-1255 defines an “anti-growth law” as “a land use law that explicitly limits either the growth of the population in the governmental entity's jurisdiction or the number of development permits or building permit applications for residential development or the residential component of any mixed-use development submitted to, reviewed by, approved by, or issued by a governmental entity for any calendar or fiscal year.” HB 23-1255 provides a number of exceptions allowing for the enactment of temporary, nonrenewable anti-growth laws which may not be effective for more than twenty-four months in any given five-year period. HB 23-1255 will take effect on August 7, 2023, unless a referendum petition is filed.

## ELECTIONS

### **Modifications to Laws Regarding Elections**

**SB 23-276**

SB 23-276 contains various additions, amendments, and repeals regarding Colorado Election Law. Many sections of this bill do not apply to special districts, only those sections that apply are outlined below.

- Section 1 amends the definition of identification to include any form of identification as specified in Sections 1-1-104(19.5)(a)(I) -19.5(a)(XIII), C.R.S. that is in a digital format.
- Section 2 repeals certain language regarding the determination of residence for purposes of voting in an election.
- Section 18 adds that for any coordinated election, the County who will conduct the coordinated election on behalf of a special district shall enter into an agreement sharing the county’s reasonable costs in relation to the coordinated election that are not otherwise reimbursed by the state. Section 27 also clarifies that special districts are only responsible for the actual costs of a coordinated election and not costs such as overhead costs or other costs listed in Section 1-7-116 (b), C.R.S.
- Section 19 removes language requiring that nothing within this section shall be construed to mean that a special district replace a voting system in use prior to May 28, 2004.
- Section 26 lays out requirements for (“Watchers”), as defined in Section 1-1-104 (51), C.R.S., and directs a County Clerk or Designated Election Official to revoke the certificate of a Watcher who takes or records pictures or videos in places where election activity occurs or places where confidential or personally identifiable information is in view.
- Section 28 clarifies that an elector may take a mobile phone or other electronic device into a voter service or polling center provided they do not make or receive any phone calls, except for calls to or from the Multilingual Ballot Hotline. In addition, an elector may not take any pictures or videos of any item in a voter service or polling center other than pictures or videos of their own ballot.
- Section 29 clarifies that only an election judge can examine an electromechanical voting system component to determine if the system or any of its components have been defaced or damaged. Such may be necessary to determine if any wrongdoing has occurred.
- Section 30 clarifies that a bipartisan group of election judges shall create a true duplicate copy of a damaged ballot so that said ballot can be read by an electronic voting system.
- Section 34 clarifies rules for signature verification and the curing of a deficiencies in ballots. In addition, this section also sets the timeline for the update of the Statewide Voter Registration System so as to reflect that a voter has cured a deficiency in their ballot.
- Section 39 states that any recount of coordinated election be in accordance with Section 1-10.5-102, C.R.S. Section 40 further clarifies that for any recount not required by law or regulation, an

interested party may submit a “notarized written request” in accordance with Section 1-10.4-102, C.R.S. Section 40 also lays out the requirements and timeline for the filing of a recount request.

- Section 47 clarifies rules on contribution limits to candidate committees or groups that donate to candidate committees, such as an issue committee or small-scale committee. In particular the bill prohibits an issue committee or small-scale committee from donating to a candidate committee. In addition, the bill also clarifies the date that a candidate committee must be terminated, depending on whether a candidate is elected or not elected. Sections 1-45-103.7 (12)(a)(I), (II), C.R.S.
- Section 52 clarifies that no special district may expend any money from any source or make any contributions to urge electors to vote in favor of or against any referred measure, as defined in Section 1-1-104(34.5), C.R.S. passed by the General Assembly or the governing body of any political subdivision with authorization to refer matters to voters or recall measure for the recall of any officer that that has been submitted for approval for circulation on an approved petition form.
- Section 54 clarifies that any County Clerk or Designated Election Official shall not use any state or federal money to pay for advertising expenses that “predominantly features a person who is a declared candidate for a federal, state or local office.” Section 25-75-115(1), C.R.S. Advertising does not include official notices, communications required by law or ongoing/routine communications.

SB 23-276 took effect on June 6, 2023. Section 18 will take effect on July 1, 2024.

## **PUBLIC RECORDS**

### **Access to Government Records**

### **SB 23-286**

SB 23-286 makes the following changes to the Colorado Open Records Act (“CORA”):

- Prohibits the custodian of public records from requiring a requester to provide identification in order to request or inspect a public record, except as required by Section 24-72-204(3.5)(g), C.R.S. or when a record requested is confidential and accessible only on the basis that the requester the person in interest.
- For any public record that is stored in a searchable digital format, a custodian shall provide a digital copy of the public record, unless otherwise requested, via email or another mutually agreed method if the records are too large for an email. Unless required by Section 24-72-204(3.5)(b), C.R.S., no digital record shall be made into a non-searchable non-digital record before production in response to a request.
- Addition of the ability of the custodian to deny access to telephone numbers and home addresses that are provided by a person to an elected official or special district for the purpose of communications from the elected official or special district.
- Unless disclosure is otherwise prohibited and notwithstanding Sections 2-3-511 and 24-72-203(3)(a)(X), (X.5), C.R.S., any public records relating to “sexual harassment complaints made against an elected official and the results or report of investigations regarding alleged sexual harassment by an elected official conducted by or for that official's government” shall be made available for inspection if the investigation concluded that the elected official is culpable for any act of sexual harassment; except that the identity of any accuser, accused who is not an elected official, victim, or witness and any other information that would identify any such person, and any other portion not subject to disclosure under Section 24-72-204(2), C.R.S. must be redacted.
- A custodian shall not charge a per-page fee basis for digital records.
- Should a custodian allow the public to pay for other services/products with a credit card or other electronic payment method, the custodian shall allow the requester to pay any fee or deposit associated with a record request via a credit card or other electronic payment method. A custodian may charge a requestor any service fee charged by a credit card company.



SB 23-286 will take effect on August 7, 2023, unless a referendum petition is filed.

## **PUBLIC SAFETY**

### **Wildfire Evacuation and Clearance Time Modeling**

**HB 23-1075**

HB 23-1075 directs the State Office of Emergency Management to study the efficacy and feasibility of local or jurisdictional emergency management agencies with jurisdiction in a wildfire risk area to integrate evacuation and clearance time modeling into their emergency management plans. HB 23-1075 took effect on May 12, 2023.

### **Inclusive Languages in Emergency Situations**

**HB 23-1237**

HB 23-1237 directs the University of Colorado’s Natural Hazards Center (“Hazards Center”) to determine what fire districts and local 911 agencies need to provide emergency alerts in languages other than English by July 1, 2024. In addition, the Hazards Center shall determine what local 911 agencies must provide language interpretation in 911 calls by July 1, 2024. HB 23-1237 took effect on May 12, 2023.

### **Establishment of a Wildfire Resiliency Code Board**

**SB 23-166**

SB 23-166 concerns the establishment of Wildfire Resiliency Code Board (“Board”) adopt model codes and standards for the mitigation of damage from wildfires in wildland-urban interface areas. The bill also requires that local governments, which includes fire protection districts, which have the authority to adopt building of fire codes, shall adopt codes that meet or exceed the model code set by the Board. HB 23-1237 took effect on May 12, 2023.

## **TAX**

### **Electronic Sales and Use Tax Simplification System**

**HB 23-1017**

HB 23-1017 concerns updates to the State’s Electronic Sales and Use Tax Simplification System (“System”). Of note to special districts collecting sales and use taxes, is the addition of a filtering option to sort retailers and create exportable spreadsheet reports. The Department of Revenue shall not charge any convenience or similar fee for use of the System nor shall it deduct an amount from moneys distributed to local taxing jurisdictions in lieu of any convenience or similar fee. HB 23-1017 will take effect on August 7, 2023, unless a referendum petition is filed.

### **Metropolitan District Tax for Parks and Recreation**

**HB 23-1062**

HB 23-1062 extends the ability of a metropolitan district to levy a uniform sales tax for purposes of parks or recreational facilities or programs. The tax is only effective in areas of the district that are not also within the boundaries of an incorporated municipality. The net revenues of any such tax that is levied are limited to being used on parks or recreational facilities or programs. HB 23-1062 will take effect on August 7, 2023, unless a referendum petition is filed.

### **Allowing Temporary Reductions in Property Tax Due**

**SB 23-108**

SB 23-108 codifies the practice of certain local governments using a temporary mill levy reduction to provide property tax relief for purposes other than to effect a refund for any purpose required by TABOR. Concurrent with the certification of a levy to the county commissioners, a local government may certify the temporary property tax credit or mill levy reduction. A temporary reduction in property taxes for the purpose of tax relief is subject to annual renewal. SB 23-108 will take effect on August 7, 2023, unless a referendum petition is filed.

The passage of SB 23-303 is intended to address significant anticipated property tax increases for property owners in the forthcoming years. Most provisions of SB 23-303 will require voter approval to become effective and will be submitted to the Colorado voters as “Proposition HH” at the general election to be held on November 7, 2023. Proposition HH will read as follows: *Shall the state reduce property taxes for homes and businesses, including expanding property tax relief for seniors, and backfill counties, water districts, fire districts, ambulance and hospital districts, and other local governments and fund school districts by using a portion of the state surplus up to the proposition HH cap as defined in this measure?*

The passage of SB 22-238 last year resulted in the reduction of assessed valuations through 2024. Subject to a cap set forth in SB 22-238, the State is required to reimburse local government entities for property tax revenue lost as a result of those reduced assessed valuation calculations.

Pursuant to SB 23-303, assessed valuation calculations are further reduced for several classes of real property over a period of ten (10) years, as set forth in the chart below. This reduction will further impact property taxes collected by local governments. Under SB 23-303, the State will generate additional funds to reimburse local governments for lost property tax revenue by using a portion of the State’s TABOR surplus to backfill the lost property tax revenue. TABOR currently requires State surpluses to be refunded to the taxpayers, and further requires the State to obtain authorization from Colorado voters to reduce property taxes and to retain excess State tax revenues to backfill the revenue lost by local governments. As required by SB 23-303, the State will refer Proposition HH to the voters at the November 2023 election to obtain voter authorization to reduce property taxes and retain excess State tax revenues as set forth in SB 23-303. If Proposition HH passes, the State will be authorized to retain and spend all of the State surplus that is under the Proposition HH cap and the assessed valuation calculations set forth in the chart below will be in effect. If Proposition HH fails, the property tax reductions and local government backfill using excess State tax revenues will be repealed and will not go into effect, and the State’s current property tax law under SB 22-238 will continue to apply.

The chart below<sup>3</sup> compares the State’s current property tax law under SB 22-238 with the property tax laws enacted under SB 23-303, assuming Proposition HH is approved by the Colorado voters at the November 2023 election.

Current Law - SB22-238	SB23-303 (w/ ballot measure approved)
LODGING:	LODGING:
<u>2023 tax year</u> : 27.9% (no \$30K reduction)	<u>2023 tax year</u> : 27.85% of the actual property value, <i>minus</i> the lesser of \$30,000 or the amount that causes the assessed value to be \$1,000 (the “30K reduction”)
<u>2024 tax year and all subsequent years</u> : 29%	<u>2024 to 2026 tax years</u> : 27.85% (no \$30K reduction)

<sup>3</sup> Chart courtesy of BROWNSTEIN CLIENT ALERT, MAY 9, 2023 entitled *Major Property Tax Relief Passed by the Colorado Legislature, Now It’s Up to the Voters*.

	<p><u>2027 to 2028 tax years:</u> 27.65%</p> <p><u>2029 to 2030 tax years:</u> 26.9%</p> <p><u>2031 to 2032 tax years:</u></p> <p>a) 25.9%, <i>if</i> for the 2031 tax year, the average increase in assessed value for property within the 32 counties with the smallest increase in total valuation is <math>\geq 3.7\%</math> (“<i>Sufficient AV Growth</i>”)</p> <p>b) 26.9%, <i>if</i> for the 2031 tax year, the average increase in assessed value for property within the 32 counties with the smallest increase in total valuation is <math>&lt; 3.7\%</math> (“<i>Insufficient AV Growth</i>”)</p> <p><u>All tax years following 2032:</u> 29%</p>
<p>AGRICULTURE and RENEWABLE ENERGY-PRODUCING LAND:</p> <p><u>2023 and 2024 tax years:</u> 26.4% of the actual property value, <i>minus</i> the \$30K reduction</p> <p><u>All tax years following 2024:</u> 29%</p>	<p>AGRICULTURAL, RENEWABLE ENERGY PRODUCING LAND, and <u>NEW</u> RENEWABLE ENERGY AGRICULTURAL LAND:</p> <p>Agricultural <i>or</i> Renewable Energy:</p> <p><u>2023 to 2030 tax years:</u> 26.4% (<i>no \$30K reduction</i>)</p> <p><u>2031 to 2032 tax years:</u></p> <p>a) 25.9%, <i>if</i> for the 2031 tax year, there is Sufficient AV Growth</p> <p>b) 26.4%, <i>if</i> for the 2031 tax year, there is Insufficient AV Growth</p> <p><u>All tax years following 2032:</u> 29%</p> <p>Renewable Energy Agricultural Land:</p> <p><u>2023 tax year:</u> 26.4% (<i>no \$30K reduction</i>)</p> <p><u>2024 to 2032 tax years:</u> 21.9%</p> <p><u>All tax years following 2032:</u> 29%</p>
IMPROVED COMMERCIAL SUBCLASS:	IMPROVED COMMERCIAL SUBCLASS:



2023 tax year: 27.9% of the actual property value, *minus* the \$30K reduction.

2024 tax year and all subsequent years: 29%

2023 tax year: 27.85% of the actual property value, *minus* the \$30K reduction

2024 to 2026 tax years: 27.85% (*no \$30K reduction*)

2027 to 2028 tax years: 27.65%

2029 to 2030 tax years: 26.9%

2031 to 2031 tax years:

a) 25.9%, *if* for the 2031 tax year, there is Sufficient AV Growth

b) 26.9%, *if* for the 2031 tax year, there is Insufficient AV Growth

All tax years following 2032: 29%

ALL OTHER NONRESIDENTIAL (*that is not commercial, lodging, agriculture or renewable energy*):

2023 tax year: 27.9% (*no \$30K reduction*)

2024 tax year and all subsequent years: 29%

ALL OTHER NONRESIDENTIAL (*that is not commercial, lodging, agriculture, renewable energy, renewable energy agriculture, or is not under a vacant land subclass*):

2023 to 2026 tax year: 27.85% (*no \$30K reduction*)

2027 to 2028 tax years: 27.65%

2029 to 2030 tax years: 26.9%

2031 to 2031 tax years:

a) 25.9%, *if* for the 2031 tax year, there is Sufficient AV Growth

b) 26.9%, *if* for the 2031 tax year, there is Insufficient AV Growth

All tax years following 2032: 29%

MULTI-FAMILY:

2023 tax year: 6.765% of the actual property value, *minus* the lesser of \$15,000 or the amount that

MULTI-FAMILY:

2023 tax year: 6.7% of the actual property value, *minus* the lesser of \$50,000 or the amount

reduces the assessed value to \$1,000 (the “\$15K reduction”).

2024 tax year: 6.8%

All years following 2024 tax year: 7.15%

that reduces the assessed value to \$1,000 (the “\$50K reduction”).

2024 to 2032 tax year: 6.7% of the actual property value, *minus* the lesser of \$40,000 or the amount that reduces the assessed value to \$1,000 (the “\$40K reduction”).

All tax years following 2032: 7.15%

#### SINGLE FAMILY:

2023 tax year: 6.765% of the actual property value, *minus* the \$15K reduction

2024 tax year: To be temporarily established by the property tax administrator on or before March 21, 2024, the percentage necessary to generate an aggregate reduction of local government property tax revenue of \$700M in tax years 2023 and 2024

All years following 2024 tax year: 7.15%

#### SINGLE FAMILY:

2023 tax year: 6.7% of the actual property value, *minus* the \$50K reduction

2024 to 2024 tax years: 6.7% of the actual property value, *minus* the \$40K reduction

2025 to 2032 tax years: There is a split in Single Family tax rates between Primary Residence, Qualified-Senior Primary Residence and Non-primary Residence as follows:

· Primary Residence (including Multi-Family Primary Residence\*): 6.7% of the actual property value, *minus* the \$40K reduction.

· Qualified-Senior Prim. Residence: 6.7% of the actual property value, *minus* the lesser of \$140,000 or the amount that reduces the assessed value to \$1,000.

· Non-Primary Residence (All other residential that is not Multi-Family, Primary Residence or Qualified-Sr Prim Residence): 6.7% (no reduction)

All tax years following 2032: 7.15%

\*Definition of Multi-Family Primary Residence is discussed below.

Also, for tax years beginning in 2025, SB 22-303 also includes new subclasses of property as follows:

- Single-family residential class includes three subclasses: Primary Residence, Qualified-Senior Primary Resident, and all other residential that is not multi-family, primary residence or qualified-senior primary resident;
- Multi-Family Primary Residence subclass, and

- a Renewable Energy Agricultural Land subclass.

SB22-238, already required the state to reimburse local government entities (including water districts, fire districts, ambulance and hospital districts and school districts) for property tax revenue lost as a result of reductions in valuation, subject to a cap and a shorter duration. SB23-303 generates additional funds to reimburse local governments and certain special districts by dedicating a portion of the state TABOR surplus to the backfill and extending the backfill relief from 2024 through 2032. SB 23-303 is subject to statewide voter approval in the November 2023 General Election as Proposition HH. If Proposition HH passes, SB 23-303 will take effect on the date of the vote's official declaration by the governor. Given this timing, SB 23-303 also revises certain statutory deadlines for property tax year 2023 including the deadline for mill levy certification pursuant to Section 39-5-128, C.R.S., which is postponed from December 15, 2023 to January 5, 2024.

### **Property Tax Valuation**

**SB 23-304**

SB 23-304 concerns changes to the assessment and valuation of property tax. SB 23-304 requires a county assessor to take into consideration a property's current use; existing zoning, governmental, or environmental land use restrictions; multi-year leases or other contractual agreements affecting the use of or income from the property; easements and reservations of record; and covenants, conditions, and restrictions of record, in setting valuation of the property. In addition, SB 23-304 makes changes to some taxpayer protests processes and taxpayer data requests. SB 23-304 will take effect on August 7, 2023, unless a referendum petition is filed.

## **MISCELLANEOUS**

### **Requiring Labeling of Disposable Wipes**

**SB 23-150**

SB 23-150 requires that after December 31, 2023, packages of premoistened, nonwoven disposable wipes be labeled with the phrase "Do Not Flush." SB 23-150 will take effect on August 7, 2023, unless a referendum petition is filed.

### **Local Government Provision of Communication Services**

**SB 23-183**

SB 23-183 makes certain changes and clarifications regarding the provision of cable television, telecommunications, or broadband internet services. Under current law, special districts are prohibited from providing these services without voter approval. SB 23-183 removes the voter approval requirement and allows special districts to provide the above referenced services or enter into public-private partnership agreements without voter approval. It should be noted that advance voter approval may still be required for purposes of TABOR. SB 23-183 also allows local governments to provide middle mile infrastructure, as defined in 47 U.S.C. § 1741(a)(9). SB 23-183 took effect on May 1, 2023.

### **Water Quality Control Fee Setting by Rule**

**SB 23-274**

SB 23-274 requires the Water Quality Control Commission ("Commission"), after consultation with stakeholders, to set fees by rule for a variety of industries for pollution discharge and other water-related activities, by October 31, 2025. Existing fees remain in place until January 1, 2026, unless the Commission adopts rules to phase-in the new fees earlier. The commission must establish the fees by rule beginning July 1, 2026. SB 23-274 also updates the membership of the Commission. SB 23-274 took effect on May 17, 2023.