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## BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1

**Monday, November 8, 2021, 9:00 A.M. Special Meeting**

THE MEETING WILL HELD VIA VIDEO/TELEPHONE CONFERENCE AT:

<https://us02web.zoom.us/j/7636703470>

Meeting ID: 763 670 3470

Or

Dial-In Number: + 1 (720) 707-2699

Meeting ID: 763 670 3470, Passcode: #

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### **Rules for public participation:**

1. All members of the public are asked to join the meeting at least 5 minutes prior to the start time in order to allow for registration of attendees full first and last names.
2. Any members of the public wishing to speak during an agenda item will be required to use the “raise hand” feature in zoom and wait to be recognized by the host prior to speaking. If the “raise hand” feature is not available to the member of the public due to phone participation the member of the public will be required to indicate which agenda items they wish to speak regarding during the registration process prior to the meeting.
3. All public comment will be limited to 3 minutes per person. A warning will be provided when the speaker has 30 seconds remaining. At the expiration of the 3 minutes the speaker will be muted.

### **AGENDA**

1. Call to Order/Declaration of Quorum
2. Directors Matters/Disclosure Matters
  - a. Discuss Board Meeting procedures (enclosure).
3. Approval of/Additions To/Deletions From the Agenda
4. Public Comment for Matters Not on Agenda
5. Consent Agenda
  - a. Consider approval of October 25, 2021 special meeting minutes (enclosure).
6. Operations Matters
  - a. Consider engagement of Community Resource Services of Colorado, LLC, as District Manager and discuss timing and transfer of responsibility from Public Alliance, LLC (enclosure).

- b. Consider Approval of Binding Coverage for Workers' Compensation and Property and Liability Coverage from Colorado Special Districts Property and Liability Pool for 2022 insurance coverage (to be distributed).
  1. Consider Approval of Resolution regarding an Intergovernmental Agreement with the Colorado Special Districts Property and Liability Pool (enclosure).
7. Legal Matters
  - c. Discuss and consider engagement of General and Special Counsel (enclosure).
8. Other Business
9. Adjournment

CITY OF DELTA, COLORADO  
RESOLUTION NO. 2019-\_\_

A RESOLUTION OF THE DELTA CITY COUNCIL ADOPTING A POLICY  
FOR CITIZEN COMMENTS AT PUBLIC MEETINGS

WHEREAS, it is the general practice of the Delta City Council to include an agenda item at regular City Council meetings allowing citizens to address the Council on topics not related to specific items on the agenda; and

WHEREAS, the City Council recognizes and encourages the right of its citizens and members of the public to address the City Council pursuant to the First Amendment to the Constitution of the United States of America; and

WHEREAS, a City Council meeting is a limited public forum in which the City Council has authority to impose reasonable, content-neutral regulations regarding the time, place, and manner of public speech; and

WHEREAS, the City Council also accepts citizen comments at public hearings and other situations where comments may be invited for specific agenda items; and

WHEREAS, the City Council has the authority to place reasonable restrictions on citizen comments and citizen presentations in order to provide for the efficient management of public meetings and to allow sufficient time and attention to address specific agenda items and to conduct the business of the City of Delta; and

WHEREAS, as a Colorado home rule municipality, the City of Delta has the authority to enact its own rules regarding meetings of its governing body; and

WHEREAS, the City Council desires to adopt a uniform policy to regulate citizen comments at its own meetings and at other public meetings conducted by the Planning Commission or other boards or commissions of the City of Delta.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, AS FOLLOWS:

Section 1. The foregoing recitals are incorporated herein as findings and determinations of the City Council.

Section 2. The City Council adopts the following policy, which shall be posted or made available to members of the public at any meeting where members of the public may be permitted to address the Council, the Planning Commission, or other public body of the City of Delta.

**CITY OF DELTA**  
**POLICY REGARDING CITIZEN COMMENTS**  
**AT CITY COUNCIL MEETINGS AND PLANNING COMMISSION MEETINGS**

1. PUBLIC COMMENTS REGARDING MATTERS NOT ON THE AGENDA

Citizen comments regarding any matters not on the agenda will be allowed during the designated time on the agenda and may be disallowed at other times during the meeting.

Those wishing to address the City Council must print their names on the sign-in sheet and will be allowed a three-minute presentation per speaker. Citizens who have signed-in may delegate their time to another speaker to comment on their behalf.

The Mayor or presiding officer may limit the total time for citizen comments based on the length of an agenda. In such case, comments will be received on a first-come, first-served basis during the available time.

Large posters or signs, sound effects, audio/visual presentation equipment, or other disruptive or distracting materials may be prohibited. Handouts are encouraged to be in 8.5 x 11 format.

If a topic that you wish to address has been scheduled as an agenda item for a formal City Council meeting, we would ask that you reserve your remarks for that specific date and time.

2. PUBLIC COMMENTS GENERALLY, INCLUDING MATTERS ON THE AGENDA

Please state your name and address for the record.

Comments should be statements, not questions. The Council may or may not respond.

Comments should be directed to the City Council and not to individual members of the public.

Presenters are urged to: (1) state your concern/issue; (2) list possible solutions; and, (3) if you have a hand-out, provide all copies for all members of the Council, City Manager and the City Clerk.

Respect the need for civility for effective public discussion of issues.

Focus your comments on relevant facts and your point of view.

Defamatory or abusive remarks, shouting, threats of violence or profanity are OUT OF ORDER and will not be tolerated.

Citizens wishing to address the Council should dress appropriately. No shirt, no shoes, no service.

The Mayor or presiding officer has authority to apply the "three minute" rule stated above at public hearings if a large number of speakers wish to present comments.

Persons violating these policies may be asked to terminate their comments. In the event of repeated violations or refusal to abide by these policies or directives, the Mayor or presiding officer has authority to direct a peace officer to remove the individual from the Council Chambers.

# RECORD OF PROCEEDINGS

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## MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1

Held: Monday, October 25, 2021 at 8:00 a.m. at  
<https://us02web.zoom.us/j/7636703470>  
Meeting ID: 763 670 3470, Or  
Dial-In Number: 1 + (720) 707-2699  
Meeting ID: 763 670 3470, Passcode: #

### **Attendance:**

The meeting of the Board of Directors of Buckhorn Valley Metropolitan District No. 1 (the “Board of Directors” or “Board”) was called and held as shown in accordance with the statutes of the State of Colorado.

The following Directors were present:

John V. Hill, President (*via video/telephone conference*)  
Anna Maria Ray, Assistant Secretary (*via video/telephone conference*)

The following Director was absent:

Dave Garton, Treasurer

Also present were: Jennifer L. Ivey, Attorney for the District, Icenogle Seaver Pogue, P.C. (*via video/telephone conference*); AJ Beckman, District Manager, Public Alliance, LLC (*via video/telephone conference*); Debra Sedgeley, District Accountant, CliftonLarsonAllen LLP (*via video/telephone conference*); the following Buckhorn Valley Metropolitan District No. 2 Board Members: Brandon McGlamery and David Fiore (*via video/telephone conference*); and the following members of the public: Mark Hoblitzell, Maxine Hepfer, Angela Heuman, and Christine Hepfer (*all via video/telephone conference*).

### **Call to Order/ Declaration of Quorum:**

Director Hill called the special meeting of the Board of Directors of the Buckhorn Valley Metropolitan District No. 1 to order at 8:01 a.m. at which time it was noted that the notice of this meeting was properly posted within the District. Ms. Ivey noted that a quorum of the Board was present.

Mr. Beckman reviewed the District’s procedure for public comment. He explained that in order to accommodate public comment and allow for the orderly conduct of District business, members of the public wishing to speak during agenda items are required to use the “raise hand” feature in Zoom and wait to be recognized by the

host. Members of the public who joined by phone were asked at the time they connected to the Zoom platform to indicate which agenda items they were interested in speaking about. He noted that all public comment is limited to three minutes per person and explained that a warning would be provided when the speakers had 30 seconds remaining. Speakers were advised that at the expiration of the three minutes they would be muted.

**Director's Matters/  
Disclosure Matters:**

The Directors reviewed the agenda for the meeting, following which each Board member confirmed the contents of written disclosures previously made, stating the fact and summary nature of any matters, as required under Colorado law, to permit official action to be taken at the meeting.

Mr. Hoblitzell noted concern for the community and expressed specific concern that the Board is considering appointments when there has been, in his opinion, insufficient community outreach efforts. He requested that the Board delay vote until additional outreach has taken place.

Ms. Angela Heuman addressed the Board noting that she is interested in becoming more involved in the community and said she was surprised that the appointment of Directors to the board seats, although legally posted, were not more widely publicized, and would have liked to see a greater outreach effort.

Mr. David Fiore noted that as a Director on the Board of Buckhorn Valley Metropolitan District No. 2, ("District No. 2") he agrees with the comments of the prior residents and requested that the Board work in collaboration with District No. 2. He expressed concern regarding the method of notice of the Board vacancies and requested more time and greater outreach be provided prior to any appointments being made. He then noted that Ms. Hepfer would have standing conflicts of interest and noted that little is known about Mr. Richards. He then requested that appointment of Directors be delayed, and the two Boards find a way to work together at the November 16, 2021 Board meeting.

Consider appointment of  
eligible electors:

Director Hill recognized that there are two qualified candidates that have expressed interest in filling the vacancies. Ms. Ivey noted that her office has verified that both are registered Colorado voters.

Following discussion, upon motion duly made by Director Hill, seconded by Director Ray, and upon vote unanimously carried, the Board appointed Nicholas Richards to fill the vacancy created by the resignation of Samantha Gale.

Following discussion, upon motion duly made by Director Hill, seconded by Director Ray, and upon vote unanimously carried, the Board appointed Maxine Hepfer to fill the vacancy created by the resignation of Scott Green.

Ms. Sedgeley asked if the Directors would need to be required to run for election this May. Ms. Ivey confirmed that this is the case and further explained that her office will send an Oath of Office and other introductory information to the appointees. The Oath of Office will need to be completed and returned to her office for filing within 30 days of the Board appointment, at which time they will be officially seated on the Board.

**Approval of/Additions to/Deletions from the Agenda:**

Following discussion, upon motion duly made by Director Hill, seconded by Director Ray, and upon vote unanimously carried, the Board approved the Agenda as amended to include the election of officers.

**Consider Election of Officers:**

Following discussion, upon motion duly made by Director Hill, seconded by Director Ray, and upon vote unanimously carried, the Board elected Mr. Richards to serve as Board President.

Following discussion, upon motion duly made by Director Hill, seconded by Director Ray, and upon vote unanimously carried, the Board elected Ms. Maxine Hepfer to serve as Board Treasurer and Secretary.

**Public Comment for Matters not on the Agenda:**

Mr. McGlamery addressed the Board as a newly appointed Director for District No. 2. He reiterated that members of the public expressed concern over the appointment of Directors today and further noted that the appointed Directors were subsequently elected to the positions of President and Treasurer/Secretary. He commented that the actions in his opinion would not bolster public trust.

Mr. Fiore expressed disappointment over the Board appointments and asked for additional information on Mr. Richards. Mr. Beckman noted that he is aware that Mr. Richards is a resident of the District but does not have additional information. Ms. Heuman noted that she is an acquaintance of Mr. Richards. She stated that he is a resident of Hawk's Nest and believes Mr. Richards rents his home from Ms. Hepfer. Ms. Maxine Hepfer noted that Mr. Richards is not her tenant. Mr. Fiore noted that the Board asked for letters of interest and statements of qualification for residents interested in serving on the Board of Directors for District No. 2 but is unaware of any such requirements for the candidates appointed today.

Mr. Hoblitzell requested that the Board consider scheduling meetings after work hours in order to allow greater participation by the public.

He further requested that the Board meetings conducted via Zoom be recorded and posted to the District's website. He referenced the meetings conducted by the Town of Vail and the City of Avon as examples of public meetings being recorded and posted for viewing.

**Consent Agenda:**

Mr. Beckman reviewed the consent agenda with the Board.

The Board considered the following items:

- Approval of September 8, 2021 Special Meeting minutes
- Approval of form and transmittal of letter to delinquent account holders regarding notice of public meeting regarding certification of delinquent accounts

Upon motion duly made by Director Hill, seconded by Director Ray and upon vote, unanimously carried, the Board approved the consent agenda as presented.

**Operations Matters:**

Winterization of  
Irrigation System:

Mr. Beckman reported that winterization of the system is substantially complete.

Buckhorn Pond  
Maintenance:

Mr. Beckman reported that concerns of significant algae were raised at the District No. 2 Board meeting. He advised the Board that this would be a maintenance item to monitor going forward.

Eagle River Pump  
Station Cost Share  
Agreement between  
Sienna Lake, Airport  
Gateway, and the  
District:

Mr. Beckman reported that the cost share agreement is in negotiation. Ms. Ivey reported that she expects to connect with the Attorney for Sienna Lake in the next few days.

**Financial Matters:**

Payment of Claims:

Ms. Sedgeley reviewed the check register with the Board for the period ending October 25, 2021 in the amount of \$109,776.85.

Following discussion, upon a motion duly made by Director Hill, seconded by Director Ray and upon vote, unanimously carried, the Board approved the claims as presented.

2022 Draft Budgets:

Ms. Sedgeley reviewed the changes requested by District No. 2 with the Board. It was noted that the primary modifications requested were to eliminate the budgeted allocations for a potential refinancing of the debt for District No. 2, and for the General Fund activity to be moved from the District to District No. 2.

Following discussion, upon a motion duly made by Director Hill, seconded by Director Ray and upon vote, unanimously carried, the



Board determined to proceed with the original budget drafted by the District's Accountant without the modifications proposed by District No. 2. Ms. Ivey noted that the Budget Hearing is scheduled for November 16, 2021, and the action taken today is not a formal budget approval.

Ms. Maxine Hepfer noted that changes to the budget as originally drafted appear to exceed the parameter of the Service Agreement between the Districts.

**Legal Matters:**

Intergovernmental Agreement between the District and District No. 2:

Ms. Ivey noted that District No. 2 took action to terminate the agreement effective December 31, 2021.

Engagement of Special Counsel:

Ms. Ivey noted that her firm has agreed to serve as limited General Counsel to both Districts on routine compliance matters but recommended that the Board consider engaging Special Counsel to assist with matters of adverse interest between the two Districts.

Following discussion, upon a motion duly made by Director Hill, seconded by Director Ray and upon vote, unanimously carried, the Board determined to table the matter until a later date.

**Other Business:**

Ms. Sedgeley then addressed the Board. She noted that her firm may have a conflict, and she will need to discuss the continued relationship with the Principals of CliftonLarsonAllen LLP.

Mr. Beckman advised the Board that he believes he can no longer be fiduciary to both Boards and tendered his 30-day notice of termination of services. He advised the Board that he would continue to assist as necessary with year-end compliance matters.

Mr. Fiore thanked Mr. Beckman for his work with both Districts. Mr. McGlamery also thanked Mr. Beckman for his work with the Districts and asked if the job description for Mr. Slaughter could be finalized in the near future. Mr. Beckman noted that he will make this a priority.

**Adjournment:**

Following discussion and upon motion duly made by Director Hill, seconded by Director Ray, and upon vote unanimously carried, the Board adjourned the meeting at 8:54 a.m.

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Secretary

**AGREEMENT TO PROVIDE  
MANAGEMENT, ADMINISTRATION, AND ACCOUNTING SERVICES**

**THIS AGREEMENT TO PROVIDE SERVICES** (“Agreement”) is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2021, by and between **BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (“District”) and **COMMUNITY RESOURCE SERVICES OF COLORADO, LLC**, a Colorado limited liability company (the “Company”) (the District and Company are sometimes referred to individually as the “Party” or collectively as the “Parties”).

**RECITALS**

WHEREAS, the Parties desire to enter into this Agreement to establish the terms by which Company will provide certain services to the District;

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

**I. APPOINTMENT OF COMPANY**

1.1 Appointment of Company. The District hereby retains Company and Company agrees to perform certain services for the District (the “Services”) pursuant to the terms and conditions set forth herein.

1.2 Independent Contractor Status. Company is an independent contractor as provided in § 8-40-202(2)(b)(I)-(IV), CRS, as amended, and nothing herein contained shall constitute or designate Company or any of its employees, agents, subcontractors or suppliers as employees of the District. The work performed by Company shall be at its sole cost, risk and expense, and no part of the cost thereof shall be charged to the District, except the payments to be made by the District to Company for the work performed as provided herein. The District shall not be responsible for Company’s means, methods, techniques, sequences or procedures of work or for safety precautions incident thereto.

**II. DUTIES AND AUTHORITIES**

2.1 General Limitations and Requirements. Company shall perform the Services in the Scope of Work in **Exhibit A**. Company shall have no right or authority, express or implied, to take any action, expend any sum, incur an obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement or specifically authorized or ratified by the board of directors of the District as reflected in the minutes of the District board meetings. Company shall at all times conform to the stated policies established and approved by the District.

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

2.3 Illegal Aliens. The Company shall execute a certificate of compliance, which is attached as **Exhibit B** that certifies the Company has complied with the provisions of §§ 8-17.5-101, *et. seq*, C.R.S. The Company shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a subcontractor that fails to certify to the Company that the subcontractor shall not knowingly employ or contract with an illegal alien to perform under this Agreement. The Company represent, warrants and agrees that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this public contract through participation in the E-Verify Program, as administered by the Department of Homeland Security, or the verification program of the Colorado Department of Labor and Employment (the “Department Program”); and that the Company does not employ any illegal aliens. . The Company shall not use the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed. The Company shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and employment. If the Company fails to comply with any requirement of this provision or §§ 8-17.5-101, *et. seq*, C.R.S., the District may terminate this Agreement for breach of contract, and the Company shall be liable for actual and consequential damages to the District. If the Company obtains actual knowledge that any subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the Company shall: 1) notify the subcontractor and the District within three (3) days that the Company has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and 2) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to 1) above, the subcontractor does not stop employing or contracting with the illegal alien, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

2.4 No Right or Interest in District Assets. Company shall have no right or interest in any of the District’ assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the Services contemplated herein. In the event of any early termination, the District shall pay the Company for all the Services satisfactorily performed prior to the designated termination date.

2.5 General Duties and Authority. In connection with its specific duties, Company agrees to:

(i) Take all precautions necessary for safely and prudently conduct the Services required by this Agreement, including maintaining insurance as required by Part V hereof.

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

(iii) Not enter any contract, oral or written, in the name of the District, and not incur any debt, liability or obligation for or on behalf of the District. All obligations incurred by Company shall be obligations of Company which shall hold the District harmless therefrom.

(iv) "Work Product" shall consist of all written materials maintained by Company in connection with performance of this Agreement, including but not limited to all correspondence, maps, plans, drawings, specifications, reports, PDF formatted electronic files and other documents, in whatever form. Company shall maintain copies of all Work Product in files, including reproducible drawings of any project drawings which it obtains, shall make them available for the District' use, and shall provide such copies to the District upon request at commercial printing rates. Company shall be entitled to retain copies of all work product at its own expense and return to District all Work Product at no expense to the District in the event of termination.

### III. COMPENSATION

3.1 Compensation. Company services are billed on an hourly basis. The Company's current fee schedule is attached hereto as **Exhibit C**. Individual billing rates may change from time to time and such change will require the District approval in writing, Exhibit C is provided as a general guideline for purposes of this Agreement. The District will be billed for work performed by personnel of the Company in increments of one-tenth of an hour, billing will be submitted to the District for approval on a monthly basis. The District may terminate the Agreement at any time upon payment of all amounts owing to the Company, in accordance with Section 4.2 hereof.

3.2 Exceptions to Compensation. Certain exceptions to the compensation arrangements may be agreed to by the Parties in advance.

3.3 Costs. In addition to fees, the Company will incur costs in the handling of District matters. Costs are billed by the Company at no markup to the District and are included in the monthly billing.

### IV. DURATION AND TERMINATION

4.1 Term. The term of this Agreement shall begin \_\_\_\_\_, 2021, and shall expire on December 31 of the then current year. Company will provide management and administrative services. Company will begin providing accounting services to the District effective January 1, 2022, and shall expire on December 31 of the then current year. The Agreement is deemed to be renewed annually unless notice of termination has been given by written notice.

4.2 Termination. Either party may terminate this Agreement for convenience or for cause, in whole or in part, by delivery to the other party of a written notice of termination at least 30 days prior to the effective date of termination. Such notice shall specify the extent of termination and the effective date.

In the event of termination, the District shall pay Company for all the Services satisfactorily performed prior to the designated termination date based upon the compensation formula provided in **Exhibit C** giving the due account for Services for which the District has become responsible through the date of termination.

Upon any termination, Company shall transfer and deliver to the District all Work Product (paper and electronic) which shall be deemed from and after the effective date of this Agreement to be the property of the District.

## V. INSURANCE

5.1 Insurance Coverage Requirements. Company shall acquire and maintain during the term of this Agreement, including any extensions of the term, insurance in the following minimum amounts:

- (i) Worker's Compensation insurance as required by law.
- (ii) Comprehensive general liability insurance, in the minimum amount of \$1,000,000 combined single limit for bodily injury and property damage, each occurrence; \$1,000,000 general aggregate; and \$1,000,000 products and completed operations aggregate.
- (iii) Commercial Automobile Liability Insurance, \$1,000,000 each accident, any auto.

Company shall provide to the District at the beginning of the term of this Agreement certificates of insurance demonstrating appropriate coverage in the amounts designated above. Company shall furnish certificates of insurance coverage upon request and such certificates shall provide that coverages afforded thereunder shall not be cancelled without sixty (60) days prior written notice to the District.

## VI. MISCELLANEOUS

6.1 Assignment. Except as set forth herein, neither this Agreement, nor any of the Parties' rights, obligations, duties or authority hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party which consent shall not be unreasonably withheld.

6.2 Subcontractors. The Company is solely and fully responsible to the District for the performance of the Services under this Agreement. Use of any subcontractor by the Company shall be pre-approved by the District. The Company agrees that each and every agreement of the Company with any subcontractor to perform the Services under this Agreement shall be terminable not-for-cause, and that all such contracts shall terminate immediately upon termination of this Agreement. Company further agrees to require each subcontractor to carry insurance forms and amounts satisfactory to the District in its sole discretion and that all

warranties (express or implied) resulting from any subcontracts shall inure to the benefit of the District and its successors and assigns.

6.3 Modification. This Agreement may not be modified, amended or changed, except as otherwise provided herein, in whole or in part, only by an agreement in writing duly authorized and executed by both Parties.

6.4 Integration. This Agreement contains the entire agreement between the Parties, and no statement, promise or inducement made by either Party or the agent of either Party that is not contained in this Agreement or Modification as provided in Section 6.3 shall be valid or binding.

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

6.6 Notices. Except as otherwise provided herein, all notices or payments required to be given under this Agreement shall be in writing and shall be hand delivered or sent by certified mail, return receipt requested, or air freight, to the following addresses:

District' Mailing Address:

David H. McConaughy, Attorney  
Garfield & Hecht, P.C.  
Bank of Colorado Building  
901 Grand Avenue, Suite 201  
Glenwood Springs, CO 81601

Company Mailing Address:

Community Resource Services of Colorado (CRS)  
Sue Blair, CEO  
7995 E. Prentice Avenue, Suite 103E  
Greenwood Village, CO 80111

All notices or documents delivered or required to be delivered under the provisions of this Agreement shall be deemed received one (1) day after hand delivery or three (3) days after mailing. Either Party by written notice so provided may change the address to which future notices shall be sent.

6.7 Recovery of Costs. In the event of any litigation between the Parties hereto concerning the subject matter hereof, the prevailing Party in such litigation shall receive from the

losing Party, in addition to the amount of any judgment or other award entered therein, all reasonable costs, expenses and attorney's fees incurred by the prevailing Party in such litigation.

6.8 Subject to Annual Budget and Appropriation. The District do not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District hereunder requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations.

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

COMPANY:

**COMMUNITY RESOURCE SERVICES OF  
COLORADO, LLC**

By: \_\_\_\_\_  
Sue Blair, CEO

STATE OF COLORADO            )  
                                          )ss.  
COUNTY OF ARAPAHOE        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by Sue Blair, CEO, Community Resource Services of Colorado, LLC.

Witness my hand and official seal.

My commission expires:

SEAL

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

THE DISTRICT:

**BUCKHORN VALLEY METROPOLITAN DISTRICT  
NO. 1**

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary



## **EXHIBIT A SCOPE OF WORK**

**Company shall perform the services listed below as an independent contractor to the District, and shall only perform those services authorized by District**

### **MANAGEMENT – SCOPE OF WORK**

- Coordinate and attend Board Meetings in person or via video/phone; draft agenda and meeting notices; post in accordance with Colorado law; record and draft minutes.
- Attend additional study sessions, executive sessions, public forums and special meetings of the Board - draft agenda and meeting notices; post in accordance with Colorado law; record and draft minutes.
- In cooperation with the District accountant and attorney, perform and ensure timely statutory filings with the state, county and local entities as required.
- Maintain District records in accordance with State laws and statutes which affect the District.
- Track action items and keep detailed history of events related to any action items assigned to contractors, consultants and Board members. Perform follow-up.
- Maintain website link, business location and 24-hour availability for emergencies via answering service.
- Respond to inquiries made by government officials, property owners, consultants and residents.
- Maintain insurance coverage, evaluate risks, process claims and monitor status of any reimbursements. Process SDA membership.
- Manage and coordinate services of consultants and staff - coordinate legal and financial matters with General Counsel and Accountant.
- Manage, administer, and enforce any policies, rules and regulations adopted by the Board.
- Coordinate annual budget cycle and participate in budget process.
- Coordinate with auditors for timely completion and filing of annual audits required by state law.
- Perform regular and special election services. CRS has the capability and knowledge to act as your designated election official to ensure all legal requirements are met according to Colorado's Uniform Election Code. Election Services are billed on an hourly basis and are not included in the monthly estimate provided.
- Manage public outreach information via newsletters or website. Facilitate ongoing communication between the District and property owners through website.
- Prepare requests for proposals, solicit, evaluate and present bids for services required. Ensure the legal public bidding process; insurance and bond requirements; manage, perform walkthroughs and monitor construction projects through final payment publication and contract closeout.
- Manage health, environmental and safety issues.
- Monitor legislation regarding tax assessments and valuations for the District and provide feedback to the Board and District accountants to determine financial impact.
- Other additional duties as may be required or requested by the Board.

To perform the services noted above, CRS estimates a monthly charge of \$3,000.

## **ACCOUNTING – SCOPE OF WORK**

### GENERAL ACCOUNTING SERVICES

Compile financial statements, cash position, statement of revenues and expenditures, and revenue and expenditure comparison to budget.

Preparation of annual budget for Board review and adoption.

Maintain all accounting ledgers and supporting accounting documentation.

Maintain accounts payable system, including processing of invoices, creation of payables schedule, and processing of checks.

Monitor cash flow and investments of the district and reconcile all bank accounts.

Publish annual financial notices as required by statute, including budget adoption notice.

Prepare year-end tax summaries including Federal 1099 and 1096 forms.

To perform the serves noted above, CRS estimates a monthly charge of \$3,900.

### ANNUAL AUDIT

Preparation of the annual audit will be billed on an hourly basis in accordance with the following rate schedule:

<b>Directors and Accountants</b>	<b>\$125.00-\$190.00</b>
<b>Support Staff</b>	<b>\$ 90.00-\$160.00</b>

**EXHIBIT B**  
**CERTIFICATION OF COMPLIANCE WITH § 8-17.5-101(1), CRS**

The undersigned acting on behalf of the Company, Community Resource Services of Colorado, LLC, hereby certifies to the District that as of the date listed below, it does not knowingly employ or contract with an illegal alien and it has participated or attempted to participate in the Basic Pilot Program Employment Verification Program administered by the United States Department of Homeland Security, in order to verify that it does not employ any illegal aliens.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

COMMUNITY RESOURCES SERVICES OF  
COLORADO, LLC  
a Colorado limited liability company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT C  
COMPENSATION**

**District Management & Administration:**

Director & Managers	\$125.00-\$195.00
Assistant Managers & Admin. Coordinators	\$105.00-\$165.00
Administrative Support Personnel	\$ 80.00-\$125.00

**Finance & Accounting:**

Director and Managers	\$125.00-\$195.00
Assistant Accountants & Coordinators	\$105.00-\$160.00
Accounting Administration	\$ 80.00-\$125.00

Additional Expenses:

Photocopies will be charged at the cost of \$0.15 per page for black and white; color copies will be charged at the cost of \$0.25 per page.

RESOLUTION NO. \_\_\_\_\_, SERIES 20\_\_

WHEREAS, the Board of Directors of Buckhorn Valley Metropolitan District No. 1 (hereafter referred to as "the District") has authority under Article XIV, Section 18(2)(a) of the Colorado Constitution, and §§ 24-10-115.5, 29-13-102, 29-1-201, et seq., and 8-44-204 of the Colorado Revised Statutes, as amended, to participate in a self-insurance pool for property and liability and/or workers' compensation coverages;

WHEREAS, the Board of Directors has reviewed a contract to cooperate with other Colorado Special Districts by participating in a self-insurance pool for property and liability and/or workers' compensation coverages entitled "Intergovernmental Agreement for the Colorado Special Districts Property and Liability Pool", a copy of which is attached hereto as Exhibit A and incorporated into this Resolution; and,

WHEREAS, the Board of Directors finds that participation in such a pool would be in the best interest of the District, its employees, and its taxpayers.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the District hereby:

1. Approves the contract entitled Intergovernmental Agreement for the Colorado Special Districts Property and Liability Pool, a copy of which is attached hereto as Exhibit A and incorporated into this Resolution by this reference.
2. Authorizes and directs the Chair of the Board of Directors to execute Exhibit A on behalf of the District.
3. Directs the Secretary of the Board of Directors to transmit to the Colorado Special Districts Property and Liability Pool (hereafter referred to as "Pool"), McGriff Insurance Services, Inc., PO Box 1539, Portland, OR 97207-1539, an executed and attested copy of this Resolution and one original of Exhibit A.
4. Designates Type text here as District's initial Representative to the Pool and designates \_\_\_\_\_ as the District's Alternative Representative.
5. Provides the following contact information for the Representative and Alternate Representative:  
Representative Email Address: \_\_\_\_\_  
Representative Mailing Address: \_\_\_\_\_  
Representative Phone Number: \_\_\_\_\_  
  
Alternate Representative Email Address: \_\_\_\_\_  
Alternate Representative Mailing Address: \_\_\_\_\_

Alternate Representative Phone Number: \_\_\_\_\_

6. Understands that, with the adoption of this Resolution, the District becomes a member of the Pool, with coverage to be provided by or through the Pool on such date as determined by the District and Pool.

Director \_\_\_\_\_ moved the adoption of the above Resolution.

Director \_\_\_\_\_ seconded the adoption of the above Resolution.

This Resolution was adopted by a majority vote of the Board of Directors of the District  
on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Chair of the Board

ATTEST:

\_\_\_\_\_  
Secretary of the Board

**INTERGOVERNMENTAL AGREEMENT FOR THE  
COLORADO SPECIAL DISTRICTS  
PROPERTY AND LIABILITY POOL**

As Amended  
SEPTEMBER 16, 2020

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**INTERGOVERNMENTAL AGREEMENT FOR THE  
COLORADO SPECIAL DISTRICTS PROPERTY AND LIABILITY POOL**

**ARTICLE 1. Definitions**

As used in this Pool Agreement, the following terms shall have the meaning hereinafter set out:

- 1.1 **BOARD**: Board of Directors of the Pool.
- 1.2 **CLAIM YEAR**: Any twelve consecutive month period established by the Board. The "initial" claim year is the first claim year established for the Pool.
- 1.3 **DIRECTOR**: A person serving on the Board.
- 1.4 **MEMBER**: A Special District which enters into this Pool Agreement. An "initial" member of the Pool is a member which obtains coverage through the Pool during the initial claim year.
- 1.5 **MEMBER REPRESENTATIVE**: That person who is an elected official, employee, or other person designated in writing by a Member as its representative or alternate to the Pool.
- 1.6 **POOL**: The Colorado Special Districts Property and Liability Pool established pursuant to the Constitution and the statutes of this state by this Pool Agreement.
- 1.7 **POOL AGREEMENT**: This Intergovernmental Agreement for the Colorado Special Districts Property and Liability Pool.
- 1.8 **PUBLIC ENTITY**: A public entity pursuant to Section 24-10-103(5), C.R.S., as amended, and that is formed by this Pool Agreement by Member Special Districts as a separate and independent governmental and legal entity pursuant to the provisions of Article XIV, Section 18(2) of the Colorado Constitution and Sections 29-1-201 *et. seq.*, 8-44-101(1)(C) and (3), 8-44-204, 24-10-115.5, and 29-13-102, C.R.S., as amended.
- 1.9 **SPECIAL DISTRICT**: A political subdivision of the State of Colorado that is a unit of local government pursuant to Article 13, Title 29, C.R.S., as amended, that is a public entity pursuant to Section 24-10-103(5), C.R.S., as amended, and that is eligible for membership in the Special District Association of Colorado according to the Association's bylaws as amended and in effect from time to time. "Special District" also includes any separate entity created by intergovernmental agreement authorized by Part 2, Article 1, Title 29, C.R.S., as amended, if at least one of the contracting entities is a special district and if all of the contracting entities are units of a local government pursuant to Article 13, Title 29, C.R.S., as amended, and are public entities pursuant to Section 24-10-103(5), C.R.S., as

amended.

1.10 SDA BOARD: The Board of Directors of the Special District Association of Colorado.

## **ARTICLE 2. Creation of Pool**

- 2.1 The Colorado Special Districts Property and Liability Pool is hereby formed by this Pool Agreement by Member Special Districts as a separate and independent governmental and legal entity pursuant to the provisions of Article XIV, Section 18(2) of the Colorado Constitution and Sections 29-1-201 *et. seq.*, 8-44-101(1)(C) and (3), 8-44-204, 24-10-115.5, and 29-13-102, C.R.S., as amended.
- 2.2 Each Special District entering into this Pool Agreement has the power under Colorado law to make provision for the property and liability coverages, workers' compensation benefits, and risk management, claims handling, and other functions and services which constitute the specific functions and services jointly provided by means of the Pool.

## **ARTICLE 3. Purposes**

- 3.1 The purposes of the Pool are to provide defined property, liability, workers' compensation and associated coverages, and claims and risk management services related thereto, for Member Special Districts through a self-insurance pool.
- 3.2 It is the intent of the Members to use Member contributions to defend and indemnify, in accordance with this Pool Agreement, any Member against stated liability or loss to the extent of the coverage provided by or through the Pool.
- 3.3 All income and assets of the Pool shall be at all times dedicated to the exclusive benefit of its Members.

## **ARTICLE 4. Non-Waiver of Governmental or Other Immunity**

- 4.1 All Pool money, plus earned interest, is money derived from its Members which consist solely of Special Districts and a Public Entity within the State of Colorado. It is the intent of the Members and the Public Entity that, by entering into this Pool Agreement, they do not waive and are not waiving any immunity provided by any law to the Public Entity, Members or their public employees, as defined in Section 24-10-103(4), C.R.S., as amended.

## **ARTICLE 5. Participation**

- 5.1 The Board shall have the authority to limit the Members of the Pool to those Colorado Special Districts which are members of the Special District Association of Colorado and which properly enter into and adopt this Pool Agreement.

- 5.2 New Members, including special districts which have previously withdrawn or been expelled from the Pool, shall be admitted only upon approval by the Board, subject to the payment of such sums and under such conditions as the Board in each case or from time-to-time establishes.
- 5.3 A Member may participate in the Pool for either or both of the following purposes:
1. The property and liability coverages authorized by Sections 24-10-115.5 and 29-13-102, C.R.S., as amended, and risk management, claims handling and other functions and services related to such coverages;
  2. The workers' compensation coverages authorized by Sections 8-44-101(1)(C) and (3) and 8-44-204, C.R.S., as amended, and risk management, claims handling, and other functions and services related to such coverages.
- 5.4 A Member who is participating in the Pool for one of the purposes set forth in Paragraph 5.3 may be authorized to participate in the Pool for the other of those purposes upon further compliance, as necessary, with Paragraph 5.1 and approval of the Board, subject to the payment of such sums and under such conditions as the Board in each case or from time-to-time establishes.
- 5.5 Upon a vote of the Directors, the Board shall have the authority to approve a Public Entity to participate in the Pool for one of the purposes set forth in Paragraph 5.3. If a Public Entity is allowed to participate in the Pool, the Board must adopt rules, pursuant to Subparagraph 14 of Paragraph 8.2, to ensure that participation by the Public Entity will not interfere or conflict with the Board's obligations to its Members or impair the financial condition of the Pool. The Board shall also have the authority, upon a vote of the Directors, to remove the Public Entity from participation in the Pool. A Public Entity approved by the Board to participate in the Pool is not a Member, does not have powers of a Member under Article 9, and may not request binding arbitration under Paragraph 16.11.

#### **ARTICLE 6. Board of Directors and Officers**

- 6.1 The Pool Board of Directors shall be composed of nine persons to be appointed by the SDA Board. Directors shall be appointed from among the Member Representatives, each from a different Member. At least one (1) Pool Director shall be appointed by the SDA Board from among the SDA directors. Pool Directors who are not SDA directors shall be appointed by the SDA Board from nominations received from Members. In no event may more than three Pool Directors be appointed from any one of the following types of special districts: Ambulance, Fire, Metropolitan, Park and Recreation, Sanitation, Water, Water and Sanitation, Hospital, or Library Districts. Nominations from the Members shall be submitted to the SDA Board at such time as the SDA Board may provide, and any nomination must be approved by the Board of Directors of the Member submitting the

nomination.

- 6.2 The Executive Director of the SDA shall serve as an ex-officio, non-voting Director on the Board. Additionally, an employee of the SDA, as designated by the Executive Director of the SDA, shall serve as a non-voting Director on the Board in the role of Pool Liaison, to act as an intermediary between the Pool Board and its vendors for the purpose of coordinating services.
- 6.3 Terms of the Directors shall be two-year, overlapping terms or until their successors have been appointed, except as provided herein. The term of office shall begin on a January 1, and end at midnight on a December 31, except that the Directors appointed to the first Board following the formation of the Pool shall begin their term prior to a January 1 if the SDA Board so directs. Directors may serve successive terms. The SDA Board shall appoint to the first Board following formation of the Pool, three Directors to serve one-year terms and four Directors to serve two year terms, with the successors of each appointed for two-year terms. Of the two additional persons to be appointed to the Board upon expansion of the Board from seven to nine persons, one shall be appointed to serve a one-year term and one shall be appointed to serve a two-year term, with the successors of each appointed for two-year terms; the terms of office of the two additional persons initially appointed may begin prior to a January 1 if the SDA Board so directs.
- 6.4 The officers of the Pool shall be: president, one or more vice presidents, secretary, one or more assistant secretaries, and comptroller. The officers shall be elected annually by and from among the Directors at the first meeting of the Board following each December 31.
- 6.5 A vacancy shall occur on the Board when a Director:
  1. Submits a written resignation to the Board;
  2. Dies;
  3. Ceases to be a Member Representative;
  4. Fails to attend three consecutive regular meetings of the Board without the Board having entered upon its minutes an approval for an additional absence or absences, except that such additional absence or absences shall be excused for temporary mental or physical disability or illness; or
  5. Is convicted of a felony.
- 6.6 A change in which Member has designated a Director as its Member Representative, including alternates, does not cause a vacancy on the Board unless the change causes there to be more than three Directors appointed from the types of special districts listed in Paragraph 6.1.

- 6.7 Any vacancy on the Board shall be filled by appointment by the SDA Board for the unexpired portion of the term.

#### **ARTICLE 7. Meetings of the Board of Directors**

- 7.1 The Board may set a time and place for regular meetings which may be held without further notice. The Members shall be notified of the time and place set for regular meetings.
- 7.2 Special meetings may be called by the President or by a majority of the Directors by mailing written notice at least ten (10) days in advance to all Directors or by unanimously executed waiver of notice.
- 7.3 Five Directors shall constitute a quorum to do business. All acts of the Board shall require approval of a majority of the Directors present, except as otherwise specifically provided in this Pool Agreement.
- 7.4 One or more or all Directors may participate in any meeting of the Board by means of a conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence at the meeting.
- 7.5 Any action of the Board may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all Directors appointed to the Board. Such consent shall have the same effect as a unanimous vote. The consent may be executed in counterparts.

#### **ARTICLE 8. Powers and Duties of the Board of Directors**

- 8.1 The business and affairs of the Pool shall be managed by the Board which shall exercise all the authority and powers and discharge all the duties of the Pool, except as is otherwise provided in this Pool Agreement.
- 8.2 In addition to all other powers of the Board set out in this Pool Agreement, the Board shall have the power to:
1. Exercise all powers necessary to carry out the purposes of the Pool.
  2. Retain agents, independent contractors and employees necessary to administer and achieve the purposes of the Pool, including, but not limited to, attorneys, accountants, investigators, experts, consultants, and others.
  3. Purchase, sell, encumber, and lease real property, and purchase, sell, encumber or lease equipment, machinery, and personal property.

4. Invest money as allowed for the Pool by Colorado statutes or by lawful regulations adopted pursuant to Colorado statutes, as from time-to-time amended.
  5. Purchase excess insurance, stop-loss insurance, and reinsurance as the Board deems prudent.
  6. Adopt and adjust the coverages provided through the Pool.
  7. Adopt and adjust contributions to the Pool.
  8. Enter into contracts including, but not limited to, contracts for risk management, claim adjustment, and brokerage services.
  9. Reimburse Directors for reasonable and approved expenses, including expenses incurred in attending Board meetings, and pay compensation to each Director for his or her services in a sum not to exceed the maximum sum which may by statute be paid as compensation for services of directors on Colorado special district boards of directors.
  10. Purchase fidelity bonds from an insurance company approved by the Insurance Commissioner of the State of Colorado to do business in Colorado.
  11. Establish reasonable and necessary loss reduction, prevention and risk management policies and procedures to be followed by the Members.
  12. Appoint committees from time to time as the Board considers desirable.
  13. Provide for claims and loss control procedures, and establish conditions to be met prior to the payment or defense of claims.
  14. Establish rules governing its own conduct and procedure, and the authority of its officers, not inconsistent with this Pool Agreement.
  15. Approve attorneys or firms of attorneys to represent Members in claims covered through the Pool.
  16. Delegate in writing fiduciary responsibilities or ministerial powers and duties to individual Directors or committees of the Board or to such agents, employees, and independent contractors as the Board considers desirable.
- 8.3 In addition to all other duties of the Board set out in this Pool Agreement, the Board shall have the duty to:

1. Have an audit of the financial affairs of the Pool be made annually by a certified public accountant in accordance with applicable laws and regulations, and provide a copy thereof to each Member.
2. Select a qualified actuary to conduct periodic reviews of the Pool's funds and any reviews required by the Insurance Commissioner of Colorado, and make recommendations to the Board based on such reviews.
3. Designate one or more persons or entities to administer the Pool.
4. Adopt a budget annually and report the budget to the Members.
5. Three persons shall be appointed annually to an expulsion committee to serve until January 1 of the year following the appointment. One person, to be appointed by the Board, shall be a director on the board, one person, to be appointed by the Board, shall be a representative of the person(s) or entity(ies) providing general administrative services to the Pool, and one person, to be appointed by the SDA Board, shall be a member of the SDA Board.

#### **ARTICLE 9. Members' Powers and Meetings**

9.1 The Members shall have the power to:

- a. Amend the Pool Agreement by a two thirds (2/3) vote of the Members present at a meeting. Written notice of any proposed amendment shall be provided to each Member at least forty-five (45) days in advance of any vote on the amendment.
- b. Dissolve the Pool and disburse its assets by a two thirds (2/3) vote of the Members present at a meeting, pursuant to such notice and in keeping with such procedure as shall be established by the Board, and upon which question proxy voting shall not be allowed. Notice of the dissolution and plan for disbursement of assets and payment of the remaining obligations of the Pool shall be mailed to the Insurance Commissioner of Colorado at least ninety (90) days prior to the effective date of the dissolution. The plan for disbursement of assets and payment of the remaining obligations of the Pool shall not take effect until approved by the Insurance Commissioner of Colorado. Upon dissolution of the Pool, the assets of the Pool not used or needed for the purposes of the Pool, as determined by the Board and subject to approval by the Insurance Commissioner of Colorado, shall be distributed exclusively to Special Districts which are members of the Pool prior to dissolution to be used for one or more public purposes.

9.2 Meetings of the Members shall be held as follows:

- a. Members shall meet at least once annually at a time and place to be set by the Board,

with notice mailed to each Member at least thirty (30) days in advance.

- b. Special meetings may be called by the Board upon its own motion and shall be called by the Board upon written request of thirty (30) percent of the Members, with notice mailed to each Member at least thirty (30) days in advance.
- c. The president of the Pool shall preside at the meetings; a vice president of the Pool shall preside in the absence of the president.
- d. Twenty (20) percent of the Members shall constitute a quorum to do business.
- e. Except for action to dissolve the Pool, proxy voting shall be allowed, pursuant to such procedures as the Board may determine.
- f. Each Member shall be entitled to one vote on each issue, to be cast by its Member Representative. No Director may cast a vote for a Member under Article 9.
- g. Notwithstanding any other provision of the Pool Agreement, any amendment to the Pool Agreement, except an amendment relating to dissolution of the Pool, may be adopted without a meeting if an approval in writing, setting forth the amendment approved, is signed by the Member Representatives of at least two thirds (2/3) of the Members. The approval may be executed in counterparts.

#### **ARTICLE 10. Obligations of Members**

10.1 Each Member and any Public Entity participating in the Pool shall have the obligation to:

- a. Pay all contributions or other payments to the Pool at such times and in such amounts as shall be established by the Board. Any delinquent payments shall be paid with interest pursuant to a policy established by the Board and uniformly applied.
- b. Designate in writing, a Member Representative and one or more alternates for the Members' meetings. The Representative and any alternate shall be an elected official, employee, or other designee of the Member, and may be changed from time-to-time. Any alternate may exercise all the powers of the Representative during a Member meeting in the absence of the Member Representative. No Public Entity Member may have a Member Representative or any alternates.
- c. Allow the Pool and its agents, contractors, employees and officers reasonable access to all facilities and records of the Member as required for the administration of the Pool.
- d. Cooperate fully with the Pool and all agents, contractors, employees and officers



thereof in matters relating to the Pool.

- e. Provide information requested by the Pool, and all agents, contractors, employees, and officers thereof, as reasonably required for the administration of the Pool.
- f. Allow the Pool to make decisions regarding, and to designate attorneys to represent the Member in, the investigation, settlement and litigation of any claim within the scope of coverage furnished through the Pool.
- g. Comply with the claims, loss reduction, prevention and risk management policies and procedures established by the Board.
- h. Promptly report to the Pool all incidents or occurrences which could reasonably be expected to result in the Pool being required to consider a claim, in any form required by the Board and in compliance with any applicable excess insurance or reinsurance.
- i. Promptly report to the Pool the addition of new programs and facilities or the significant reduction or expansion of existing programs and facilities or other acts, as directed by the Board and in compliance with any applicable excess insurance or reinsurance.

#### **ARTICLE 11. Contributions**

- 11.1 The Board shall establish Member and Public Entity contributions pursuant to guidelines established by the Board from time-to-time. The contributions may include an annual contribution and any additional contributions at such times and in such amounts as the Board deems necessary to insure the solvency and avoid impairment of the Pool or which the Board otherwise deems beneficial to protect the financial condition of the Pool. The Board may provide for disbursement of non-surplus credit balances which are, pursuant to guidelines adopted by the Board from time to time, due a Member, and such disbursements shall not be subject to the provisions of Paragraphs 11.2 or 15.1.
- 11.2 Any excess funds which the Board determines are not needed for the purposes of the Pool, may be distributed among the Members and former Members, subject to Paragraph 15.1, pursuant to the following:
- 1. Any such distribution may be in the form of credits against future contributions or in the form of payments, or a combination thereof, as the Board may determine.
  - 2. Money distributed for any claim year shall be distributed only to those Members and former Members which were Members during that claim year and shall be distributed in order of claim year contribution, with Members and former Members of the initial claim year to receive the initial credits.

3. The amount which may be distributed for any claim year shall be established by the Board which shall have discretion as to the amount and timing of any distribution. That amount may not exceed the net sum of (i) the net income of the Pool for that claim year less (ii) the portion of the Pool's net income which equals the amount of the excess loss reserve of the claim year prior to the claim year (which is subject to the distribution) which was taken into income in that claim year plus (iii) the excess loss reserve for the claim year which is subject to the distribution.
  4. For the purpose of this Paragraph 11.2, the term "excess loss reserves" means the amount by which the amounts credited to loss reserves and charged to operating expenses in any claim year exceed the actual losses (including loss adjustment expenses) for that claim year.
  5. The amount established by the Board for a claim year pursuant to Subparagraph 3 of this Paragraph 11.2, shall be distributed among each Member and former Member which was a Member during that claim year based on the ratio which each Member's and former Member's contribution (excluding any surplus contribution) for the claim year bears to the total contributions (excluding surplus contributions) for the claim year and less the contributions of former Members which are not eligible for a distribution pursuant to Paragraph 15.1.
  6. Excess surplus funds contributed by Members and former Members may be distributed only among such contributing Members or former Members, subject to the five year membership requirement of Paragraph 15.1. The Board has discretion to determine, from time to time, the amount and timing of any distribution of such funds. The amount established by the Board shall be distributed among each Member and eligible former Member based on the ratio which each Member's and former Member's surplus contribution bears to the total amount of surplus funds contributed to the Pool by Members and former Members.
  7. No distribution of excess funds, including excess surplus funds contributed by Members, shall be made to any Member or former Member which owes any amount to the Pool until the amount so owed is paid, and any amount so owed may be deducted from the distribution to the Member or former Member.
  8. No distribution of excess funds, including excess surplus funds contributed by Members, shall cause the Pool to become impaired or insolvent.
- 11.3 The total amount of surplus shall be determined by the Board from time-to-time, but in no event shall be less than that required by the Insurance Commissioner of Colorado, and the Board may require all Members to make additional contributions to surplus as the Board deem necessary, or the Insurance Commissioner of Colorado may require.

- 11.4 The Pool shall account separately for contributions made for the property and liability coverages authorized by Sections 24-10-115.5 and 29-13-102, C.R.S., as amended, and for contributions made for the workers' compensation coverage authorized by Sections 8-44-101(1)(C) and (3) and 8-44-204, C.R.S., as amended.
- 11.5 Notwithstanding any provision of this Agreement to the contrary, the Pool Board may establish from any contributions or other assets of the Pool the initial minimum surplus for workers' compensation coverage required by the Insurance Commissioner of Colorado; provided that contributions or other assets derived from coverages other than workers' compensation shall not be used to establish such minimum surplus unless and until the Board first determines that workers' compensation contributions are or will be insufficient to fund such surplus in the amounts and within the time required by the Insurance Commissioner of Colorado; and provided further, that such minimum surplus shall be established from contributions for workers' compensation coverage as soon as the Board determines practicable consistent with ensuring the solvency and avoiding the impairment of the Pool. The Board may issue subordinated debt to establish such minimum surplus consistent with applicable requirements of the Insurance Commissioner of Colorado.
- 11.6 The Pool shall repay the Special District Association of Colorado for its ongoing services to the Pool, provided subsequent to the creation of the Pool, within such time and in such amount as the SDA Board and Pool Board may agree.

#### **ARTICLE 12. Liability of Directors, Officers and Employees**

- 12.1 No Director, officer, committee member, Pool Liaison, or employee of the Pool shall be personally liable for any acts performed or omitted in good faith. The Pool shall indemnify each Director, officer, committee member, Pool Liaison, and employee of the Pool against any and all expense including attorney fees and liability expenses sustained by them, or any of them in connection with any suit or suits which may be brought against them involving or pertaining to any of their acts or duties performed for this Pool or omitted in good faith. This provision shall not be deemed to prevent compromises of any such litigation where the compromise is deemed advisable in order to prevent greater expense or cost in the defense or prosecution of such litigation.
- 12.2 The Pool shall obtain a fidelity bond or other bond to guarantee the faithful performance of each Director's, officer's Pool Liaison's, and employee's duties hereunder, and shall make reasonable effort to obtain errors and omissions coverage for each Director, officer, committee member, Pool Liaison, and employee of the Pool. The Pool shall obtain bonds for all Directors, officers, committee members, Pool Liaison, and employees who handle or have access to Pool funds, in an amount which the Board deems appropriate but no less than the minimum amount deemed necessary by the Insurance Commissioner of Colorado.

### **ARTICLE 13. Withdrawal of Members**

- 13.1 Any Member may withdraw from the Pool by giving written notice to the Board of its intent to withdraw at least sixty (60) days prior to the Member's coverage renewal date. A Member which has different renewal dates for different coverages must give such written notice at least sixty (60) days prior to the first renewal date following any January 1. Unless a different date is agreed to by the Board and the Member, the withdrawal shall be effective on the Member's coverage renewal date but, if the Member has different renewal dates for different coverages, the withdrawal shall be effective the latest renewal date following the written notice of withdrawal. After the notice of withdrawal is given, no coverage will be renewed but all coverages will remain in effect only until their respective expiration dates.
- 13.2 Except as otherwise provided in this Paragraph, any Member which dissolves or which is consolidated with another Special District shall be considered a withdrawn Member with the same rights and obligations under this agreement as any other withdrawn Member, such withdrawal to be effective on the date of dissolution or consolidation, as the case may be. Notwithstanding Paragraph 15.1 and under the following circumstances only, a Special District shall receive the credits against its future contributions to the Pool otherwise allocable to a dissolved or consolidated Member pursuant to Paragraph 11.2:
1. If the Special District was formed by a consolidation which included such a Member, the Special District assumed all rights of that Member under this agreement, and the Special District is a Member no later than one year after the effective date of the consolidation; or,
  2. If the Special District assumed all rights of a dissolved Member under this agreement, and the Special District is a Member no later than one year after the effective date of the dissolution.

A Special District entitled to receive such credits of a dissolved or consolidated Member shall not be obligated for any liabilities to the Pool of the dissolved or consolidated Member in excess of the amount of such credits.

### **ARTICLE 14. Expulsion of Members**

- 14.1 A Member which fails to make a contribution or other payment due to the Pool shall be automatically expelled from the Pool on the sixtieth (60) day following the due date, unless time for payment is extended by the Board and payment is made within any extended period. A notice of failure to make a contribution or other payment due to the Pool shall be mailed to the Member at least thirty (30) days prior to the date of automatic expulsion. If payment is not made within any extended period, the automatic expulsion shall occur on a date, no later than twenty (20) days after the last day of the extended period, set by the Board. An expulsion under this Paragraph 14.1 shall not be subject to the provisions of Paragraph 14.2.

- 14.2 A Member may be expelled by the Board for failure to carry out any other obligation of the Member, or for failure to maintain its membership in the Special District Association of Colorado if such membership was required by the Board at the time the Member was admitted to the Pool, subject to the following:
1. The Member shall receive notice from the Board of the alleged failure and not less than thirty (30) days in which to cure the alleged failure, along with notice that expulsion may result if the failure is not so cured.
  2. The Member shall receive at least thirty (30) days prior notice from the Board, of the date, place and time when the Board will consider expelling the Member from the Pool, and the Member shall be entitled to be present at that meeting and to present evidence and reasons why it should not be expelled. The decision of the Board shall be effective as of the date and upon the terms and conditions set forth in the Pool Agreement and applicable excess or reinsurance policies and otherwise specified by the Board, except as provided in Subparagraph 3 of this Paragraph 14.2.
  3. The Member may appeal the Board's decision to the expulsion committee, which shall schedule a hearing thereon. The Member and the Board shall be provided at least ten (10) days prior written notice of the date, time and place of the hearing. The appealing Member shall be entitled to be present at that hearing and to present evidence and reasons why it should not be expelled and the Board may present evidence and reasons why expulsion is proper. The decision of the expulsion committee shall be final and any expulsion effective as of the date and upon the terms and conditions set forth in the Pool Agreement and applicable excess or reinsurance policies, and otherwise specified by the Board.

#### **ARTICLE 15. Effect of Withdrawal or Expulsion**

- 15.1 No withdrawn or expelled Member shall be entitled to any reimbursement of contributions or distribution or excess funds, including excess surplus funds contributed by Members, unless the Member was a Member for at least five consecutive years.
- 15.2 A withdrawn or expelled Member shall remain obligated for all amounts owing at the time of withdrawal or expulsion for the years during which the member was an active member of the Pool and for all amounts which thereafter become owing for such years pursuant to the Pool Agreement and any other Pool documents which are in effect at the time of withdrawal.
- 15.3 A withdrawn or expelled Member shall be considered a Member of the Pool for the purpose of payment of the Member's claims and expenses related thereto which remain covered under the terms of coverage existing at the time of withdrawal. A withdrawn or expelled

Member shall remain subject to all conditions of coverage and obligations of a Member which are in effect at the time of withdrawal. A withdrawn or expelled Member shall have no right to vote on any matter pending before the Pool membership.

- 15.4 No withdrawn or expelled Member may be adversely affected by any change in the Pool Agreement or other Pool documents adopted subsequent to the effective date of the Member's withdrawal or expulsion.
- 15.5 Unless disapproved by an affected excess carrier or reinsurer, the Pool shall offer a withdrawing or expelled Member, no later than forty-five (45) days after the expulsion or Board's receipt of the written notice of withdrawal, at least twenty-four (24) months extended reporting period on any claims-made coverage provided through the Pool, at a cost reasonably calculated by the Board and subject to any contracts existing at the time of withdrawal or expulsion.

#### **ARTICLE 16. Miscellaneous**

- 16.1 This document constitutes an intergovernmental agreement among those Special Districts which become Members of the Pool. The terms of this agreement may be enforced in court by the Pool or by any of its Members. The consideration for the duties herewith imposed on the Members to take certain actions and to refrain from certain other actions shall be based upon the mutual promises and agreements of the Members set forth herein.
- 16.2 A certified or attested copy of the resolution of approval for each Member shall be attached to the Member's Pool Agreement on file with the Pool.
- 16.3 Except to the extent of the limited financial contributions to the Pool agreed to herein or such additional obligations as may come about through amendments to this Pool Agreement, the contracting parties intend in the creation of the Pool to establish an organization to operate only within the scope herein set out and have not otherwise created as between Member and Member any relationship of surety, indemnification or responsibility for the debts of or claims against any other Member.
- 16.4 The provisions of this Pool Agreement and of the other documents referred to herein, and the assets of the Pool, are for the benefit of the Members of the Pool only, and no other persons or entities shall have any rights or interest in this Pool Agreement or in any of the other documents referred to herein, or in any such assets, as a third party beneficiary or otherwise. The assets of the Pool shall not be subject to attachment, garnishment, or any equitable proceeding.
- 16.5 It is the intention of the Members that the Pool and any income of the Pool not be subject to taxation, and the Members shall cooperate in such respects, including amending this Pool Agreement, as reasonably necessary to establish and maintain the non-taxable status of the Pool.

- 16.6 The Insurance Commissioner of Colorado shall have such authority with respect to the formation and operation of the Pool as is provided by applicable Colorado law.
- 16.7 Except as permitted in this Pool Agreement, and amendments hereto, neither the Board nor any other person or entity is authorized to incur liabilities or obligations or enter into contracts on behalf of the Members.
- 16.8 "Insolvency" as applied to the Pool shall have the meaning as defined in Section 10-3-212, C.R.S., as amended, or as the Insurance Commissioner of Colorado may otherwise provide.
- 16.9 The statutory reporting period for the Pool shall be the calendar year or such other period as the Insurance Commissioner of Colorado may provide.
- 16.10 If any provision of this Pool Agreement is held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the other provisions, and this Pool Agreement is expressly declared to be severable.
- 16.11 If the Board or its authorized representative and a Member disagree on whether a loss is covered through the Pool or on the amount of a covered loss, the Board or its authorized representative or the Member may request that the disagreement be submitted to binding arbitration as follows:
1. Unless otherwise agreed by the Board or its authorized representative and the Member, three persons shall be selected for the arbitration panel, one by the Board or its authorized representative, one by the Member, and one by the two so selected to act as umpire to decide the items upon which the other two disagree. If the two so selected fail for fifteen days to agree upon the umpire, the umpire shall be selected by a judge of a court of record agreed to by the Board or its authorized representative and the Member.
  2. The decision of the panel shall be binding on the Board or its authorized representative and the Member.
  3. The Pool shall pay the fees and expenses of the panelist selected by the Board or its authorized representative, the Member shall pay the fees and expenses of the panelist selected by it, and the fees and expenses of the umpire shall be shared equally by the Pool and the Member.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Title: Chairman, Board of Directors and President

Special District [name]: \_\_\_\_\_

By: \_\_\_\_\_

Title: Chairman, Board of Directors and President

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_

Title: District Secretary



**Glenwood Springs Office**  
901 Grand Avenue, Suite 201  
Glenwood Springs, Colorado 81601  
Telephone (970) 947-1936  
Facsimile (970) 947-1937

**GARFIELD & HECHT, P.C.**

ATTORNEYS AT LAW

Since 1975

[www.garfieldhecht.com](http://www.garfieldhecht.com)

David McConaughy  
[dmcconaughey@garfieldhecht.com](mailto:dmcconaughey@garfieldhecht.com)

November 3, 2021

VIA Email

Buckhorn Valley Metropolitan District No. 1  
c/o John Hill  
2680 18th St.  
Denver CO 80211  
[jvhill.co@gmail.com](mailto:jvhill.co@gmail.com)

Re: LEGAL REPRESENTATION AND FEE AGREEMENT

Dear Mr. Hill:

1. **Scope of Engagement; You Hire Us To Act As Your Attorney:** Thank you for the opportunity to represent the Buckhorn Valley Metropolitan District No. 1. This agreement covers legal services pertaining to the subject matter hereof rendered prior to your signing this letter. Please note we are not business or investment advisers and do not make decisions or give advice as to whether or not it would be advantageous, profitable or otherwise in your best interests to engage in any particular transaction. Where we represent you in connection with the purchase, sale, financing, lease or any other transaction involving property, such representation does not extend to identifying physical or environmental defects or conditions; our review of title matters is circumscribed by those items listed and produced as exceptions to and requirements of title by the particular title company selected by the parties to the transaction and we may rely, without further inquiry, on such title commitments and any other reports, studies or investigations provided by third party professionals, such as surveyors, home inspectors or title companies. Where our representation arises through a referral from another attorney, we assume no responsibility for acts or omissions on the part of such prior attorney. After completion of this engagement, changes may occur in the applicable laws or regulations that may impact your future rights or liabilities. Unless you specifically engage us to provide additional services after the completion of this engagement, we do not undertake to advise you with respect to future legal developments relating to this engagement.

2. **Fees and Staffing; We Bill By The Hour:** The current rate for the persons primarily responsible for this matter is \$350 per hour for David McConaughy and Mary Elizabeth Geiger. This applies to general matters. For litigation or water rights, or for situations where our fees are to be reimbursed by developers or applicants for services from the District, the rate will be \$440 per hour. From

time to time, we may assign other lawyers, primarily associates, or paralegals for discrete tasks. We agree to keep records of all time spent. Unless otherwise advised, you will be billed monthly. Unless otherwise agreed, you will be billed for professionals' time at increments of 1/10<sup>th</sup> hour. Our rates and fees are based on factors set forth in Rule 1.5(a) of the Colorado Rules of Professional Conduct, applicable to all Colorado attorneys. We periodically review and adjust the hourly rates of our attorneys, paralegals or other timekeepers in response to rising costs, market conditions or other factors law firms typically take into account. By this letter you approve adjustments that do not exceed annually ten percent (10%) over the hourly rate initially quoted to you. Any estimate given regarding fees or costs of your matter are preliminary in nature and unless agreed otherwise are not binding on us and should not be relied upon. Actual fees and costs of your matter may vary substantially from estimates. Where we represent you in connection with the sale or purchase of real estate or other transaction where a settlement statement may be utilized, you authorize us to add a line item for the balance of our legal fees to be paid out of the closing. However, such payment does not always constitute full payment of our legal fees. At the time of closing it may not be possible to have accounted for all our legal fees, especially if incurred a couple of days before or on day of closing or in attending to post-closing matters. You agree to remain responsible for all such fees.

3. **Expenses; You Will Reimburse Us For Expenditures On Your Behalf:** You agree to pay promptly for such legal services and to pay all expenses incurred in connection therewith, such as long distance, court reporters, data compilation and management, office copying service, postage, Federal Express or other overnight carriers, filing, recording fees, secretarial overtime, and the like allocated to your legal matter. We may also incur travel, mileage, lodging and subsistence expenses for your legal matter for which you are also responsible. In certain matters, we will need to retain consultants, vendors and experts on your behalf. You authorize us to incur costs on your behalf, but we are not required to do so. We will attempt to obtain your consent before incurring costs in excess of \$500.00, but you understand that circumstances may make it impractical to obtain your consent before incurring such costs. You agree that you are solely responsible for any costs incurred on your behalf. In lieu of advancing costs, we may request funds from you for the payment of anticipated costs, which will be kept in our COLTAF account until the costs are incurred. These payments or requested funds for payment must be paid promptly.

4. **Litigation; We Cannot Guarantee Success:** If our representation of you involves a contested or adversarial matter, we intend to assert your position vigorously and efficiently. However, you must understand that, in representing any client in a contested or adversarial matter, we cannot promise or guarantee the ultimate success of your position, whether in a lawsuit, arbitration or any other forum. Our performance also depends, in large part, upon your cooperation and particularly upon prompt receipt of information and instructions from you from time to time as the matter progresses. Further, the level of activity may, in large measure, depend on the steps the other parties may take and their willingness, if any, to resolve your dispute without a full-scale trial. We hereby advise you of the existence of alternative forms of dispute resolution which might reasonably be pursued to attempt to resolve the legal dispute or to reach the legal objective sought.

5. **Payment; We Charge Interest On Late Payment:** If you are billed for any legal services or expenses, you agree that payment must be made within 30 days of the date of any such bill. You will be charged compounded interest at a periodic monthly rate of 1.5% (this is an annual percentage rate of

18%) on any balance unpaid after 30 days, but in no event less than a 1.5% periodic monthly rate. In cases of our representation of a corporation or other business entity, your signature below constitutes your undertaking to be personally responsible for all statements rendered to such entities in the course of our representation. Unless otherwise agreed, where there are multiple clients, we look to each for full payment of our bills without having to wait for the others to pay their share pursuant to any arrangement that may exist among them. In the event that you do not pay an invoice within forty-five (45) days and no information is brought to our attention regarding a dispute as to the amount owed, we may elect to take legal action including a collection lawsuit to recover our unpaid legal fees and costs and accrued interest. Under such circumstances you agree to pay our reasonable legal fees and costs incurred in such collection activity and you further agree to submit to the jurisdiction of the County or District Court in Colorado of the county in which our office is located where the primary legal services were provided as reasonably determined by us.

6. **Withdrawal; We Reserve The Right To Withdraw, You May Always Terminate Us:**

By written notice, we may withdraw as your counsel for reasons including, but not limited to, failure to pay fees or expenses, failure to cooperate with the firm, conflicting communications where there is more than one client and those mandated by the Colorado Rules of Professional Conduct or otherwise provided in this agreement. If permission for withdrawal from employment is required by court rules, the firm shall withdraw upon receiving permission from the court; and you agree to pay all legal fees until such permission is obtained or otherwise incurred incident to the winding up and conclusion of your representation. Upon withdrawal, you shall immediately pay any remaining balance owed on your account. You may also terminate our employment by notifying us in writing. The firm reserves its right to assert a retaining lien or charging lien, as appropriate, on any unpaid balance.

7. **Privacy; Your Assurance Of Confidentiality, When Disclosures Are Permitted:**

Subject to professional and ethical standards, all communications between us are protected by the attorney-client privilege. This privilege may be waived by you if you share the communications or advice with third parties. We advise you not to share or disclose attorney-client communications to any third parties without first consulting us. Additionally, we advise that you avoid posting any information related to the scope of our representation on social media, as this may result in a waiver of the attorney-client privilege. Any information that you post on social media may be discoverable by adverse parties; we advise you to avoid posting any information related to the scope of our representation or your underlying legal matter on social media. Confidential information may be shared by us with other attorneys, paralegals, contract attorneys or legal assistants and outside consultants retained on your behalf whose services are necessary in the course of our representation. Confidential information may also be disclosed by us to third parties where such disclosure is implied from the legal services you have requested us to provide such as our outside ethics counsel or our IT provider. Further, if requested, client names may be disclosed to any municipality that is or may become a client of the firm. This disclosure is limited to legal matters within the territorial limits of such municipality or properties that may be eligible for annexation and subject to the requirement that the municipality keep such names confidential to the extent permitted by law. We protect all such information with physical, electronic, and procedural safeguards that comply with our professional standards. If we are representing multiple clients in this matter, it is your responsibility to advise us if any information you may give us is confidential. Otherwise, all relevant communications received from you may be disclosed to other clients we represent in this matter.

8. **Insurance; We Are Not Responsible For Insurance You May Have:** It is possible you may have insurance policies relating to the matter wherein you have requested our assistance. You should carefully check all policies and, if coverage may be available, notify the insurance company about the matter as soon as possible. We do not undertake any responsibility to advise you as to the existence, applicability or availability of any insurance coverage or to give notice or tender any claims to any insurance company for any of the matters being handled by this firm. If any insurance company undertakes the payment of any portion of our billing statements, you will still remain responsible for any amounts not paid by the insurance company. Finally, if there is insurance involved in any transaction where we represent you, it is your responsibility to determine whether or not the underwriter has adequate resources to pay any claim. We are not financial analysts, and we do not have the expertise to advise you as to the financial condition of any underwriter or insurance agent.

9. **Conflicts of Interest; Conflict Checks; Conflicts That May Arise Later and Waivers:** To protect both of us and to comply with our professional obligations, our representation is subject to clearance of any conflicts of interest with present or former clients of our firm, as well as approval by the firm's management which reviews all new matters. Conflicts of interest may also arise at some later date. If a conflict arises through no fault of our law firm, for example, as a result of a merger or acquisition you enter, you agree that such circumstances will not be a basis to disqualify us in this or any other matter. If a conflict arises because a particular lawyer joins our firm, you agree that it will be a sufficient remedy to screen such lawyer or lawyers from our engagement(s) for you, including any relevant documents. This firm represents many companies, associations, individuals, municipalities and other governmental or quasi-governmental entities. It is possible that during the time we are representing you, some of our current or future clients will have disputes or transactions with you. You agree that we may continue to represent or undertake in the future to represent existing or new clients in any matter, including litigation, even if the interests of such other clients in such other matters are directly adverse to yours, so long as those matters are not substantially related to our work for you. In cases where the attorney handling your case may be acquainted or friendly with the opposing attorney, we will consider if such relationship may interfere with the effective representation you would expect from us absent such relationship. If we do not perceive such interference, you hereby waive any conflict of interest where such relationship may be present. Should we perceive that such relationship might interfere, we will disclose such circumstances to you and discuss whether you would want to waive the conflict or have us withdraw from representing you.

10. **File Retention Policy; When Your Files May Be Disposed Of:** The firm reserves the right to dispose of any file four (4) years after the legal matters described therein have been resolved or four (4) years after the last work on the matter has been performed, whichever is first. If you wish to obtain your file, you must do so by written request within said four (4) year period. You agree to be responsible for the shipping and handling charges incurred in forwarding these files to you or to any third party you may designate.

11. **Dispute Resolution; We Will Try To Resolve Disputes By Mediation And If Not Successful Then By Arbitration:** In the event of any dispute, controversy or claim (a "**Dispute**") arising from or relating to (1) this agreement or breach thereof, including a dispute as to the amount owed for legal fees or (2) any representation or services provided by the firm including possible malpractice where the Dispute cannot be resolved by direct discussions between the parties, you and this firm agree to first

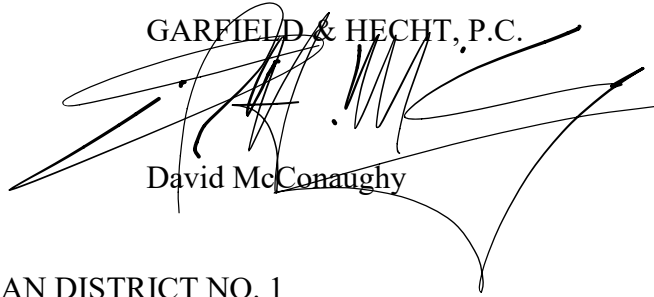
endeavor to resolve the Dispute by mediation before resorting to arbitration. Mediation may be initiated by written notice by either party who has authority to resolve the Dispute. If the Dispute is not resolved within sixty (60) days after the beginning of mediation then, upon written notice by either party to the other, the dispute shall be finally resolved by binding arbitration conducted by, and in accordance with the rules of the Judicial Arbiter Group, Inc., or, if such entity is no longer functioning, its successor or such other entity most nearly performing the same function in Colorado as we may reasonably determine. BY AGREEING TO ARBITRATION THIS FIRM AND YOU AGREE TO WAIVE ANY RIGHT TO A TRIAL BY JURY. On balance we believe arbitration is a worthwhile way to resolve Disputes because it can be done expeditiously and with less expense than litigation. The place of mediation and arbitration shall be in the county in Colorado in which our office is located where the primary legal services were provided as reasonably determined by us. Except as may be required by law, a party, mediator or arbitrator may not, with respect to a Dispute, disclose the existence, content or results of any discussions, mediation, or arbitration hereunder without the prior written consent of both parties, and the process of discussions, mediation, if necessary, and arbitration, if necessary, shall, to the fullest extent allowed by law, be the sole means of resolving any Disputes. If we prevail in the arbitration, you agree to pay our reasonable attorney fees and costs incurred. As to non-payment of legal fees only, and provided neither party has requested mediation or arbitration, we reserve the right to file a collection lawsuit. If we have commenced a collection lawsuit for legal fees owed and in the course of that litigation you raise any matters that are required to be resolved in accordance with the dispute resolution procedures set forth herein, we shall dismiss or stay the litigation and submit the dispute to these resolution procedures.

12. **E-Mail Alerts; Website:** If you have provided us with your e-mail or mailing address, we may periodically send to you via e-mail or regular mail alerts involving firm news or changes in laws. If you do not wish to receive these alerts, please let us know, and we will omit your name from our distribution list. Sending such alerts is solely a courtesy to our clients and does not give rise to any duty on our part to keep you informed of changes in laws or constitute legal advice. Documents we send you by e-mail (whether or not containing confidential information) will not be encrypted unless you request us, in writing, to encrypt outgoing e-mail and we are able, without significant additional cost, to agree with you and implement mutually-acceptable encryption standards and protocols. We make reasonable attempts to exclude from our e-mails and any attachments any virus or other defect that might affect any computer or information technology system. However, it is your responsibility to put in place measures to protect your computer system against any such virus or defect, and we do not accept any liability for any loss or damage that may arise from the receipt or use of electronic communication from us. If you are a corporation or other form of entity, your signature below constitutes a consent to include your name in the Representative Client listing appearing on our website. We never post the names of individuals on the list. If you do not wish to have your name appearing on the listing, please let us know.

Please have the District's President acknowledge acceptance of the terms set forth herein by executing this letter and returning it to the undersigned by email or facsimile at (970) 925-3008. If you prefer to have an electronic version I am happy to forward it to you via DocuSign for ease of signing. We look forward to working with you.

Very truly yours,

GARFIELD & HECHT, P.C.



David McConaughy

AGREED TO:

BUCKHORN VALLEY METROPOLITAN DISTRICT NO. 1

By: \_\_\_\_\_  
President, Board of Directors

If a different billing address is not provided below the address at the beginning of this engagement letter will be used for billing purposes. You may also elect to have your billing emailed to you. Please select your preferred method of delivery below.

Billing Mailing Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

E-Mail – Billing E-mail Address:  
\_\_\_\_\_