

**SHERIDAN STATION WEST METROPOLITAN DISTRICT**

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

[www.colorado.gov/sswmd](http://www.colorado.gov/sswmd)

**NOTICE OF A SPECIAL MEETING AND AGENDA**

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expiration:</u>
Zachary Nemeroff	Treasurer	2027/May 2027
Sara Wright	Assistant Secretary	2027/May 2027
Cathy Kulzer	Assistant Secretary	2025/May 2025
Austin Frey	Assistant Secretary	2025/May 2027
Vacant		2025/May 2025
Peggy Ripko	Secretary	

DATE: February 22, 2024

TIME: 2:00 p.m.

PLACE: *This meeting will be held via Zoom without any individuals (neither District representatives nor the general public) attending in person. The meeting can be joined through the directions below:*

<https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUIZZc1VMWTJFZjFHdz09>

Meeting ID: 862 6755 0643

Passcode: 987572

Dial In: 1-719-359-4580

I. **PUBLIC COMMENTS** *(Each speaker is limited to 3 minutes. Speakers are encouraged to stick to their point. Presentations that are less than three minutes long are more effective than long and repetitive presentations. The Board will not respond during the speaker’s comments, so as to ensure that they do not take away from the speaker’s time, but may choose to respond after the speaker’s time has elapsed, or after the period for public comments has concluded.)*

A. \_\_\_\_\_

II. **ADMINISTRATIVE MATTERS**

A. Confirm quorum. Present Disclosures of Potential Conflicts of Interest.  
\_\_\_\_\_

B. Approve Agenda, Confirm Location of Meeting and Posting of Notices.  
\_\_\_\_\_

C. Consider Approval of Minutes of February 8, 2024 Special Meeting (enclosure).  
\_\_\_\_\_

D. Consider Appointment to fill Vacancy and Election of Officers.

President \_\_\_\_\_

Treasurer \_\_\_\_\_

Secretary \_\_\_\_\_

Asst. Secretary \_\_\_\_\_

Asst. Secretary \_\_\_\_\_  
Asst. Secretary \_\_\_\_\_  
\_\_\_\_\_

- E. Acknowledge Resignation of SDMS and Consider Approval of Request for Proposals for Management/Accounting/Billing Services and Provide Direction Related thereto.
- \_\_\_\_\_

III. OTHER BUSINESS

- A. Board Member comments.
- \_\_\_\_\_

- B. Discuss Board Mission Statement.
- \_\_\_\_\_

- C. Discuss ideas to improve District website.
- \_\_\_\_\_

IV. ADJOURNMENT **THE NEXT REGULAR MEETING IS SCHEDULED FOR JUNE 7, 2024.**

# RECORD OF PROCEEDINGS

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## MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE SHERIDAN STATION WEST METROPOLITAN DISTRICT HELD FEBRUARY 8, 2024

A Special Meeting of the Board of Directors of the Sheridan Station West Metropolitan District (referred to hereafter as the “Board”) was convened on Thursday, February 8, 2024, at 2:00 p.m. This District Board meeting was held by videoconference via Zoom. The meeting was open to the public.

\_\_\_\_\_

**Directors In Attendance Were:**

Zachary Nemeroff  
Sara Wright  
Ashley Begley  
Cathy Kulzer  
Austin Frey

**Also In Attendance Were:**

Peggy Ripko, Travis Hunsaker and David Solin (for a portion of the meeting); Special District Management Services, Inc. (“SDMS”)

Jennifer L. Ivey, Esq. ; Icenogle Seaver Pogue, P.C. (for a portion of the meeting)

Nicolette Cusick, Homeowner

**PUBLIC  
COMMENT**

\_\_\_\_\_

There were no public comments.

**DISCLOSURE OF  
POTENTIAL/  
CONFLICTS OF  
INTEREST**

**Disclosure of Potential Conflicts of Interest:** Ms. Ripko reported that disclosures of potential conflict of interest statements for each of the Directors were filed with the Secretary of State seventy-two hours in advance of the meeting. Ms. Ripko requested that the Directors consider whether they had any additional conflicts of interest to disclose. Ms. Ripko noted for the record that there were no new disclosures made by the Directors present at the meeting and incorporated for the record those applicable disclosures made by the Board Members prior to this meeting and in accordance with the statutes.

**DECLARATION OF  
QUORUM**

\_\_\_\_\_

Ms. Ripko, noting the presence of a quorum, called to order the special meeting of the Board of Directors of Sheridan Station West Metropolitan District.

## RECORD OF PROCEEDINGS

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### ADMINISTRATIVE MATTERS

**Agenda:** Ms. Ripko reviewed with the Board the Agenda for the District's Special Meeting.

Following discussion, upon motion duly made by Director Kulzer, seconded by Director Wright and, upon vote, unanimously carried, the Board approved the Agenda, as amended, to allow for items on which Mr. Solin was reporting to be taken out of order.

**Meeting Location and Posting of Notices:** This District Board meeting was held by Zoom. Ms. Ripko noted that notice of the time, date, and location of the meeting was duly posted.

**Minutes:** The Board reviewed the Minutes of the December 8, 2023 Regular Meeting.

Following discussion, upon motion duly made by Director Wright, seconded by Director Begley and, upon vote, carried with Directors Wright, Begley and Nemeroff voting "Yes" and Director Kulzer abstaining, the Board approved the Minutes of the December 8, 2023 Regular Meeting, as presented.

### COMMUNITY MANAGEMENT

**Water Meter Operations:** Mr. Solin discussed with the Board the meter operations. It was noted Consolidated Mutual is not willing to read individual meters and therefore the District has to read meters and bill for usage. Director Kulzer will be researching options for meter reading and billing in order to ensure the District is getting the best rate.

### FINANCIAL MATTERS

**Payment of Claims:** The Board reviewed the payment of claims as follows:

Fund	Period Ending Dec. 31, 2023	Period Ending Jan.31, 2024	Special Payment Jan.31, 2024
General	\$ 26,894.19	\$ 25,051.09	\$ 1,368.50
Debt	\$ -0-	\$ -0-	\$ -0-
Capital	\$ -0-	\$	\$
<b>Total</b>	<b>\$ 26,894.19</b>	<b>\$ 25,051.09</b>	<b>\$ 1,368.50</b>

Following discussion, upon motion duly made by Director Kulzer, seconded by Director Nemeroff, and, upon vote, unanimously carried, the Board ratified the approval of the payment of claims, as presented.

**Unaudited Financial Statements:** The Board reviewed the Unaudited Financial Statements through the Period Ending December 31, 2023.

## RECORD OF PROCEEDINGS

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Following discussion, upon motion duly made by Director Kulzer, seconded by Director Nemeroff, and, upon vote, unanimously carried, the Board accepted the Unaudited Financial Statements through the Period Ending December 31, 2023.

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### COMMUNITY MANAGEMENT CONTINUED

**Revised Agreement from Environmental Designs, Inc. for 2024 Landscape Maintenance:** Following discussion, the Board determined approval was not needed as the Agreement was approved at the December 8, 2023 meeting.

**Homeowner Appeal regarding United States Postal Service Case:** The Board reviewed the homeowner appeal.

Following discussion, upon motion duly made by Director Begley, seconded by Director Wright and, upon vote, unanimously carried, the Board determined to waive \$45 in late fees due to mail issues.

### **Covenant Enforcement Overview:**

*Trash Cans:* The Board discussed the Homeowners concerns about trash can storage, saying that they cannot fit the cans in their garage. The Board gave direction to continue enforcing as stated in the CC&Rs.

*Enforcement:* The Board discussed the two Homeowners asking for the legal fees to be waived. Following discussion, the Board tabled this item.

*Covenant Enforcement Committee:* The Board discussed appointing a Covenant Enforcement Committee and appointing Director Kulzer and Director Frey to the Committee.

Following review and discussion, upon motion duly made by Director Nemeroff, seconded by Director Wright and, upon vote, unanimously carried, the Board approved the creation of a Covenant Enforcement Committee and appointed Director Kulzer and Director Frey to the Committee. The Committee will consult with SDMS regarding enforcement matters.

### **LEGAL MATTERS**

There were no legal matters at this time.

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### **CAPITAL PROJECT MATTERS**

There were no capital project matters.

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### **OTHER BUSINESS**

**Board Member Comments:** Director Begley stated that she is relocating and will be resigning from the Board. The Board scheduled a special meeting to appoint someone to fill the vacancy on the Board.

## RECORD OF PROCEEDINGS

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**Board Mission Statement:** The Board tabled this discussion.

**Improvements to District Website:** The Board tabled this discussion.

**Board Officer Discussion:** The Board tabled this discussion.

\_\_\_\_\_

**COVENANT  
ENFORCEMENT/  
DESIGN REVIEW**

None other than the discussion above.

\_\_\_\_\_

**ADJOURNMENT**

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

Respectfully submitted,

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



## ICENOGL SEAVR POGUE

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January 5, 2021

**VIA ELECTRONIC MAIL**

Sheridan Station West Metropolitan District  
c/o Megan Becher  
McGeady Becher P.C.  
450 E. 17th Avenue, Suite 400  
[mbecher@specialdistrictlaw.com](mailto:mbecher@specialdistrictlaw.com)

**Re: Legal Services Engagement – Sheridan Station West Metropolitan District**

Board Members:

Icenogle Seaver Pogue, P.C. (the “Firm”) is pleased to submit this letter of engagement for general counsel legal services for Sheridan Station West Metropolitan District within Lakewood, Colorado (the “District”). Our Standard Terms of Engagement are enclosed with this letter and confirm our understanding of the general terms of representation that our Firm will undertake on behalf of the District.

The services of our Firm are primarily measured and charged on a time basis. You will be invoiced for the services that personnel in our Firm perform for you. Invoices are rendered on a monthly basis and they are due upon receipt. Typically, our services are measured in increments of one-tenth of an hour and applied to our hourly rates. The rates of all billing personnel in our Firm are enclosed. All rates are subject to change January 1 of each year.

In addition to legal fees, the Firm will also bill you for its out-of-pocket costs incurred in handling your legal matters. These include photocopying and delivery charges, filing and recording fees, travel expenses, materials and services obtained from others, and other items for which we advance payment on your behalf. These, too, will be billed on a monthly basis. All unpaid fees and costs are subject to a one percent per month interest charge. The exception to time-measured billing are opinion fees, charged for formal legal opinions on which others may rely, notably bond-related and contract enforceability-related opinions. Such opinion fees vary with the complexity of issues involved and will be subject to your agreement in advance of opinion issuance.

Because our Firm works with property owners and political subdivisions, including municipalities, counties, and cities and counties, we are or may be engaged by others to organize and/or represent districts in the same area as this District. We will not represent those clients in matters adverse to the District or the District in matters adverse to those clients.

Before engagement of a new client, we are required by the Colorado Rules of Professional Conduct (the “Rules”) to evaluate whether there are any ethical constraints to representing a client. In the event we believe a conflict under the Rules materializes at any time, we will notify you and

Sheridan Station West Metropolitan District  
January 5, 2021  
Page 2 of 2

deal with the matter appropriately. Additional information regarding conflicts of interest are set forth in the enclosed Standard Terms of Engagement.

This letter, together with the enclosed Standard Terms of Engagement, are intended to formalize our retention as legal counsel. Please confirm your agreement to the terms of our engagement by signing this letter in the space indicated below, sending us a scanned copy with your signature and retaining the original copy for yourself.

If you have any question regarding these terms, please feel free to contact us.

Very Truly Yours,


ICENOGL SEAVER POGUE  
A Professional Corporation



Digitally signed by Jennifer L. Ivey  
DN: cn=Jennifer L. Ivey, o=Iceno-  
Seaver Pogue, P.C., ou,  
email=jivey@isp-law.com, c=US  
Date: 2021.01.05 11:29:32 -0700

Jennifer L. Ivey

Enclosures

Accepted by:   
Title: President  
Date: 1/6/2021





# ICENOGL SEAVR POGUE

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## STANDARD TERMS OF ENGAGEMENT

These Standard Terms of Engagement confirm our understanding of the general terms of the representation Icenogle Seaver Pogue, P.C. (the “Firm”) will undertake on behalf its clients. These terms will apply to any matters we agree to undertake unless we and the client agree in writing to a different arrangement. These Standard Terms of Engagement do not constitute an engagement unless accompanied by a letter describing a specific matter for which the Firm has been engaged.

### 1. Scope of Engagement.

By separate letter we will agree on the exact scope of each engagement, *i.e.*, the specific tasks for which you have hired us. Our representation will be limited to the legal services set out in our written agreement describing the specific scope of each engagement. Our acceptance of an engagement does not involve an undertaking to represent the client or its interests in any other matter. We may agree to limit or expand the scope of our representation from time to time, provided that we confirm any such change in writing.

If you have engaged the Firm to provide legal services in connection with a specific matter, it is possible that after completion of the matter, changes may occur in applicable laws or regulations that could impact your future rights and liabilities. If you separately engage us after completion of the matter to provide additional advice on issues arising from it, the Firm would be pleased to advise you with respect to future legal developments, but will not do so absent a new engagement set forth in a new engagement letter.

At the commencement and during the course of our representation, we may express opinions or beliefs concerning the matter, alternative courses of action, or results that might be anticipated. Any such statement made by any individual lawyer of the Firm is intended to be an expression of opinion only, based on information available to us at the time, and should not be regarded as a promise or guarantee.

### 2. Staffing.

The attorney or attorneys in charge of each engagement will make staffing decisions with the objective of rendering services to you on the most efficient and cost-effective basis. We, of course, will be happy to discuss staffing with you at any time.

### 3. Conflicts of Interest.

To avoid conflicts of interest, we maintain a record of past and present clients and persons or entities with an interest adverse to our clients to determine whether a conflict of interest would be created by any new representation. You should tell us now and in the future whether any other



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individuals or business entities are or become involved in our representation of you. Otherwise, we will assume that our listing is complete.

The Firm represents many other companies, individuals, property owners and political subdivisions, including special districts, public highway authorities, regional transportation authorities, municipalities, counties, and cities and counties. As such, it is possible that present or future clients of the Firm will have disputes or transactions with you. Accordingly, to prevent any future misunderstanding and to preserve the Firm's ability to represent you and its other clients, we agree as follows with respect to certain conflicts of interest issues:

a) Unless the Firm has your specific written consent that the Firm may do so, the Firm will not represent another client in a matter which is substantially related to a matter in which the Firm represents you and in which the other client is adverse to you. The Firm understands the term "matter" to refer to transactions, negotiations, proceedings or other representations involving specific parties.

b) In the absence of a conflict as described in subparagraph (a) above, you acknowledge that the Firm will be free to represent any other client either generally or in any matter in which you may have an interest.

c) The effect of subparagraph (b) above is that the Firm may represent another client on any issue or matter in which you might have an interest including, but not limited to, agreements, contracts, easements, special district formation, intergovernmental agreements, dissolutions, consolidations, etc.

The Firm agrees, however, that your prospective consent to conflicting representation contained in the preceding sentence shall not apply in any instance where, as a result of the Firm's representation of you, we have obtained proprietary or other confidential information of a nonpublic nature that, if known to such other client, could be used in any such other matter by such client to your material disadvantage. You should know that, in similar engagement letters with many of the Firm's other clients, we have asked for similar agreements to preserve our ability to represent you.

#### **4. Affiliates.**

Unless we agree otherwise, our representation is only of the client named in our separate engagement letter and not any parent, subsidiary, sister corporation, limited liability company, or partnership or any officer, director, employee, consultant, contractor, manager, member, shareholder, partner, joint venture, or other affiliate (collectively, "Client Affiliates"). While we will be meeting and interacting with Client Affiliates during the course of our representation, we are not acting as legal counsel to any of these persons in their individual capacities in connection



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with the engagement or otherwise. We encourage these individuals to seek separate legal counsel if necessary.

### **5. Representation Solely By Icenogle Seaver Pogue, P.C.**

In some circumstances you may be represented by more than one law firm for a particular matter. With respect to all services performed on your behalf and all legal representation by the Firm, the Firm shall have no duty to supervise or control any other law firms or lawyers.

### **6. Retention and Disposition of Documents.**

The Firm will maintain records related to this engagement in formats and organization that we, in our sole professional judgment, determine are efficient and appropriate for the conduct of this engagement. Following the termination of this engagement we will return to the client any original documents and other property provided to the Firm in connection with this matter upon our receipt of payment of all outstanding fees and costs. The Firm will retain its own file pertaining to this matter. The Firm's file pertaining to the engagement may include, without limitation, firm administrative records, time and expense reports, personnel and staffing materials, credit and accounting records, and internal lawyers' work product such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports, prepared by or for the internal use of lawyers. We reserve the right to destroy or otherwise dispose of documents or other materials retained by us without further notice to you 6-months after the termination of our engagement unless prohibited from doing so by Rules of Professional Conduct.

### **7. Client Responsibilities.**

Our successful representation of you depends, in part, upon your cooperation with us. As such, we expect that you will be candid and cooperative with us, timely respond to our requests for information, provide us with factual information and documents relating to the matters we are handling for you, keep us informed of developments, be available to confer with us, and make decisions as required to assist us in the progress of our representation. Your candor and cooperation are necessary conditions of the attorney-client relationship, the absence of which will entitle the Firm to withdraw as legal counsel.

Because it is important that we be able to contact you at all times in order to consult with you regarding the client's representation, you will promptly inform us of any changes in your contact information including relevant mail and e-mail addresses and phone numbers. Whenever we need your instructions or authorization in order to proceed with legal work on the client's behalf, we will contact you at the latest address and phone number that we have received from you.



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You will be invoiced for the services that personnel in the Firm perform for you. Invoices are rendered on a monthly basis and payment is due upon receipt, unless there is a question about our invoice, in which case we ask that you promptly advise us thereof, so they may be timely addressed. Interest will be charged on any balance that is not paid on a timely basis at the Colorado statutory rate. Additionally, should our fees not be paid on a timely basis, we are entitled to require a retainer, which we will hold in our Colorado Lawyer Trust Account Foundation (COLTAF) Account, or to withdraw from this engagement as discussed in more detail below.

### **8. Disclaimer of Guarantee.**

We use our best efforts in representing clients, but we make no promises or guarantees regarding the outcome of any particular matter. The Firm makes no warranties, guarantees, or representations concerning the successful termination of a favorable outcome of any legal services performed for its clients, legal action that may be filed by or against a client, or of any negotiations or discussions with other parties on a client's behalf.

### **9. Insurance Coverage.**

You may have insurance policies relating to a matter for which you request our assistance. You should notify your insurance carrier as soon as possible if coverage for our fees and costs may be available. We can advise you on the availability of insurance coverage for fees and costs that we incur on your behalf if you expressly request that we do so and forward to us copies of any applicable insurance policies and other relevant documents. You will be primarily responsible for payment of our fees and costs unless we otherwise agree in writing regardless of whether you have insurance coverage.

### **10. Confidentiality.**

Under applicable Rules of Professional Conduct, the Firm is obliged to avoid revealing information acquired as a consequence of the representation of any client. Therefore, if we have such information from another client, we cannot disclose it to you even if that information is relevant to our representation of you.

We preserve the confidences of our clients in accordance with the Rules and Laws of Professional Conduct as adopted and amended in Colorado and, as applicable, the courts of other states in which our lawyers are admitted to practice law. All non-public information that we obtain from you as a consequence of the representation ("Private Information") is protected under these rules. We use Private Information only to provide the legal and related services that you request from us. We do not disclose Private Information to anyone outside of our Firm, except as authorized by you or described below. We maintain physical, electronic, and procedural safeguards that comply with our professional responsibilities. Because we will not disclose Private



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Information in violation of our professional responsibilities, it is unnecessary for us to provide you with an “opt out” opportunity as otherwise authorized by the Gramm-Leach-Bliley Act.

There are certain limits on our duty to keep confidential the information you disclose to us in connection with our representation. These limits may allow or require disclosure of Private Information to, among other things; (1) prevent the commission of certain crimes or frauds or to rectify substantial injury that would otherwise result from certain crimes or frauds; (2) secure legal advice regarding our compliance with the applicable Rules of Professional Conduct; (3) comply with a court order directing disclosure of such information; or (4) comply with a statute or regulation directing disclosure. We do not expect any of these ethical or legal obligations to arise in the course of our representation, but it is important that you understand these limits to the duty of client confidentiality.

### **11. Audits.**

We are at times asked by our clients to provide information to auditors or other financial professionals for the purpose of preparing financial statements. Should you make such an audit request of us, we may bill for our services on the basis of the Firm’s regular hourly rate for the professionals involved. Should you make such an audit request at a time when you are no longer a client of the firm you understand that our responding to the request is an accommodation that we provide for former clients and does not form a new attorney-client relationship.

### **12. Termination and Withdrawal.**

You have the right to discharge us for any reason at any time upon reasonable notice. If you do so, all unpaid fees and costs will be due and payable no later than thirty (30) days after such discharge and you agree that we may use any funds held in Trust on your behalf to pay unpaid invoices.

In the absence of another agreement, our representation of you will automatically end thirty (30) days after we send our last bill for services rendered on the specific matter set forth in the scope of engagement.

We reserve the right to withdraw from representing you for the reasons permitting attorney withdrawal in relevant Rules of Professional Conduct or applicable law. Where required, we will attempt to give you reasonable notice and time to secure other counsel, obtain approval from any court or tribunal that is necessary, and take reasonable steps to minimize any prejudice you may suffer by our withdrawal. In particular, and by way of example, we reserve the right to decline to perform any further services if any account is past due. We will comply with applicable Rules of Professional Conduct in effectuating any such withdrawal. When appropriate, we reserve the right to terminate the representation, for example, and without limitation, if (a) evidence comes to light indicating that positions you wish us to assert lack factual or legal merit; (b) you fail to cooperate



## ICENOGLE SEAVER POGUE

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in the work necessary to the representation; (c) you breach this agreement by failing to pay fees or reimburse costs; or (d) for professional or ethical reasons we cannot or, in our opinion, should not continue to proceed with the representation.

If you affiliate with, acquire, are acquired by, or merge or combine with another company, you will provide us with sufficient notice to permit us to withdraw as your attorneys if we determine that such affiliation, acquisition or merger creates a conflict of interest between any of our clients and the other party to the affiliation, acquisition or merger, or between any of our clients and the resulting entity following the affiliation, acquisition or merger.

If we elect to withdraw, you will take all steps necessary to effectuate our withdrawal and will pay all outstanding fees or costs owed as of the time of withdrawal.

Following the termination of this engagement, we will return to the client any original documents and other property provided to the Firm in connection with this matter upon our receipt of payment of all outstanding fees and costs.

### **13. Employment Eligibility.**

Pursuant to §§ 8-17.5-101, *et seq.*, C.R.S., the definitions in which are hereby incorporated:

A. The Firm hereby certifies to the client that, as of the date of the client's engagement letter, the Firm does not knowingly employ or contract with an illegal alien who will perform work under this engagement and that the Firm will participate in the E-Verify Program administered by the U.S. Department of Homeland Security and the Social Security Administration (the "E-Verify Program") in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this engagement.

B. The Firm shall not:

1. Knowingly employ or contract with an illegal alien to perform work under this engagement; or

2. Enter into a contract with a subcontractor that fails to certify to the Firm that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this engagement.

C. The Firm has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this engagement through participation in the E-Verify Program.



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D. The Firm shall not use the E-Verify Program to undertake pre-employment screening of job applicants while this engagement is being performed.

E. If the Firm obtains actual knowledge that a subcontractor performing work under this engagement knowingly employs or contracts with an illegal alien, the Firm shall:

1. Notify the subcontractor and the client within three (3) days that the Firm 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 subsection I.E.1 hereof, the subcontractor does not stop employing or contracting with the illegal alien; except that the Firm shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

F. The Firm is required to comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation conducted pursuant to § 8-17.5-102 (5), C.R.S., to ensure that the Firm is complying with this Paragraph.

G. If the Firm violates a provision of this paragraph, the client may terminate the engagement for a breach of the engagement. If the engagement is so terminated, the Firm shall be liable for actual and consequential damages to the client. The client shall notify the Colorado office of the Secretary of State if the Firm violates a provision of this paragraph and the client terminates the engagement.

We look forward to representing you. If you have any questions concerning these Standard Terms of Engagement that arise at any time, or if you ever wish to discuss any matter relating to our legal representation, please do not hesitate to call us.



## ICENOGLE SEAVER POGUE

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### 2021 BILLING RATES

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T. Edward Icenogle	Of Counsel	\$360.00 per hour
Tamara K. Seaver	Shareholder	\$420.00 per hour
Alan D. Pogue	Shareholder	\$420.00 per hour
Deborah A. Early	Shareholder	\$340.00 per hour
Jennifer L. Ivey	Shareholder	\$340.00 per hour
Anna C. Wool	Shareholder	\$245.00 per hour
Shannon Smith Johnson	Shareholder	\$245.00 per hour
Alicia J. Corley	Associate	\$240.00 per hour
Karlie R. Ogden	Associate	\$210.00 per hour
Grant N. Simon	Associate	\$200.00 per hour
Jacqueline K. Llinas	Associate	\$200.00 per hour
Stacie L. Pacheco	Paralegal	\$160.00 per hour
Donette B. Hunter	Paralegal	\$160.00 per hour
Megan Liesmaki	Paralegal	\$155.00 per hour



INSERT DISTRICT NAME

REQUEST FOR PROPOSALS

INSERT PROJECT NAME

Insert Date

**INSERT DISTRICT NAME**

**REQUEST FOR PROPOSALS**

**INSERT PROJECT NAME**

**1. INVITATION TO PROPOSE.**

**A. Invitation.**

1. The \_\_\_\_\_ District (the “District”) hereby invites and solicits sealed Proposals for the insert project description as described below, to be received by \_\_\_\_\_ at \_\_\_\_\_ until   :00   .m. on \_\_\_\_\_ day, \_\_\_\_\_, 20  . Proposals will not be publicly opened and read.

2. A pre-Proposal meeting will be held at   :00   .m. on \_\_\_\_\_ day, \_\_\_\_\_, 20  , at \_\_\_\_\_. Attendance at the pre-Proposal meeting is strongly recommended for all Proposers.

3. Proposals requirements and Proposal packages are available from \_\_\_\_\_.

**B. Project Description.**

1. The project scope involves insert project description, and coordination with the District, all as described in the Contract (the “Project”). The Project location is at insert project location in \_\_\_\_\_ County, Colorado.

**2. DEFINITIONS.**

For purposes of this Request for Proposals the following terms are assigned the following meanings unless the context otherwise requires:

§ “Contract” shall mean a contract in substantially the form attached hereto, including all attachments and exhibits thereto. The anticipated term of this contract is for \_\_\_\_\_ years.

§ “Proposer” means the prime Contractor acting for itself and those individuals, partnerships, firms, or corporations comprising the Proposer’s team by subcontract or other agreement.

§ “Proposal” means the complete response of the Proposer to this Request for Proposals, including, but not limited to any statement of qualifications, technical proposal and price proposal, and supporting documentation.

All capitalized terms used herein and not defined herein shall have the meanings ascribed to them as provided in the Contract.

Unless the context shall otherwise clearly require, all words used herein in the singular form shall extend to and include the plural and all words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

### **3. CONTENTS OF PROPOSAL.**

#### **A. Statement of Qualifications.**

1. The District will determine whether a Proposer is qualified to perform the services required in this Request for Proposals based on the Proposer's experience and capabilities. The Proposer shall provide the necessary experienced personnel, facilities and resources to support the services and activities required by this Request for Proposals.

2. The Proposer shall furnish a description of the legal entity and documentation regarding formation of (corporation, joint venture, partnership, or other association) proposed to perform the services required under this Request for Proposals. If an Association, state which entity is primarily responsible for the Work. The Proposer must be authorized to do business in the State of Colorado and comply with all applicable laws and regulations of the State of Colorado. The Proposer shall provide complete documentation of proper incorporation, registration, licensing, certification, etc. as required for the entity to legally perform the services required.

3. The Proposer shall provide a written narrative which describes the Proposer's previous project experience as discussed below. The narrative shall not exceed five (5) pages. The narrative shall describe the Proposer's experience during the past five (5) years in performing the variety of Work required for this Project, quality of the work performed, significant successes, awards earned and improvements accomplished. The Proposer shall briefly describe the circumstances surrounding any work completed which had any special or unique requirements.

4. The Proposer shall provide five (5) professional references and the name and address of client(s), name and phone number of its responsible representative, the period during which work was conducted, the current status, a description of the work done by the Proposer, the approximate cost and the contractual arrangement (i.e., cost-type, fixed price). The Proposer shall be deemed to grant approval to the District to contact all persons and entities whose identities are provided and ask questions deemed relevant by the District.

#### **B. Financial Statement.**

1. The Proposer shall provide a narrative which describes the Proposer's business structure and financial viability. The Proposer and each joint venture and Association member, if any, shall provide its two most current financial statements (the latest one not more than 12 months old). The financial statement shall be audited by an

independent certified public accountant. The financial statement shall include, but not be limited to, an Opinion of the Certified Public Accountant on the statement(s), a Balance Sheet, an Income Statement, a Statement of Cash Flows, Notes to Financial Statement(s), a Statement of Direct (Operational) Costs and a Statement of Indirect (General and Administrative) Costs and other financial information necessary for the District to determine financial adequacy of the Proposer.

**C. Technical Proposal.**

1. The Proposer shall provide a Technical Proposal which shall demonstrate the Proposer's understanding of the Work required by the Project for which this Request for Proposals is issued and shall discuss how this Work will be completed. The Technical Proposal shall define the responsibility and accountability for the functions provided by specific key personnel within the organization and their time commitments to the project.

2. The Proposer shall provide organizational charts which show the entire proposed organizational structure, including the relationship of the corporate and/or division organization. A description of the Proposer's internal lines of responsibility, and the interface relationships with the District, on-site contractors and any subcontractors shall be shown.

3. The Proposer shall submit a management and staffing plan for the Contract which shall include an organization chart naming key personnel and identifying all proposed contractors and subcontractors, if any. The plan shall completely describe the staffing and management approach, resources and staffing to be utilized and shall specifically address continuity of services. The plan shall provide tasks, a time schedule for performance of these tasks and procedures for evaluating tasks performance. This plan shall discuss how proper coordination and exchange of information will be accomplished. The Proposer shall provide resumes and experience summaries of key personnel assigned to the District. The Proposer shall provide a chart showing the availability of the key personnel including current assignments and assignment termination dates and percentage of their time assigned to this Project. Those personnel identified in the Proposal shall be available in accordance with the proposer's staffing plan. Any changes in the personnel may be cause for disqualification.

**D. Price Proposal.**

1. The Proposer shall submit a Price Proposal that provides the District with an offer to perform the Work for the Project for which this Request for Proposals is issued.

2. A Price Proposal will be considered irregular and may be rejected if it shows omissions, alterations of form, additions not called for, conditional or unauthorized alternate bids, irregularities of any kind, or if the unit prices are obviously unbalanced, either in excess of or below the reasonable cost analysis values.

**E. Proposal Submission Requirements.**

1. Proposals by corporations must be executed in the corporate name by a corporate officer, accompanied by evidence of authority to sign, and the corporate seal must be affixed and the signatures attested by the secretary or an assistant secretary. The corporate address and state of incorporation shall be shown below the signature.

2. Proposals by partnerships must be executed in the partnership name and signed by a partner accompanied by evidence of authority to sign and whose title must appear under the signature, and the official address of the partnership must be shown below the signature.

3. Proposals by sole proprietorships and joint ventures shall be signed by each proprietor or by each participant in the joint venture or by an authorized agent of each participant.

4. The names of all persons signing Proposals must also be legibly printed or typed below the signature. A Proposal by a person who affixes to his signature the word “president,” “secretary,” “agent,” or other designation without disclosing his principal may be held to be the Proposal of the individual signing. Evidence of the authority of the person signing shall be furnished.

5. The Proposal shall contain an acknowledgment of receipt of all addenda, the numbers of which shall be inserted on the Proposal.

6. No alterations in Proposals, or in the printed forms therein, by erasures, interpolation, or otherwise will be acceptable unless each such alteration is signed or initialed by the Proposer; if initialed, the District may require the Proposer to identify any alteration so initialed. No alteration in any Proposal shall be made after the time designated for the receipt of Proposals.

7. The address to which communications regarding the Proposal are to be directed must be shown.

8. Each Proposal must include all information and documents required by this Request for Proposals. Failure to furnish all required information and documents may result in the rejection of the Proposal.

9. Proposals shall be submitted at the time and place indicated herein and shall be included in an opaque envelope addressed to the District and identified on the outside with the Proposer’s name and address and with the words “Proposal for the insert project name, ATTN: insert name, insert person’s title” on the face thereof. If the Proposal is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the same notation.

10. Proposals shall be submitted to the designated location prior to the time and date for receipt of Proposals indicated herein, or the modified time and date indicated by addendum. Proposals received after the time and date for receipt of Proposals may be

returned unopened. Proposer shall assume full responsibility for timely delivery at the location designated for the receipt of Proposals. A receipt for delivery of a Proposal will be available upon request by the Proposer.

11. Oral, telephone, telegraph, facsimile, or e-mail Proposals are invalid and will be rejected.

12. No Proposer may submit more than one Proposal for each portion of the proposed Work. Multiple Proposals under different names will not be accepted from one Proposal.

#### **4. NOTIFICATIONS, REQUIREMENTS AND CONDITIONS.**

##### **A. Proposer Notification.**

1. Proposers are hereby notified that the District's contracts are not subject to any of the formal processes, procedures, or legal requirements of the Construction Bidding for Public Projects Act, Sections 24-92-101, *et seq.*, Colorado Revised Statutes.

2. Certain of the District's contracts are subject to the Keep Jobs in Colorado Act of 2013, part 1 of article 17 of title 8, Colorado Revised Statutes, in which case the District will consider preferences for employment of Colorado labor as required by the Keep Jobs in Colorado Act of 2013.

3. Evaluation of Proposals and, if the District so chooses, selection of a successful Proposer shall be performed in a manner which the District determines, in its sole discretion, to be in the District's or public interest.

4. Proposers shall have no right to any administrative, legal, or other protest, appeal, or challenge of any matter or grievance in connection with the solicitation or award of any contracts, including the evaluation of Proposals and selection of a successful Proposer. In submitting a Proposal, each Proposer acknowledges that it shall bear all costs associated with the preparation and submission of such Proposal and that it shall under no circumstances have any right to recover the costs of such Proposal preparation from the District or any other costs, expenses, or damages in the event such Proposal is not accepted by the District.

5. In addition to the basis for rejection set forth in this Request for Proposals, the District reserves the right to reject any or all Proposals, to waive any and all informalities or technicalities, or to advertise for new Proposals if the District determines, in its sole discretion, that such actions are desired.

##### **B. Examination of Contract and Proposal Documents.**

1. Before submitting a Proposal, each Proposer must (a) examine all Proposal documents and the Contract thoroughly; (b) visit the Project site to familiarize itself with local conditions that may in any manner affect cost, progress, or performance,

or any other aspect of the proposed Work; (c) familiarize itself with federal, state, and local laws, ordinances, rules, and regulations that may in any manner affect cost, progress, or performance of the proposed Work; and (d) study and carefully correlate Proposal's observations with the Contract and Proposal documents. Any visit must be coordinated with insert name at (303) 537-\_\_\_\_\_.

2. The submission of a Proposal will constitute an incontrovertible representation by the Proposer that he has complied with each requirement of this Request for Proposals and that the Contract is sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the proposed Work.

3. If a Proposer discovers an error or omission in the Proposal documents or the Contract, the Proposer shall immediately notify the District and if the District agrees that an error or omission has been made, it may make any necessary revisions.

**C. Interpretations.**

1. All questions about the meaning or intent of the Contract or this Request for Proposals prior to Proposal submittal are to be submitted to insert name at \_\_\_\_\_ . All questions must be in writing and may be transmitted by e-mail insert e-mail address, hand delivery or U.S. Mail. Any replies that the District elects to make will be made through the issuance of written addenda. Questions received after the cutoff date for receipt of questions will not be answered. Only questions answered by written addenda will be deemed to interpret the Contract or this Request for Proposals. Oral and other interpretation or clarifications will be without interpretive effect. Addenda will be e-mailed, mailed, faxed, or delivered to all parties recorded by the District as having received this Request for Proposals. No addenda will be issued after the proposed date of final addenda, except an addendum, if necessary, postponing the date for receipt of Proposals or withdrawing the request for Proposals.

2. The District may cancel this RFP or make any change to the RFP and/or Contract at any time, and any change to the RFP or the Contract made prior to the opening of Proposals will be issued by the District by addendum.

**D. Basis for Rejection.** Proposals will be considered irregular and may be rejected for any of the following reasons:

1. If the Proposal does not contain original signatures.
2. If there are unauthorized additions, conditional or alternate Proposals, or irregularities of any kind which may tend to make the Proposal incomplete, indefinite, or ambiguous.
3. If the Proposal fails to acknowledge in the Proposal the receipt of all addenda current on the date of opening of Proposals.

4. If the contractor submitting the Proposal is affiliated with another contractor that has submitted a Proposal on the same public project.
5. If the Proposer has been asked in writing to show why it should not be found in default on a District contract.
6. If the Proposal is in any way nonconforming, nonresponsive, or conditional.
7. Any other reason which the District, in its sole discretion, deems to be in its best interests.

**E. Modification and Withdrawal of Proposals.**

1. Withdrawal of Proposals prior to Proposal Submittal Deadline. Proposals submitted early (prior to the deadline established for submittal of Proposals) may be withdrawn by a potential Proposer prior to the Proposal submittal deadline. Withdrawal shall be effected by a Proposer, or its authorized representative, appearing in person at the address to which the Proposal was submitted, providing proof of authority, and submitting a written withdrawal request.

2. Withdrawal and Modification of Proposals following Proposal Submittal Deadline.

a. *District Identified Proposal Mistakes/Irregularities.* If the District reviews a Proposal and believes a mistake has been made by a Proposer, the District may seek confirmation of the Proposal's amount and content from the Proposer. If the Proposer fails to provide confirmation, in writing, within forty-eight (48) hours of the District's request, the Proposal may be rejected by the District as non-conforming or deficient.

b. *Proposal Alleged Mistakes.* Mistakes alleged by Proposers following the Proposal submittal deadline, and prior to Contract award, shall be alleged by the Proposer's filing of a written "mistake statement." The mistake statement shall describe in detail the nature of the mistake, potential consequences flowing therefrom, and shall suggest corrective action. The District will review a mistake statement and, in its sole discretion, may grant or deny the requested relief in the best interest of the District. The filing of a mistake statement does not in any way guaranty that the opportunity to correct the mistake will be granted by the District.

3. Except as expressly authorized by this Section, Proposals may not be withdrawn once they have been submitted to the District.

**5. AWARD AND EXECUTION OF CONTRACT.**

**A.** After the Proposals are opened, they will be evaluated by the District.



**B.** If the Contract is awarded, the District intends that an award will be made within sixty (60) calendar days after Proposal opening.

**C.** In addition to the District's right to reject any and all Proposals as provided herein, the District reserves the right to negotiate Contract terms.

**D.** If applicable, at the time of the execution of the Contract, the successful Proposer shall furnish a Payment, Performance, and Warranty Bond. Each bond shall be in a penal sum equal to the nearest integral one hundred dollars in excess of the contract amount. The bonds and security shall be acceptable to the District.

**E.** The Contract shall be signed and returned to the District by the successful Proposer together with the Contract bonds (if applicable) and insurance certificates, within ten (10) working days after the date of award. The Contract will not be considered effective until it has been fully executed by all of the parties to the Contract. Execution of this Contract is subject to approval by the District's Board of Directors.

## **6. MISCELLANEOUS.**

**A. Sales and Use Tax.** The District is a political subdivision of the State of Colorado and is exempt from state sales and use tax on construction and building materials to contractors and subcontractors for use in construction of public works, in accordance with Sections 39-26-708(1)(a) and 39-26-713(2)(d), Colorado Revised Statutes. Said state taxes shall not be included in the Proposal. In addition, Proposals should consider all similar sales and use tax exemptions made available by other applicable taxing entities.

### **B. Trade Secrets and Open Records Act.**

1. Application of the Act. The Proposer acknowledges and agrees that all documents submitted to the District are subject to the provisions of the Colorado Open Records Act, Sections 24-72-200.1, *et seq.*, Colorado Revised Statutes (the "Open Records Act"), and the Proposer acknowledges that the District shall abide by the Open Records Act, including honoring all proper public records requests made thereunder. The Proposer shall be responsible for all costs incurred in connection with any determinations required to be made by a court, pursuant to the Open Records Act. The Proposer is advised to contact legal counsel concerning such acts in application of the Open Records Act to the Proposal.

2. Confidential or Proprietary Materials. If the Proposer deems any document(s) which it submits to the District to be confidential, proprietary, or otherwise protected from disclosure under the Open Records Act, then it shall appropriately label such document(s), and submit such document to the District together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. This request will either be approved or denied by the District; however, the District will make a good-faith effort to accommodate all reasonable

requests. The Proposer understands and agrees that, regardless of any position taken by the District or the Proposer, a court may order production of material deemed confidential, proprietary, or exempt from disclosure, and such a decision would be beyond the control of the District.

3. Redaction. In the event either the District receives a records request for the Proposals or any documents which the Proposer deems confidential, proprietary, or otherwise protected from disclosure under the Open Records Act and the Proposer desires to redact any portion thereof prior to the release of such documents, the Proposer must immediately submit an affidavit, along with such redacted documents, indicating that the redacted material is confidential financial information likely to cause substantial harm to the Proposer’s competitive position or such other justification as the Proposer has for withholding that information.

4. Stakeholder. In the event of litigation concerning the disclosure of any document(s) submitted by the Proposer to the District, the District’s sole involvement will be as stakeholder retaining the document(s) until otherwise ordered by the court, and the Proposer shall be fully responsible for otherwise prosecuting or defending any actions concerning the document(s) at its sole expense and risk. The Proposer shall be responsible for reimbursing the District for all costs, legal fees, and other expenses incurred by the District as the result of a request or decision by the Proposer that any materials submitted to the District be withheld from any request under the Open Records Act or similar law.

7. **PROPOSED SCHEDULE**. The following schedule is subject to change. Any change will be issued by addendum.

Proposal package available	day, , 20
Pre-Proposal meeting	day, , 20, .m.
Cutoff date for receipt of questions	day, , 20
Date for final addendum	day, , 20
Proposals due	day, , 20, before .m.
Notification to potential most responsive Proposer	day, , 20
Anticipated Contract approval by the District Board	day, , 20
Anticipated notice to proceed	day, , 20
Contract Completion Date	day, , 20

**ATTACHMENT 1**

**INSERT DISTRICT NAME**

**REQUEST FOR PROPOSALS**

**INSERT PROJECT NAME**

**INSERT APPLICABLE CONTRACT**