

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services ("Agreement"), effective the 24 day of Jan, 2024 ("Effective Date"), is entered into by and between Roxborough Village Metropolitan District, a political subdivision of the State of Colorado ("Client"), and Farnsworth Group, Inc., an Illinois Corporation ("Farnsworth Group"). Client and Farnsworth Group are referred to collectively as the "Parties" and individually as a "Party."

Services: Farnsworth shall perform the services ("Services") set forth in the September 28, 2023 *Community Park – Overall Survey and Design Level Survey Proposal* ("Proposal") attached as **Attachment A**. Farnsworth Group's performance of the overall survey and design level survey in accordance with the Proposal constitutes the "Project."

Standard of Care: Services performed by Farnsworth Group under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other representation expressed or implied, and no warranty or guarantee, is included or intended in this Agreement, or in any report, opinion, document, or otherwise.

Entire Agreement: This Agreement constitutes the entire agreement between the Parties. This Agreement supersedes all prior communications, understandings, and agreements, whether written or oral. Both Parties have participated fully in the preparation and revision of this Agreement, and each Party and its counsel have reviewed the final document. Any rule of contract construction regarding ambiguities being construed against the drafting party shall not apply in the interpreting of this Agreement, including any Section Headings or Captions.

Precedence: This Agreement shall take precedence over any inconsistent or contradictory provisions contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding Farnsworth Group's Services; provided, that any modification to this Agreement that is in writing and signed by the Parties shall take precedence over any contradictory or inconsistent term or condition in this Agreement.

Fee Schedule: In exchange for Services satisfactorily performed, Client shall pay the Farnsworth Group all fees and charges set forth in Attachment A.

Opinions of Cost: Farnsworth Group's opinions of probable Project cost or construction cost for the Project will be based solely upon its own experience with construction. Since Farnsworth Group has no control over the cost of labor, materials, or equipment, or over a contractor's method of determining prices, or over competitive bidding or market conditions, Farnsworth Group cannot and does not guarantee that proposals, bids, or the construction cost will not vary from its opinions of probable cost. If Client wishes greater assurance as to the construction cost, Client should employ an independent cost estimator.

Invoices: Client will pay Farnsworth Group all fees, including the fees for any "Additional Services," in accordance with Attachment A (the "Fees") within thirty (30) calendar days of Farnsworth Group's satisfactory completion of the Project. If Client fails to pay all undisputed Fees within thirty (30) days of satisfactory completion of the Project, all undisputed amounts shall accrue interest at the rate of 8% per annum until paid in full.

Compliance with Law: In the performance of Services to be provided hereunder, Farnsworth Group and Client agree to comply with applicable federal, state, and local laws and ordinances and applicable lawful governmental or quasi-governmental order, rules, and regulations.

Modification to this Agreement: Client or Farnsworth Group may, from time to time, request modifications or changes in the scope of Services to be performed hereunder. Such changes, including any increase or decrease in the amount of Farnsworth Group's compensation, to which Client and Farnsworth Group mutually agree shall be incorporated in this Agreement by a written amendment to this Agreement signed by the Parties.

Notice: All notices required or permitted under this Agreement must be in writing and given by personal delivery or (certified or registered mail, return receipt requested with postage prepaid at the addresses set forth below. Notice by personal delivery that be deemed given when the Notice is accepted or rejected by the intended Party. Notice by registered or certified mail shall be deemed given upon receipt or three (3) business days from deposit in the mail, whichever occurs first.

If to Client:
Roxborough Village Metropolitan District
Attn: Peggy Ripko, District Manager
Special District Management Services
141 Union Boulevard, Suite 150
Lakewood, CO 80228-1898

If to Farnsworth Group:
Farnsworth Group, Inc.
Attn: J.R. McGehee
Sr. Land Surveying Manager
(970) 484-7477
E-mail: jmcgehee@f-w.com

With a copy (which will not constitute notice) to:
Farnsworth Group, Inc.
Attn: Ryan Perras
5613 DTC Parkway, Suite 1100
Greenwood Village, CO 80111
E-mail: rperras@F-W.com

Facsimile; PDF Signatures. Execution and delivery of this Agreement by delivery of a facsimile or portable document format ("PDF") copy bearing the facsimile or PDF signature of either Party or both Parties shall constitute a valid and binding execution and delivery of this Agreement by such Party. Such facsimile and PDF copies shall constitute enforceable original documents.

Force Majeure: Obligations of either Party under this Agreement, other than payment obligations, shall be suspended, and such Party shall not be liable for damages or other remedies while such Party is prevented from complying herewith, in whole or in part, due to contingencies beyond its reasonable control, including, but not limited to strikes, riots, war, fire, acts of God, injunction, compliance with any law, regulation, or order, whether valid or invalid, of the United States of America or any other governmental body or any instrumentality thereof, whether now existing or hereafter created, inability to secure materials or obtain necessary permits, provided, however, the Party so prevented from complying with its obligations hereunder shall promptly notify the other Party thereof.

Assignment: This Agreement, and any right or interest under this Agreement, cannot be assigned by either Party without the other Party's consent.

Dispute Resolution: In an effort to resolve any conflicts that arise during the performance of the Services for the Project or following completion of the Project, the Parties agree that all disputes shall first be negotiated between senior officers of Client and Farnsworth Group for up to thirty (30) days before being submitted to mediation. If negotiation and mediation are not successful, either Party may commence a civil action in the District Court for Douglas County, Colorado.

Timeliness of Performance: Farnsworth Group will begin work under the Agreement upon receipt of a fully executed copy of this Agreement. The Parties are aware that many factors outside Farnsworth Group's control may affect its ability to complete the Services. Farnsworth Group will perform these Services with reasonable diligence and expediency consistent with sound professional practices.

Termination: If either Party defaults in performing any of the terms or provisions of this Agreement and continues in default for a period of fifteen (15) days after written notice thereof, the Party not in default shall have the right, but not the obligation, to immediately terminate this Agreement.

Ownership of Deliverables: Upon Farnsworth Group's satisfactory completion of the Project and Client's payment of all undisputed Fees, the Client shall have all rights, title, and interest in and to any reports, drawings, specifications, surveys, electronic media, and any other document or data prepared by Farnsworth Group and provided to Client as the deliverables under the Proposal ("Deliverables"). Client releases Farnsworth Group of any liability arising from or relating to Client or its agent's reuse of all or a portion of the Deliverables.

Subcontracting: Farnsworth Group shall have the right to subcontract any part of the Services without the consent of Client.

Third Party Beneficiaries: This Agreement and the Services are for the sole benefit of the Parties. The Parties expressly intend that any other individual or entity shall be deemed an incidental beneficiary only and shall have no right or interest in this Agreement or the Services for any purpose whatsoever.

Right of Entry: Client shall provide for Farnsworth Group's and/or any subconsultant's right to enter property owned by Client and/or others in order for Farnsworth Group and/or any subconsultant to perform the Services.

Authority and Responsibility: Client agrees that Farnsworth Group and any subconsultant shall not guarantee the work of any construction contractor or construction subconsultant, shall have no authority to stop work, shall have no supervision or control as to the work or persons doing the work, shall not have charge of the work, shall not be responsible for safety in, on, or about the job site, or have any control of the safety or adequacy of any equipment, building component, scaffolding, supports, forms, or other work aids.

Electronic Files Transfer: Farnsworth Group may prepare electronic files which contain machine-readable information or certain information for a project ("Project Files"). Client may request Project Files to facilitate Client's understanding of the project. The Parties recognize that the Project Files are subject to alteration, either intentionally or unintentionally, due to, among other causes, transmission, conversion, media degradation, software error or human error. The Parties further understand that the transfer of Project Files from the system and format used by Farnsworth Group to an alternate system or format cannot be accomplished without the introduction of anomalies and/or errors.

Consequential Damages: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Client nor Farnsworth Group, their respective officers, directors, partners, employees, contractors or subconsultants

shall be liable to the other or shall make any claim for incidental, indirect, or consequential damages arising out of or connected in any way to the Project or Services performed under this Agreement. This mutual waiver of consequential damages shall include, but not be limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation, and any other consequential damages that either Party may have incurred from any cause of action including negligence, strict liability, breach of contract, and breach of strict and implied warranty.

Personal Liability: It is intended by the Parties that the individual employees, officers, or directors of the Parties shall not be subject to any personal legal exposure for the risks associated with this Project.

General Insurance and Limitation: Farnsworth Group is covered by commercial general liability insurance, automobile liability insurance and workers compensation insurance with limits which Farnsworth Group considers reasonable. Certificates of all insurance shall be provided to Client upon request in writing. Within the limits and conditions of such insurance, Farnsworth Group agrees to indemnify and defend Client from any loss, damage, or liability arising directly from any intentional or negligent act or omission by Farnsworth Group or any subcontractor or subconsultant of Farnsworth Group. Farnsworth Group shall not be responsible for any loss, damage or liability beyond the amounts, limits, and conditions of such insurance. Farnsworth Group shall not be responsible for any loss, damage or liability arising from any act by Client, its agents, staff, other consultants, independent contractors, third parties or others working on the Project over which Farnsworth Group has no supervision or control.

Professional Liability Insurance and Limitation: Farnsworth Group is covered by professional liability insurance for its professional acts, errors, and omissions, with limits which Farnsworth Group considers reasonable. Certificates of insurance shall be provided to Client upon request in writing. Within the limits and conditions of such insurance, Farnsworth Group agrees to indemnify and defend Client from loss, damage, or liability arising from errors or omissions by Farnsworth Group that exceed the industry standard of care for the services provided. Farnsworth Group shall not be responsible for any loss, damage or liability beyond the amounts, limits, and conditions of such insurance. Farnsworth Group shall not be responsible for any loss, damage, or liability arising from any act, error, or omission by Client, its agents, staff, other consultants, independent contractors, third parties or others working on the Project over which Farnsworth Group has no supervision or control.

ADDITIONAL LIMITATION: IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH CLIENT AND FARNSWORTH GROUP, THE RISKS HAVE BEEN ALLOCATED SUCH THAT CLIENT AGREES THAT FOR THE COMPENSATION HEREIN PROVIDED, FARNSWORTH GROUP CANNOT EXPOSE ITSELF TO DAMAGES DISPROPORTIONATE TO THE NATURE AND SCOPE OF FARNSWORTH GROUP'S SERVICES OR THE COMPENSATION PAYABLE TO IT HEREUNDER. THEREFORE, TO THE MAXIMUM EXTENT PERMITTED BY LAW, CLIENT AGREES THAT THE LIABILITY OF FARNSWORTH GROUP TO CLIENT FOR ANY AND ALL CAUSES OF ACTION, INCLUDING, WITHOUT LIMITATION, CONTRIBUTION, ASSERTED BY CLIENT AND ARISING OUT OF OR RELATED TO THE INTENTIONAL OR NEGLIGENT ACTS, ERRORS, OR OMISSIONS OF FARNSWORTH GROUP IN PERFORMING PROFESSIONAL SERVICES SHALL BE LIMITED TO FARNSWORTH GROUP'S INSURANCE COVERAGE ("LIMITATION").

Severability: If any term or provision of this Agreement is held to be invalid or unenforceable under any applicable statute or rule of law, such holding shall be applied only to the provision so held, and the remainder of this Agreement shall remain in full force and effect.

Waiver: No waiver by either Party of any breach, default, or violation of any term, representation, agreement, covenant, condition, or provision hereof shall constitute a waiver of any subsequent breach, default, or violation of the same or any other term, representation, agreement, covenant, condition, or provision hereof. All waivers must be in writing and signed by the Parties.

Survival: Notwithstanding completion or termination of this Agreement for any reason, all rights, duties, and obligations of the Parties shall survive such completion or termination and remain in full force and effect until fulfilled.

Governing Law; Jurisdiction and Venue: This Agreement shall be governed by and interpreted pursuant to the laws of the State of Colorado without regard to conflict of law principles. Jurisdiction and venue for any civil action or proceeding

arising from or relating to this Agreement and/or the Services shall lie exclusively in the Douglas County District Court.

Attorney's Fees, Costs, and Expenses: In any civil action or proceeding, the prevailing Party shall be awarded its reasonable attorneys' fees, costs, and expenses, including the reasonable attorneys' fees, costs, and expenses incurred in any appellate action and in executing or collecting upon any judgment, order, or award.

Governmental Immunity. Nothing in this Agreement shall constitute, or be construed as, a limitation on or waiver of the rights, privileges, immunities, limitations, notice requirements, defenses, and benefits provided to Client and its director and officers under federal or State law, including but not limited to, the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq*

ROXBOROUGH VILLAGE METROPOLITAN DISTRICT, a political subdivision of the State of Colorado

By: Mark Rubic 01 / 30 / 2024
Marl Rubic, Board President Date

FARNSWORTH GROUP, INC., an Illinois Corporation

By: J.C. Cundall 01 / 30 / 2024
Signature Date
Printed Name: JC Cundall
Title: Sr. Engineering Manager

ATTACHMENT A



223 Willow Street
Fort Collins, CO 80524
P 970.484.7477

www.f-w.com

September 28, 2023

Roxborough Village Metropolitan District

Attn: Mark Rubic – President

141 Union Boulevard

Suite 150

Lakewood, CO 80228-1898

Emailed To:

Mark Rubic at MarkRubic@roxboroughmetrodistrict.org

Debra Prysby at DebraPrysby@roxboroughmetrodistrict.org

RE: Community Park – Overall Survey and Design Level Survey Proposal

Farnsworth Group respectfully submits this letter as our proposal to provide professional surveying services for the above referenced project. This proposal letter includes an outline of our understanding of this project including our scope of services, from your original meeting with J.C. Cundall on Friday, August 4, 2023. An updated sketch of the limits of the survey is attached. We have delineated the entire area to be “flown”, which is adequate for master planning. We have also delineated the area that will receive “design level” survey for the projects discussed during the previous meetings. Also, note that all the concrete trails and sidewalks will be surveyed to “design level” as is necessary to determine ADA compliance or if it is out of compliance. Please review the information provided and contact J.C. Cundall or myself if you have any questions or comments.

A. SCOPE OF SERVICES

Control:

Farnsworth Group will conduct a field survey to recover a minimum of two controlling section and/or property corners monuments to tie in horizontally to the subject area. We will use GPS techniques to tie the project to the NAVD88 or local municipal/county vertical datum.

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Aerial Survey:

Farnsworth Group will conduct an aerial survey on the overall +/- 17 acre site to produce a "Base Map" of the existing conditions. The map will consist of an orthomosaic and a surface producing 1-foot contours. Hard surfaces will be achieved using total station survey methods to include all trails and sidewalks throughout the overall site.

Topographic Design Survey:

Farnsworth Group will conduct a topographic design survey on the subject area to include +/- 8.4 acres for the purpose of providing mapping for civil design. The survey will include topographic data using both GPS and total station survey methods. Hard surfaces will be achieved using total station survey methods to include all trails and sidewalks throughout the subject area to verify grades to compare against ADA requirements. The elevation data will be sufficient to produce 1-foot contours. Existing utilities will be collected based on observed surface evidence only and will discuss needs for underground locates once final design(s) have been determined.

Assumptions/Exclusions

1. This scope of services is not to be relied upon as a Land Survey Plat and/or Improvement Survey Plat.
2. This scope of services assumes that all PLSS section corner, property corner monuments will be recovered at ground level, undamaged and not in need of rehabilitation.
3. This scope of services does not include securing or reviewing title work. It does not include preparation of legal descriptions or exhibits.
4. The Client will coordinate with the property owners for Farnsworth Group, Inc. employees to have access to the project site.
5. Farnsworth Group is not responsible for delays due to inclement weather, severe wind, rain, snow cover, ice cover, or site access issues.

B. DELIVERABLES

Farnsworth Group, Inc. will provide the "Base Map" of the "flown" area in CAD Civil 3D, release 2020, format.

Farnsworth Group, Inc. will provide the topographic design survey area in CAD Civil 3D, release 2022, format.

C. SCHEDULE

Farnsworth Group anticipates being able to begin the survey promptly upon written notice to proceed. We estimate completion of the survey files within approximately 4 weeks from notice to proceed.

D. FEES FOR PROFESSIONAL SERVICES

Farnsworth Group will perform the above-noted Services for the following lump sum fees, including reimbursable expenses: \$ 15,100.

Additional Services: Professional services beyond the scope of services listed above will be billed in accordance with our current subconsultant agreement fee schedule. Travel and reimbursable expenses are estimated and included in the above fee. Substantial reproduction costs, additional travel beyond the meetings included, or other similar expense items shall be billed at item costs.

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