# Castle Pines North

# METROPOLITAN DISTRICT

# AGENDA

## **Board of Directors Meeting**

Monday, May 17, 2021, at 6:00 p.m. 7404 Yorkshire Drive, Castle Pines, CO 80108

To participate in this board meeting CPNMD residents and property owners will need to **Zoom in**. Any time between now and 10:00 a.m. on the morning of the board meeting, simply sign up and follow the step-by-step instructions at <u>cpnmd.org/cpnmd-zoom-meeting-sign-up</u>.

- 1. Welcome / Call meeting to order / Pledge of Allegiance.
- 2. Roll call / Determination of quorum / Disclosure of potential conflicts.
- 3. Consider approving May 17, 2021 board meeting agenda.
- 4. Consider approving April 19, 2021 board meeting minutes.
- 5. Directors' reflections on voter-approved Inclusion of CPNMD's water and wastewater utilities with those of the Parker Water & Sanitation District.
  - A. CPNMD Voter Turnout: 34%
  - B. Tuesday, May 4, 2021, Election Results:
    - Votes **FOR** Inclusion: 2,709 (95.76%)
    - Votes AGAINST Inclusion: 120 (4.24%)
  - C. Eight-month transition period to Day 1, Monday, January 3, 2022.



The Castle Pines North Metro District provides clean, safe, reliable, on-demand drinking water, wastewater, stormwater, parks, trails, and open space services to the people of Castle Pines, west of I-25. Board meetings are available for viewing via live video stream and video recording at cpnmd.org.

- D. Acknowledging and thanking in advance Castle Pines constituents west of I-25 for their continued patience, confidence, and trust over the next eight months.
- 6. Project updates and insights from the City of Castle Pines' designated liaisons to CPNMD's board of directors, Councilwomen Deborah Mulvey and Tracy Engerman.
- 7. Opening public comment period **via Zoom** (three-minute maximum per person).
- 8. Open Space Manager's report.
- 9. Finance Director's report.
  - A. Consider approving financial report, payables, and claims for payment, including check numbers 26006-26061 (April 10, 2021 May 7, 2021).

	Ratify	Totals
General Fund & Debt Service	\$ 92,755.05	\$ 92,755.05
Enterprise Funds	\$ 403,347.24	\$ 403,347.24
Electronic Payments (all funds)*	\$ 75,450.33	\$ 75,450.33
Total Expenditures		\$ 571,552.62

- 10. Legal Counsel's report.
- 11. District Manager's report.
  - A. CPNMD's sewage-stench-mitigation efforts in the Forest Park and Castle Pointe neighborhoods.
- 12. Directors' matters.
  - A. CPNMD's Notice of Damages letter to City of Castle Pines regarding City's snow-removal practices. (See copy of letter and documentation attached.)
    - Mitigation-cost estimate for Phase 1 restoration of severely damaged rights-of-way adjacent to Monarch Boulevard = \$435,124.99.
    - Scope: Excavate and replace top twelve inches of contaminated soil and re-establish native grasses.
    - Project completion timeframe: September/October 2021.
- 13. Closing public comment period **via Zoom** (three-minute maximum per person).
- 14. Adjourn.

# Our next regular monthly board meeting is scheduled for Monday, June 21, 2021.

The Castle Pines North Metro District provides clean, safe, reliable, on-demand drinking water, wastewater, stormwater, parks, trails, and open space services to the people of Castle Pines, west of I-25.

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# CASTLE PINES NORTH

# METROPOLITAN DISTRICT

City of Castle Pines Attn: City Manager Michael Penny 360 Village Square Lane, Suite B Castle Pines, CO 80108

May 7, 2021

Dear Mr. Penny:

Consistent with the provisions of the attached License Agreement between the City of Castle Pines (City) and the Castle Pines North Metro District (CPNMD), this communication constitutes CPNMD's official notice of damages to the City.

The City's excess application of deicing compounds on City streets, curbs, gutters, and medians, particularly on Monarch Boulevard and Castle Pines Parkway, combined with the City's failure to adhere to best snow-removal practices, has contaminated the soil along vast stretches of street-adjacent rights-of-way with extremely high levels of salt, pH, Boron, and alkali.

Please see the attached phase 1 map of severely damaged right-of-way areas adjacent to Monarch Boulevard and the attached preliminary cost estimate.

Also, please see the attached soil report we previously shared with the City's public works director following the completion of a soil analysis we commissioned in November 2019. We recently commissioned a new soil analysis from an outside, independent, professional lab, and expect updated soil-test results this month.

As a direct result of the City's snow-removal practices, the soil and associated microbiome on the above-referenced stretches of City-owned rights-of-way are so severely compromised they are incapable of supporting healthy, aesthetic stands of native xeric grasses, which the people of Castle Pines pay for, deserve, and expect, and that are part of our License Agreement with the City and approved landscape plans.

As the City is well aware, damage costs are outside the scope of CPNMD's regular maintenance of CPNMD's improvements atop City-owned property.

Consistent with CPNMD's service and stewardship responsibilities, as well as our constituents' wishes, we are arranging to restore all areas highlighted in the attached phase 1 map of severely damaged areas adjacent to Monarch Boulevard this year.

CPNMD's in-house professional horticulturists, Craig Miller and David Anderson, all five directors, our constituents, and I are deeply frustrated, and have been for years, that the City continues to ignore our repeated requests that the City substantially improve its costly, aesthetic-compromising, snow-removal practices. Consequently, we have no responsible choice but to:

- 1) Excavate, remove, and replace a *minimum* of the top twelve inches of contaminated soil highlighted in the attached phase 1 map of severely damaged areas; and
- 2) Again, respectfully ask the City to rigorously apply Douglas County's snow-removal standards to City streets.

Because September/October is typically the optimal timeframe for establishing native seed not under irrigation, consistent with the terms and conditions of our License Agreement with the City, CPNMD will jumpstart the right-of-way restoration project as soon as practicable and as best practices dictate.

To confirm receipt of this notice, and the City's intent to cover all damage-repair costs, please respond via email this month and let me know when and how the City intends to cover the cost and make CPNMD whole.

Singerely,

Jim Worley

District Manager Castle Pines North Metro District 7404 Yorkshire Drive Castle Pines, CO 80108 Phone: (303) 688-8550 Email: <u>iworley@cpnmd.org</u>

CC: CPNMD Board of Directors Craig Miller, CPNMD's Manager of Parks, Trails & Open Space Larry Nimmo, City's Public Works Director

### LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made and executed this 19 day of May, 2009, between THE CITY OF CASTLE PINES NORTH, COLORADO, a Colorado statutory city, whose address is 558 Castle Pines Parkway, Unit B4-208, Castle Rock, CO 80108 ("Licensor") and CASTLE PINES NORTH METROPOLITAN DISTRICT, a Colorado special district and political subdivision whose address is 7404 Yorkshire Drive, Castle Rock, Colorado 80108 ("Licensee").

1. The City, as Licensor, hereby grants a non-exclusive license to the Licensee, subject to the provisions and conditions hereof, for use of the City owned rights-of-way and medians, shown on the attached **EXHIBIT A** (the "Property"), for the purpose of installing, constructing or maintaining improvements or facilities thereon.

a. "Improvements or Facilities" as used herein shall include any and all improvements, structures or facilities installed and maintained on the Property (collectively, the "Improvements") by Licensee, either under the terms of this License Agreement or under the terms of the License Agreement between the District as Licensee and Douglas County, Colorado as Licensor, which latter License Agreement was in effect prior to the date of incorporation of Licensor.

b. New Improvements shall be installed only according to Licensee's Four-Year Landscape Master Plan and shall include median landscaping, such as installation of planting beds, trees, turf, decorative mulch and rock, and on-going maintenance and irrigation thereof; and installation and maintenance of sidewalks, including snow removal, except when such sidewalks are otherwise controlled and maintained by a home owners' association. Maintenance activities may occur on any portion of the Property.

c. This License is subject to all easements and rights-of-way of record and is subordinate thereto. The Improvements installed and maintained by Licensee on the Property shall be owned and maintained by Licensee.

2. Licensee agrees to pay for all charges for water, electric power and other utilities assessed, levied or incurred on the Property associated with the Improvements during the term of this License Agreement or any renewal thereof.

3. During the terms of this License Agreement, Licensee agrees not to make or permit to be made any alterations in or additions to the Property, other than those identified in paragraph 4 of this Agreement, without the prior written consent of the Licensor, which consent shall not be unreasonably withheld or delayed. Licensee additionally covenants and agrees to keep the Property and all Improvements thereon in good repair at the sole expense of the Licensee; to keep the Property free from litter, dirt, debris and obstruction; to keep the Property free and clear of all liens and encrumbrances; and to surrender and deliver the Property in good order and condition upon the expiration or termination of this License Agreement, ordinary wear and tear and loss by fire, flood or Act of God excepted. a. Licensor and its employees, agents or independent contractors may inspect the Property and any Improvements thereon at any time and from time to time to verify Licensee's compliance with the terms of this License Agreement.

b. In the event Licensor enters the Property to make emergency repairs in order to protect the integrity of the Property or for other health and safety reasons, Licensor shall charge all costs incurred to the Licensee, and Licensee shall promptly pay such costs no later than thirty (30) days from the date of invoice or written notice from the Licensor. When possible, the notice and opportunity to cure provisions of paragraph (c), below, shall apply.

c. Licensor shall not undertake any routine repair or maintenance for which a demand for reimbursement will be made under this Agreement unless Licensee has first been given written notice and an opportunity to cure. Following receipt of written notice, Licensee shall be given fifteen (15) days within which to respond to Licensor's request for repair or maintenance. However, it is within the sole discretion of the Licensee to determine whether repairs or maintenance of facilities can be accomplished due to budget constraints. If repair or maintenance cannot be accomplished by Licensee, Licensor may, with Licensee's consent, and at Licensor's sole expense, complete such repairs or maintenance. Alternatively, the parties shall work to develop a schedule for repairs and maintenance that is acceptable to both parties.

4. Licensee covenants and agrees that it shall utilize the Property for construction and ongoing maintenance of the Improvements, in its sole discretion and as its budget allows, in accordance with Licensee's Four-Year Landscape Master Plan, a comprehensive planning document developed and approved with participation of Licensor, and for no other purpose and not to use the Property or permit it to be used for purposes prohibited by the applicable laws, rules and regulations of the United States, State of Colorado or Licensor.

a. This Agreement is expressly limited to the construction and ongoing maintenance of any new Improvements that are within the scope of Licensee's Four-Year Landscape Master Plan, which shall be implemented in four, one-year phases, in Licensee's sole discretion and as its budget allows.

b. Phase I Improvements are set forth in **EXHIBIT B**, which is attached hereto and incorporated herein. Licensee shall annually provide Licensor with a similar list for each additional phase of Licensee's Four-Year Landscape Master Plan at least thirty (30) days prior to commencement of such annual phase, and this Agreement is expressly limited to construction and ongoing maintenance of Improvements so identified.

c. All construction and ongoing maintenance shall be permitted only in accordance with applicable City codes and ordinances (including right-of-way permits). If Licensee in the course of exercising its rights hereunder damages any facilities or

Property of Licensor, Licensee shall promptly notify the Licensor of such damage and promptly repair said facilities or Property to the Licensor's reasonable satisfaction.

5. Licensor and its duly authorized employees or agents have the right to enter upon the Property at any time for any purpose, provided such entry and/or activities do not unreasonably interfere with the lawful operation of the Improvements constructed, maintained and operated by Licensee.

6. Licensor shall not be liable for any loss, injury, death or damage to any person or personal property which may arise from the use or condition of the Property (including, but not limited to, loss, injury, death or damage resulting from ice, water, rain, snow, gas, electric wires, fire, theft, burst pipes or plumbing failures) during the term of this License or any renewal thereof, whether such loss, injury, death, or damage accrues or is discovered before or after termination of this License Agreement. The Licensee hereby expressly agrees to defend, indemnify and hold harmless the Licensee, its officers, agents, employee and insurers, to the extent authorized by law, against liability, loss, damage, demand, action, cause of action or expense of whatever nature (including court costs and attorney fees) which may result from any loss, injury, death or damage allegedly sustained by any person, firm, corporation or other entity which arises out of or is caused by reason of Licensee's use and occupancy of the Property or Licensee's failure to fulfill the terms and conditions of this License Agreement; provided, however, that nothing set forth herein shall be deemed or shall constitute a waiver by Licensee of any of the terms and protections afforded it as a governmental entity under the Colorado Governmental Immunity Act as the same now exists or may be hereafter modified or amended; and provided further that nothing set forth herein shall provide or constitute a waiver of liability in favor of Licensor as to any acts of negligence, and any damages suffered by any person or entity as a result thereof, committed by or attributable to Licensor or its employees or agents.

7. This License Agreement shall continue in full force and effect unless and until terminated in accordance with the following provisions:

a. The License may be terminated by the Licensee or Licensor upon sixty (60) days prior written notice to either party. Such termination, however, shall not impair Licensee's ability to utilize easements or rights-of-way previously granted to it.

b. If Licensee shall be in default of any of the provision hereof, subject to the notice provision above, Licensor may terminate the interest of Licensee or of any other person or persons occupying the Property, and expel, remove or put out such person or persons, using such force as may be necessary in so doing, and the Property may be utilized by Licensor at Licensor's discretion.

c. Licensor further retains the right to immediately terminate this License Agreement upon a finding by the City Council of the Licensor that an immediate threat to the health and safety of the City's residents exist; provided, however, that in the case of such immediate termination, Licensor shall provide immediate written notice of such finding to Licensee and shall permit Licensee not less than twenty-four (24) hours in which to stop work and remove equipment.

8. Licensor licenses the Property to Licensee in its present condition, as is, without warranty or representation.

9. It is expressly understood that this License Agreement does not in any way whatsoever grant or convey any permanent easement, lease, fee or other real property interest in the Property to Licensee. This License Agreement is not exclusive and Licensor specifically reserves the right to grant other rights of entry in regard to the Property as long as the same do not unreasonably interfere with the rights granted to Licensee herein.

10. Nothing set forth herein shall be deemed or shall constitute a waiver by Licensor of any of the terms and protections afforded it as a governmental entity under the Colorado Governmental Immunity Act as the same now exists or may be hereafter modified or amended

11. Any written notice required under this Agreement shall be provided by regular U.S. Mail, postage pre-paid, as follows:

To the Licensor: City of Castle Pines North City Manager 558 Castle Pines Parkway Unit B4-208 Castle Rock, CO 80108 <u>To the Licensee</u>: Jim McGrady, District Manager 7404 Yorkshire Drive Castle Rock, CO 80108

12. Venue for judicial resolution of any dispute between the parties shall be vested solely in the courts in and for the County of Douglas, State of Colorado.

13. This License Agreement may not be assigned by either party without the prior written consent of the non-assigning party, which consent shall not be unreasonably withheld if the assignee is capable of performing the duties and responsibilities of the assigning party.

14. This License Agreement has been ratified and approved by the City Council of the City of Castle Pines North and the Board of Directors of the Castle Pines North Metropolitan District, and it may be amended only upon action by both of said governing bodies approving any such amendment.

Dated this day and date first above set forth.

# CITY OF CASTLE PINES NORTH, LICENSOR

.... By'

ATTEST: City Clerk By:\_\_\_

Approved as to Form: By: <u>Man Uiclas</u> City Attorney's Office

CASTLE PINES NORTH METROPOLITAN DISTRICT, a Colorado special district LICENSEE

By: Manager

ATTES By:

Assistant Manager

### EXHIBIT A MAP OF PROPERTY DESCRIPTION



### EXHIBIT B PHASE 1 LANDSCAPING IMPROVEMENTS

### 2009 LANDSCAPE MASTERPLAN PROJECT

EXHIBIT

R

**East Entry**; install a new irrigation system, replace much of the existing sod and shrub bed with: 81 Boulders (Colorado Green Moss)

8 Trees 94 Juniper Shrubs (5 Gal.) 134 Shrubs (5 Gal.) 1020 Grasses (1 Gal.) 513 Perennial Shrubs (1 Gal.) 416 Annual Flowers (4" pots.)

North Entry: install a new irrigation system, replace much of the existing sod and shrub bed with: 75 Boulders (Colorado Green Moss)

19 Trees 64 Juniper Shrubs (5 Gal.) 123 Shrubs (5 Gal.) 537 Grasses (1 Gal.) 374 Perennial Shrubs (1 Gal.) 455 Annual Flowers (4" pots)

Roundabout: install new irrigation system with:

38 Boulders (Colorado Green Moss)

- 12 Boulders (Rounded River Granite) 5 Trees
- 16 Juniper Shrubs (5 Gal.)
- 11 Shrubs (5 Gal.)
- 151 Grasses (1 Gal.)
- 50 Perennial Shrubs (1 Gal.)
- 495 Annual Flowers (4" pots)

Demonstration Garden: install new irrigation system with:

44 Boulders (Colorado Green Moss)

62 Boulders (Rounded River Granite)

19 Trees

26 Juniper Shrubs (5 Gal.)

153 Shrubs (5 Gal.)

837 Grasses (1 Gal.)

895 Perennial Shrubs (1 Gal.)



















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# PHASE ONE COST ESTIAMTE MONARCH BLVD SOIL REMOVE/REPLACE/RESEED

The following table includes the roadside rights-of-way that are in the worst condition in Castle Pines North.

This is not a complete inventory of damage that needs to be addressed.

The cost/sq. ft. includes removal of contaminated soil, replacement with screened amended topsoil, reseeding with a native seed blend and installation of erosion control blanket. End result of project will conform with the license agreement and originally approved plans.

TOTAL COST	\$435,124.99
COST/SQ FT	\$8.4 <b>1</b>
SQ. FT.	51,739

Pricing valid through December 31, 2021

Seeding to be done in Fall (October) to take advantage of winter and spring moisture. Germination year one should be adequate, (weather dependent).

Full growth will be realized year 2 and 3.



# **Soil Nutrient Laboratory Report**

**Project:** 

Lab No.: 191114059-01 Date Rec: 11/14/19 Reported: 11/22/19 Report To: Ryan Webster

Company: Triton Environmental 5433 Newport St Commerce City CO 80022

Sample ID: Sample #1 Test Area on Monarch

Laboratory Results:	Semale Recult		
	Sample Result	LowHigh	
Field Texture (EST)	Sandy Loam		
pH (units)	9.0	*******	
Salts (MMHOS/CM)	5.5	******	
CEC Est. (MEQ/100G)	7.3	*****	
Lime (Qual.)	High	************	
Organic Matter (%)	1.0	*****	
Organic N (Ibs/acre)	31.1	*****	
Sodium (meq/100g Soil)	12.88	*************	
Available Nutrients (ppm)			
Nitrate Nitrogen	2.3		
Phosphorus	3.4	***	
Potassium	124.6	******	
Calcium	1040.8	******	
Magnesium	90.8	*****	
Sulfur	19.8	*****	
Boron	3.3	************	
Zinc	. 7.9	**************	
Iron	3.7	******	
Manganese	2.8	*************	
Copper	1.0	*********	
Note: Average Values are for Colorado Solls			
			- 50
Fertilizer Recommendations			
General Landscape			
Nitrogen: 130 lbs/Acre			
Phosphorus - P2O5: 80 lbs/Acre			

Sulfur SO4-S: 30 lbs/Acre Lime: 0 lbs/Acre \*To convert recommendations to lbs/1000 sq. ft. divide by 40.

0 lbs/Acre

Comments

Potassium - K2O:

Split Nitrogen Recommendations 2 to 3 Times Throughout the Growing Season.

Yield Reduction Likely Due To High Salts.

Yield Reduction Likely Due to High pH.

Yield Reduction Likely Due to High Boron.

Soil Contains Excess Alkali.

3 to 4 Cubic Yards/ 1000 sq. ft. of Low Salt Compost May Be Beneficial.

10411 Heinz Way / Commerce City, CO 80640 / 303-659-2313 Mailing Address: P.O. Box 507 / Brighton, CO 80601-0507 Page 1 of 3



# **Soil Nutrient Laboratory Report**

**Project:** 

Lab No.: 191114059-02 Date Rec: 11/14/19 Reported: 11/22/19 Report To: Ryan Webster

Company: Triton Environmental 5433 Newport St Commerce City CO 80022

Sample ID: Control #2 West of Test Area on Monarch

Laboratory Results:	Comple Desute	1
	Sample Result	LowHigh
Field Texture (EST)	Sandy Loam	
pH (units)	9.3	******
Salts (MMHOS/CM)	4.9	*****
CEC Est. (MEQ/100G)	8.8	*****
Lime (Qual.)	High	***********
Organic Matter (%)	1.8	*****
Organic N (lbs/acre)	53.8	*****
Sodium (meq/100g Soil)	15.83	************
Available Nutrients (ppm)		
Nitrate Nitrogen	2.1	
Phosphorus	8.0	****
Potassium	157.6	*****
Calcium	3267.8	*****
Magnesium	119.4	*****
Sulfur	20.7	***********
Boron	3.9	**********
Zinc	6.8	*******
Iron	5.5	******
Manganese	3.8	***************************************
Copper	1.4	******
Note: Average Values are for Colorado Soils		
Fertilizer Recommendations	95. K. A.	
General Landscape		
Nitrogen: 130 lbs/Acre	A STATE OF THE STATE	
Phosphorus - P2O5: 80 lbs/Acre		
Potassium - K2O: 0 lbs/Acre		

\*To convert recommendations to lbs/1000 sq. ft. divide by 40.

20 lbs/Acre

0 lbs/Acre

Comments Split Nitrogen Recommendations 2 to 3 Times Throughout the Growing Season.

Yield Reduction Likely Due To High Salts. Yield Reduction Likely Due to High pH. Yield Reduction Likely Due to High Boron.

Soil Contains Excess Alkali.

Sulfur SO4-S:

Lime:

10411 Heinz Way / Commerce City, CO 80640 / 303-659-2313 Mailing Address: P.O. Box 507 / Brighton, CO 80601-0507 Page 2 of 3

The Information states and the set of the se	Bull To Information (If different from report to)	Project.Name /Number	Colorado
Company Name: Iriten Environmental	Company Name:		
Contact Name: Kyan Webster	Contact Name:		Commerce City Lab 10411 Heinz Way
Address: 5433 Newsort Street	Address:	Task Number (Lab Use Only)	Commerce City CO 80640 Lakewood Service Center
1	City State Zip		12860 W. Cedar Dr, Suite 100A Lakewood CO 80228
-		CAL Task No.	Phone: 203 650 7313
Email: Man@ triton envire.com	Email:	181114059	1 HOHE, 20270274212
Sample Collector: Ryan		ADC	www.coloradolab.com
Sample Collector Phone: 303-919-0154	PO No.:	-	
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Page 3 of 3

Chain of Custody Fr

# MONARCH BLVD HISTORY 6/2010 TO 9/2020



6/15/2010



5/4/2011



10/7/2012



10/6/2013



6/2/2014



10/9/2015



6/9/2017



5/31/2018



9/29/2020