

RECORD OF PROCEEDINGS

MINUTES OF THE SPECIAL MEETING OF
THE BOARD OF DIRECTORS OF THE
BERKLEY SHORES METROPOLITAN DISTRICT
(THE "DISTRICT")
HELD
AUGUST 11, 2020

A special meeting of the Board of Directors of the Berkley Shores Metropolitan District (referred to hereafter as the "Board") was convened on Tuesday, August 11, 2020, at 1:00 p.m. Due to concerns regarding the spread of the Coronavirus (COVID-19) and the benefits to the control of the spread of the virus by limiting in-person contact, this District Board meeting was held via Zoom videoconference. One person was present at the following physical location: the offices of Highland Development Company, LLC, 2100 N. Downing Street, Colorado 80205. The meeting was open to the public via conference call.

Directors In Attendance Were:

Paul Malone (at the physical location)
Natalie Satt
Philip Clow
Victoria Almagno

Following discussion, upon motion duly made by Director Malone seconded by Director Satt and, upon vote, unanimously carried, the absence of Director Michael Martines was excused.

Also In Attendance Was:

David Solin and Peggy Ripko; Special District Services, Inc. ("SDMS")

Megan M. Becher and Jennifer S. Henry; McGeady Becher P.C.

Mike Sullivan; D.A. Davidson & Company

Ethan Anderson and Kim Reed; Ballard Spahr LLP

DISCLOSURE OF
POTENTIAL
CONFLICTS OF
INTEREST

The Board noted 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. Attorney Becher requested that the Directors consider whether they had any additional conflicts of interest to disclose. Attorney Becher noted for the record that there were no new disclosures made by the Directors

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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. It was noted that disclosure statements had been filed for all Directors.

ADMINISTRATIVE MATTERS

Agenda: The Board reviewed the distributed Agenda for the District's special meeting.

Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote unanimously carried, the Agenda for the special meeting was approved.

Approval of Meeting Location: The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District's Board meeting. Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote unanimously carried, the Board determined that due to concerns regarding the spread of COVID-19 and the benefit to the control of the spread of the virus by limiting in-person contact, the Board determined to conduct this meeting via videoconference and encouraged public participation via videoconference. The Board further noted that notice of the videoconference was duly posted and that it had not received any objections to the format of the meeting or any requests that the meeting format be changed by taxpaying electors within the District's boundaries.

Public Comments: There were no public comments at this time.

Results of May 5, 2020 Cancelled Regular Directors' Elections: Attorney Becher discussed with the Board the results of the May 5, 2020 Regular Election for Directors ("Election"). It was noted the Election had been cancelled, as allowed under the statute, as there were not more candidates than seats available. Directors Almagno and Clow were deemed elected to three-year terms ending May 2023.

Appointment of Officers: Following discussion, upon a motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the following slate of officers were appointed for the District:

President:	Paul Malone
Secretary:	Natalie Satt
Treasurer:	Philip Clow
Assistant Secretaries:	Michael Martines and Victoria Almagno

Minutes: The Board reviewed the Minutes of the February 24, 2020 Organizational Meeting Minutes.

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Following discussion, upon motion duly made by Director Clow, seconded by Director Satt and, upon vote, unanimously carried, the Minutes of the February 24, 2020 Organizational Meeting were approved.

Engagement of District Manager and District Accountant: The Board reviewed the engagement of Special District Management Services, Inc. (“SDMS”) for District Management and Accounting Services.

Following review and discussion, upon motion duly made by Director Satt, seconded by Director Malone and, upon vote, unanimously carried, the Board ratified approval of the engagement of SDMS for District Management and Accounting Services.

Engagement of Bond Counsel: The Board discussed the engagement of Ballard Spahr LLP as Bond Counsel.

Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board ratified approval of the engagement of Ballard Spahr LLP as Bond Counsel.

FINANCIAL MATTERS

District’s Operating Account and Authorized Signers: The Board discussed establishing the District’s Operating Account and authorizing signers on the account.

Following discussion, upon motion duly made by Director Malone, seconded by Director Clow and, upon vote, unanimously carried, the Board approved the opening of any necessary accounts at First Bank, authorized all Board Members to be as signers on the account, and designated Directors Malone and Almagno as approvers for all accounts payable.

Cost Certification Report from Ranger Engineering, LLC and Acceptance of District Reimbursable Costs: Director Malone reported to the Board that he is getting information to Mr. Koranda in order to prepare monthly reports.

Requisitions (under the Series 2020A Bonds) Authorizing Reimbursement to HDC 6300 Lowell Boulevard, LLP: Attorney Becher and Ms. Reed discussed with the Board the Requisitions (under the Series 2020A Bonds) Authorizing Reimbursement to HDC 6300 Lowell Boulevard, LLP. No action was taken.

Resolution No. 2020-08-01; Authorizing 2020 Budget Amendment: The Board discussed Resolution No. 2020-08-01; Adopting the 2020 Budget Amendment. Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board adopted Resolution

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No. 2020-08-01; Adopting the 2020 Budget Amendment. The Resolution is attached hereto, and incorporated herein, by reference.

2021 Budget Preparation: The Board discussed the preparation of the 2021 Budget.

Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board appointed the District Accountant to prepare the 2021 Budget. The Board determined to hold the public hearing to consider adoption of the 2021 Budget on Monday, November 2, 2020 at 10:00 a.m. at the regular meeting location.

LEGAL MATTERS

Engineering and Cost Verification Services: The Board reviewed the Service Agreement for Engineering and Cost Verification Services between the District and Ranger Engineering, LLC.

Following review, upon motion duly made by Director Malone, seconded by Director Clow and, upon vote, unanimously carried, the Board ratified approval of the Service Agreement for Engineering and Cost Verification Services between the District and Ranger Engineering, LLC.

Construction of Water and Sewer Infrastructure: Attorney Becher and the Board discussed the status of construction of water and sewer infrastructure and conveyance of the same to Crestview Water and Sanitation District.

Resolution Authorizing the Issuance of the Berkley Shores Metropolitan District's Limited Tax (Convertible to Unlimited Tax) General Obligation Bonds, Series 2020A (3) in the Aggregate Principal Amount not to exceed \$3,000,000, Authorize the Execution of an Indenture of Trust, Bond Purchase Agreement, and Other Related Documents; Ratify and Confirm the Execution of Certain Documents; Make Determinations and Findings as to other Matters Related to such Transaction; Authorize Incidental Actions; and Repeal prior Inconsistent Actions: Ms. Reed discussed with the Board the Resolution Authorizing the Issuance of the Berkley Shores Metropolitan District's Limited Tax (Convertible to Unlimited Tax) General Obligation Bonds, Series 2020A (3) in the Aggregate Principal Amount not to exceed \$3,000,000, authorizing the execution of an Indenture of Trust, Bond Purchase Agreement, and other related documents; ratifying approval of the execution of certain documents; making determinations and findings as to other matters related to such transaction; authorizing incidental actions; and repealing prior inconsistent actions.

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Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board approved the Resolution Authorizing the Issuance of the Berkley Shores Metropolitan District's Limited Tax (Convertible to Unlimited Tax) General Obligation Bonds, Series 2020A (3) in the Aggregate Principal Amount not to exceed \$3,000,000, authorized the execution of an Indenture of Trust, Bond Purchase Agreement, and other related documents; ratified approval of the execution of certain documents; made determinations and findings as to other matters related to such transaction; authorized incidental actions; and repealed prior inconsistent actions. In addition, the Board appointed Director Malone as sales delegate and District Representative and appointed the District Accountant as the Responsible Person in the Post Issuance Tax Compliance Policy.

Imposition of District Fees: The Board determined that this item can be removed from future agendas.

Resolution No. 2020-08-02; Regarding Continuing Disclosure Policies and Procedures: The Board discussed Resolution No. 2020-08-02; Regarding Continuing Disclosure Policies and Procedures.

Following discussion, upon motion duly made by Director Malone, seconded by Director Clow and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-08-02; Regarding Continuing Disclosure Policies and Procedures, subject to finalization of Continuing Disclosure Agreement.

COVENANT ENFORCEMENT

Covenants, Conditions and Restrictions of Berkley Shores: Attorney Becher discussed Covenants, Conditions and Restrictions of Berkley Shores.

Resolution No. 2020-08-03; Resolution Adopting the Rules and Regulations of Berkley Shores: The Board discussed Resolution No. 2020-08-03; Resolution Adopting the Rules and Regulations of Berkley Shores.

Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-08-03; Resolution Adopting the Rules and Regulations of Berkley Shores.

Resolution No. 2020-08-04; Resolution Acknowledging and Adopting the Declaration of Covenants, Conditions and Restrictions of Berkley Shores: The Board discussed Resolution No. 2020-08-04; Resolution acknowledging and Adopting the Declaration of Covenants, Conditions and Restrictions of Berkley Shores.

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Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-08-04; Resolution Acknowledging and Adopting the Declaration of Covenants, Conditions and Restrictions of Berkley Shores.

Resolution No. 2020-08-05; Resolution Adopting the Policies and Procedures Governing the Enforcement of the Covenants, Conditions and Restrictions of Berkley Shores: The Board discussed Resolution No. 2020-08-05; Resolution Adopting the Policies and Procedures Governing the Enforcement of the Covenants, Conditions and Restrictions of Berkley Shores.

Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-08-05; Resolution Adopting the Policies and Procedures Governing the Enforcement of the Covenants, Conditions and Restrictions of Berkley Shores.

CONSTRUCTION
MATTERS

2020 Development/Construction Outlook: It was noted that construction will begin within the next week.

OTHER BUSINESS

There was no other business for discussion at this time.

ADJOURNMENT

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

Respectfully submitted,

By *Natalie Satt*
Secretary for the Meeting

RESOLUTION NO. 2020-08-01

RESOLUTION TO AMEND BUDGET

**RESOLUTION OF THE BERKLYE SHORES METROPOLITAN DISTRICT TO
AMEND THE 2020 BUDGET**

Pursuant to Section 29-1-109, C.R.S., the Board of Berkley Shores Metropolitan District (the “**District**”), hereby certifies that an organizational meeting of the Board of Directors of the District, was held on February 24, 2020, at the offices of Highland Development Company, LLC, 2100 N. Downing Street, Denver, Colorado.

A. At such meeting, the Board of Directors of the District adopted that certain Resolution No. 2020-02-02 to Adopt Budget appropriating funds for the fiscal year 2020 as follows:

General Fund	\$50,000
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B. The necessity has arisen for additional appropriations by the creation of a Capital Projects Fund and Debt Service Fund requiring the expenditure of funds in excess of those appropriated for the fiscal year 2020.

C. The source and amount of revenues for such expenditures, the purposes for which such revenues are being appropriated, and the fund(s) which shall make such supplemental expenditures are described on **Exhibit A**, attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Berkley Shores Metropolitan District shall and hereby does amend the budget for the fiscal year 2020 as follows:

Capital Projects Fund	\$3,000,000
Debt Service Fund	\$3,000,000

BE IT FURTHER RESOLVED, that such sum is hereby appropriated from unexpected revenues available to the District to the Capital Projects Fund and the Debt Service Fund for the purpose stated.

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO RESOLUTION OF THE BERKLEY SHORES
METROPOLITAN DISTRICT TO AMEND THE 2020 BUDGET]**

RESOLUTION APPROVED AND ADOPTED on August 11, 2020.

**BERKLEY SHORES METROPOLITAN
DISTRICT**

By: _____
President **Paul Malone**
Digitally signed by Paul Malone
DN: C=US,
E=pmalone@highlanddevelopmentco.com,
CN=Paul Malone
Date: 2020.08.17 08:42:46-0500

Attest:

By: **Natalie Satt** _____
Secretary
Digitally signed by Natalie Satt
DN: C=US,
E=nsatt@highlanddevelopmentco.com,
O=Highland Development Company,
CN=Natalie Satt
Date: 2020.08.17 08:44:09-0500

EXHIBIT A

Original and Amended Budget Appropriations

BERKLEY SHORES METROPOLITAN DISTRICT

**DEBT SERVICE FUND
2020 Adopted and Amended Budget**

	2020 Adopted Budget	2020 Amended Budget
BEGINNING FUND BALANCE	\$ -	\$ -
REVENUE		
Bond proceeds	-	3,000,000
Total Revenue	-	3,000,000
Total Funds Available	-	3,000,000
EXPENDITURES		
Transfer to Capital Projects	-	3,000,000
Total Expenditures	-	3,000,000
Total Expenditures Requiring Appropriation	-	3,000,000
ENDING FUND BALANCE	\$ -	\$ -

BERKLEY SHORES METROPOLITAN DISTRICT

**CAPITAL PROJECTS FUND
2020 Adopted and Amended Budget**

	2020 Adopted Budget	2020 Amended Budget
BEGINNING FUND BALANCE	\$ -	\$ -
REVENUE		
Transfer from General Fund	-	-
Transfer from Debt Service Fund	-	3,000,000
Total Revenue	-	3,000,000
Total Funds Available	-	3,000,000
EXPENDITURES		
Legal	-	-
Management	-	-
Capital Outlay	-	3,000,000
Total Expenditures	-	3,000,000
Total Expenditures Requiring Appropriation	-	3,000,000
ENDING FUND BALANCE	\$ -	\$ -

RESOLUTION NO. 2020-08-03

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
BERKLEY SHORES METROPOLITAN DISTRICT
ADOPTING THE RULES AND REGULATIONS OF BERKLEY SHORES**

1. The Berkley Shores Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in the County of Adams, Colorado.
2. The District operates pursuant to its Service Plan approved by the Board of County Commissioners of the County of Adams, Colorado on August 20, 2019, as the same may be amended and/or modified from time to time (the “**Service Plan**”).
3. Pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power “to adopt, amend and enforce bylaws and rules and regulations not in conflict with the constitution and laws of this state for carrying on the business, objects, and affairs of the board and of the special district.”
4. HDC 6300 Lowell Boulevard, LLLP, a Colorado limited liability partnership (the “**Developer**”) has caused to be recorded the Declaration of Covenants, Conditions and Restrictions for Berkley Shores, recorded on September 16, 2020, at Reception No. 202000092376 of the County of Adams, Colorado, real property records, as the same may be amended and/or modified from time to time (the “**Covenants**”) applicable to the real property within the District (the “**Property**”).
5. Pursuant to Section 32-1-1004(8), C.R.S., and pursuant to the District’s Service Plan, a metropolitan district may provide covenant enforcement within the District if the declaration, rules and regulations, or any similar document containing the covenants to be enforced for the area within the metropolitan district name the metropolitan district as the enforcement and design review entity.
6. The Covenants provide that it is the intention of the Developer to empower the District to provide covenant enforcement services to the Property.
7. Pursuant to the Covenants, the District may promulgate, adopt, enact, modify, amend, and repeal rules and regulations concerning and governing the Property and the enforcement of the Covenants.
8. The District desires to provide for the orderly and efficient enforcement of the Covenants by adopting rules and regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BERKLEY SHORES METROPOLITAN DISTRICT:

1. The Board of Directors of the District hereby adopts the Rules and Regulations of Berkley Shores as described in Exhibit A, attached hereto and incorporated herein by this reference (“**Rules and Regulations**”).

2. The Board of Directors declares that the Rules and Regulations are effective as of September 16, 2020.

3. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstances, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO RESOLUTION NO. 2020-08-03]

APPROVED AND ADOPTED this 11th day of August, 2020

BERKLEY SHORES METROPOLITAN DISTRICT

By: **Paul Malone**

President

Digitally signed by Paul Malone
DN: C=US,
E=pmalone@highlanddevelopmentco.com,
CN=Paul Malone
Date: 2020.10.21 09:03:01 -0600

Attest:

Natalie Satt

Digitally signed by Natalie Satt
DN: C=US,
E=nsatt@highlanddevelopmentco.com,
O=Highland Development Company,
CN=Natalie Satt
Date: 2020.10.21 08:21:46 -0600

Secretary or Assistant Secretary

EXHIBIT A

RULES AND REGULATIONS OF BERKLEY SHORES

RULES AND REGULATIONS
OF
BERKLEY SHORES

AS OF September 16, 2020

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1. INTRODUCTION

1.1 Basis for Rules and Regulations

These Rules and Regulations (the “Rules”) are intended to assist Owners living in the Berkley Shores Community (the “Community”). Pursuant to the Declaration of Covenants, Conditions and Restrictions of Berkley Shores (the “Declaration”), recorded at Reception No. 2020000092376, the Berkley Shores Metropolitan District (the “District”) is authorized to adopt rules and regulations for the Community.

1.2 Definitions

All capitalized words and phrases used in these Rules shall have the meaning provided in the Declaration unless otherwise defined herein.

1.3 Contents of Rules

In addition to the introductory material, these Rules contain (A) a summary of procedures for obtaining approval from the ARC (see Section 2); and (B) a listing of specific types of improvements that Owners might wish to make with specific information as to each of these types of improvements (see Section 3).

1.4 Architectural Review Committee or Representative

The ARC consists of three (3) or more persons, representatives or a committee appointed to review requests for approval of architectural or site changes.

1.5 ARC Contact Information

The contact information of the ARC, persons, committee or representative authorized to administer the architectural review process is:

COMPANY NAME	OFFICE	FAX	E-MAIL
<u>Peggy Ripko</u> <u>Special District</u> <u>Management Services</u>	<u>(303) 987-0835</u>	<u>(303) 987-2032</u>	<u>pripko@sdmsi.com</u>

1.6 Effect of Declaration

The Declaration governs the Community. Each Owner should review and become familiar with the Declaration. Nothing in these Rules supersedes or alters the provisions or requirements of the Declaration and, if there is any conflict or inconsistency, the Declaration will control.

1.7 Effect of Governmental and Other Regulations

Use of property within the Community and any Improvements must comply with any applicable building codes and other governmental requirements and regulations. Owners are encouraged to contact Adams County (“County”) and the Crestview Water and Sanitation District (“Crestview”) for further information and requirements for Improvements they wish to make.

APPROVAL BY THE ARC DOES NOT CONSTITUTE ASSURANCE THAT IMPROVEMENTS COMPLY WITH APPLICABLE GOVERNMENTAL REQUIREMENTS OR REGULATIONS OR THAT A PERMIT OR APPROVALS ARE NOT ALSO REQUIRED FROM APPLICABLE GOVERNMENTAL BODIES.

1.8 Water and Sanitary Sewer Service

Water and sanitary sewer service to the Community is provided by the Crestview Water and Sanitation District, which is a Colorado public body. Crestview sets the rates for water and sanitary sewer service. The District does not provide water and/or sanitary sewer service and is not responsible for the quality and quantity of water provided.

1.9 Interference with Utilities

In making Improvements to Property, Owners are responsible for locating all water, sewer, gas, electrical, cable television, or other utility lines or easements. Owners should not construct any Improvements over such easements without the consent of the utility involved, and Owners will be responsible for any damage to any utility lines. All underground utility lines and easements can be located by contacting:

Utility Notification Center of Colorado

1-800-922-1987

1.10 Goal of Rules

Compliance with these Rules and the provisions of the Declaration will help preserve the inherent architectural and aesthetic quality of the Community. It is the responsibility of the ARC to ensure that all proposed Improvements meet or exceed the requirements of these Rules and to promote the highest quality design for the neighborhood. It is important that Improvements to property be made in harmony with and not detrimental to the rest of the Community. A spirit of cooperation with the ARC and neighbors will go far in creating an optimum environment, which will benefit all Owners. By following these Rules and obtaining prior written approval for Improvements to property from the ARC, Owners will be protecting their financial investment and will help insure that Improvements to Property are compatible with standards established for the Community. If a question ever arises as to the correct interpretation of any terms, phrases or language contained in these Rules, the ARC’s interpretation shall be final and binding.

2. PROCEDURES FOR ARC APPROVAL

2.1 General

The procedures set forth in this Article 2 are intended to clarify the terms, provisions and requirements of Article 4 of the Declaration. In the event of any conflict between these Rules and the Declaration, the terms of Article 4 in the Declaration shall control. As indicated in Section 3 of these Rules, there are some cases in which advance written approval of the ARC is not required if the Rules with respect to that specific type of Improvement are followed. In a few cases, as indicated in Section 3, a specific type of Improvement is not permitted under any circumstances. In all other cases, including Improvements not included in Section 3, advance, or prior written approval by the ARC is required before an Improvement to Property is commenced.

2.2 Drawings or Plans

Owners are required to submit to the ARC a completed Architectural Review Request Form (“ARR”), which forms are available from the person or entity listed in Section 1.5, the current version of which is attached as Appendix A, and complete plans and specifications, in duplicate, (said plans and specifications to show exterior design, height, materials, color, location of the structure or addition to the structure, plotted horizontally and vertically, location and size of driveways, general plan of landscaping, fencing, walls, windbreaks and grading plan, as well as such other materials and information as may be required) prior to commencement of work on any Improvement to Property. In most cases, the materials to be submitted will *not* have to be professionally prepared by an architect or draftsman, and a simple drawing with dimensions and description will be sufficient. In the case of major improvements, such as room additions, structural changes or accessory building construction, detailed plans and specifications, prepared by a licensed architect, may be required. Whether done by the Owner, or professionally, the following guidelines should be followed in preparing drawings or plans:

- A.** The drawing or plan should be done to scale and shall depict the property lines of your Lot and the outside boundary lines of the home as located on the Lot. If you have a copy of an improvement survey of your Lot obtained when you purchased it, this survey would be an excellent base from which to start.
- B.** Existing Improvements, in addition to your home, should be shown on the drawing or plan and identified or labeled. Such existing Improvements include driveways, walks, decks, trees, shrubs, fences, etc. The proposed Improvements should be shown on the plan and labeled. Either on the plan or on an attachment, there should be a brief description of the proposed Improvement, including the materials to be used and the colors. For example: replacement of front steps.
- C.** The plan or drawing and other materials should include the name of the Owner, the address of the home, the lot, block and filing number of the Lot, and the e-mail address and telephone number where the Owner can be reached.

- D.** Additions to and expansions of homes are not permitted. Improvements that may be approved generally are limited to new roofing, exterior painting, and replacement of windows and doors.
- E.** The proposed Improvements must take into consideration the easements, building location restrictions and sight distance limitations at intersections.
- F.** Owners should be aware that many Improvements require a permit from the County, the City or other governmental entity. The ARC reserves the right to require a copy of such permit as a condition of its approval.
- G.** In some instances, elevation drawings of the proposed Improvement will be required. The elevation drawings should indicate materials.
- H.** Photographs of existing conditions and of proposed materials and colors are encouraged to be included, and are helpful to convey the intended design, but should not be used solely to describe the proposed changes.

2.3 Submission of Drawings and Plans

One copy of the drawings or plans (minimum acceptable size 8.5" x 11") must be submitted to the ARC along with a completed ARR; the drawings or plans may be submitted electronically. Color photographs, brochures, paint swatches, etc. will help expedite the approval process. Specific dimensions and locations are required.

Any costs incurred by the ARC for review of submittals shall be borne by the Owner and shall be payable prior to final approval. Any reasonable engineering consultant fees or other fees incurred by the ARC in reviewing any submission will be assessed to the Owner requesting approval of the submission.

2.4 Action by ARC

The ARC will meet as required to review plans submitted for approval. The ARC may require submission of additional information or material, and the request will be deemed denied until all required information and materials have been submitted. The ARC will act upon all requests in writing within forty-five (45) days after the complete submission of plans, specifications, and other materials and information as requested by the ARC. If the ARC fails to review and approve in writing (which may be with conditions and/or requirements) or disapprove, a request for architectural approval within forty-five (45) days after the complete submission of the plans, specifications, materials and other information with respect thereto, such request is deemed denied by the ARC.

2.5 Revisions and Additions to Approved Plans

Any revisions and/or additions to approved plans made by the Owner or as required by any governmental agency, must be re-submitted for approval by the ARC. The revised plans must follow the requirements as outlined above.

2.6 Completion of Work

After approval (which may be with conditions and/or requirements) of any proposed Improvement by the ARC, the proposed Improvement shall be completed and constructed as promptly and diligently as possible, and in complete conformity with all conditions and requirements of the approval. Failure to complete the proposed Improvement within one year from the date of the approval or such other date as may be set forth in the approval or as set forth in the Declaration (the "Completion Deadline"), shall constitute noncompliance; provided, however, that the ARC may grant extensions of time to individual Owners for completion of any proposed Improvements, either (a) at the time of initial approval of such Improvements, or (b) upon the request of any Owner, provided such request is delivered to the ARC in writing and the Owner is diligently prosecuting completion of the subject Improvements or other good cause exists at the time such request is made.

2.7 Inspection of Work

The ARC, or its duly authorized representative, shall have the right to inspect any Improvement at any time, including prior to or after completion, in order to determine whether or not the proposed Improvement is being completed or has been completed in compliance with the approval granted pursuant to this Section 2.

2.8 Notice of Non-Compliance

If, as a result of inspections or otherwise, the ARC determines that any Improvement has been done without obtaining all required approvals (which may be with conditions and/or requirements), or was not done in substantial compliance with the approval that was granted, or has not been completed by the Completion Deadline, subject to any extensions of time granted pursuant to Section 2.6 hereof, then the ARC shall notify the District, and the District shall then notify the applicant in writing of the non-compliance (the "Notice of Non-Compliance"). The Notice of Non-Compliance shall specify the particulars of the non-compliance, shall state that the applicant is required to remedy or remove the non-compliance within not more than forty-five (45) days, and that if the non-compliance is not remedied or removed, that the District may impose fines upon the applicant as provided in Section 2.9. Proof of delivery of the Notice of Non-Compliance shall be placed in the records of the Board. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who gave such notice. Alternatively, such proof may consist of a receipt for mailing by registered or certified mail or receipt by a reputable overnight courier (such as, for example, FedEx) or electronic evidence that such notice was received by the addressee's electronic device. The notice requirement shall be deemed satisfied if the applicant files a response. The applicant shall respond to the Notice of Non-Compliance within ten (10) days after it receives the notice, regardless of whether the applicant is challenging the finding of non-compliance. The applicant may request a hearing before the Board by including the request for a hearing in or with such Owner's response to the Notice of Non-Compliance. If a hearing is timely requested, the hearing shall be held before the Board. At the hearing, the applicant shall

be afforded a reasonable opportunity to be heard. The Board may adopt rules for the conduct of such hearings that may include, without limitation, rules that govern the presentation of evidence and witnesses and the ability of an applicant to question adverse witnesses. The minutes of the hearing, shall contain a written statement of the results of the hearing.

2.9 Correction of Non-Compliance

If the ARC determines that non-compliance exists, the Person responsible for such non-compliance shall remedy or remove the same within not more than forty-five (45) days from the date of receipt of the Notice of Non-Compliance. If such Person does not comply with the Notice of Non-Compliance within such period, the ARC shall notify the District, and the District may, at its option and if allowed by applicable law, record a notice against the Lot on which the non-compliance exists, may impose fines in the amount of \$15.00 for each day for the first thirty (30) days such non-compliance exists, and thereafter may impose fines in the amount of \$30.00 for each day such non-compliance exists, penalties and interest, may remove the non-complying Improvement, or may otherwise remedy the non-compliance in accordance with the Declaration and applicable law. The Person responsible for such non-compliance shall reimburse the District, upon demand, for all costs and expenses, as well as anticipated costs and expenses, with respect thereto.

2.10 Amendment

These Rules may at any time, from time to time, be added to, deleted from, repealed, amended, and modified, reenacted, or otherwise changed by the District, by majority vote or written approval of the members of the Board, with the approval of the Person authorized to appoint the Board, as changing conditions and/or priorities dictate.

2.11 Questions

If you have any questions about the foregoing procedures, feel free to call the District at the phone number and address listed in the Section 1.5 of these Rules.

3. SPECIFIC TYPES OF IMPROVEMENTS / SITE RESTRICTIONS

3.1 General

The following is a listing, in alphabetical order, of a wide variety of specific types of Improvements which Owners typically consider installing, with pertinent information as to each. Unless otherwise specifically stated, drawings or plans for a proposed Improvement must be submitted to the ARC and written approval of the ARC obtained before the Improvements are made. In some cases, where it is specifically noted, an Owner may proceed with the Improvements without advance approval if the Owner follows the stated guideline. In some cases, where specifically stated, some types of Improvements are prohibited. ARC review and approval is required on any external items not listed below.

3.1.1 Variances

Approval of any proposed plans by the granting of a variance from compliance with any of the provisions of these Rules is at the sole discretion of the ARC when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. The granting of a variance shall not operate to waive any of the provisions of this Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor shall the granting of any variance require the ARC to grant a variance in any similar or different circumstances.

3.1.2 No Unsightliness

All unsightly conditions, structures, facilities, equipment, and objects, including snow removal equipment and garden or maintenance equipment, when not in actual use, must be enclosed within a structure.

3.1.3 Waivers; No Precedent

The approval or consent of the ARC to any application for approval shall not be deemed to constitute a waiver of any right to withhold or deny approval or consent as to any application or other matters whatsoever, as to which approval or consent may subsequently or additionally be required. Nor shall any such approval or consent be deemed to constitute a precedent in any other matter.

3.1.4 Liability

The District, the Board and the ARC and the members thereof shall not be liable in damages to any person submitting requests for approval or to any approval, or failure to approve or disapprove in regard to any matter within its jurisdiction. The ARC shall not bear any responsibility for ensuring structural integrity or soundness of approved construction or modifications, or for ensuring compliance with building codes and other governmental requirements. The ARC will not make any investigation into title, ownership, easements, rights-of-way, or other rights appurtenant to property with respect to architectural requests and shall not be liable for any disputes relating to the same.

3.2 Accessory Buildings

Accessory buildings are not permitted. That includes, without limitation, storage sheds, gazebos, playhouses and play structures.

3.3 Additions and Expansions

Addition to or expansion of any home is not permitted.

3.4 Address Numbers

Approval is required to replace, alter or relocate existing address numbers, unless the address numbers are replaced using the same style, color and type of number currently on the home.

3.5 Air Conditioning Equipment

Approval is required for all air conditioning equipment including evaporative coolers (swamp coolers) and attic ventilators installed after the initial construction.

Approval is not required for replacement of existing air conditioning equipment with like equipment located in the same location as the equipment being replaced. Replacement with different equipment requires approval.

No heating, air conditioning, air movement (e.g. swamp coolers) or refrigeration equipment shall be placed or installed on rooftops, or extended from windows. Ground mounted or exterior wall air conditioning equipment installed in the side yard must be installed in a manner so as to minimize visibility from the street and minimize any noise to adjacent property Owners.

3.6 Antennae/Satellite Dishes

3.6.1 General Provisions

“Permitted Antennas” are defined as (a) an antenna which is less than one meter in diameter and is used to receive direct broadcast satellite service, including direct-to-home satellite services, or is used to receive or transmit fixed wireless signals via satellite; (b) an antenna which is less than one meter in diameter and is used to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instruction television fixed services, and local multipoint distribution services or is used to receive or transmit fixed wireless signals other than via satellite; (c) an antenna which is designed to receive broadcast television broadcast signals; or (d) other antennas which are expressly permitted under applicable federal statutes or regulations. In the event a Permitted Antenna is no longer expressly permitted under applicable federal statutes or regulations, such antenna will no longer be a Permitted Antenna for purposes of this Section. Installation of Permitted Antennas shall not require the approval of the ARC.

- A.** All Permitted Antennas shall be installed with emphasis on being as unobtrusive as possible to the Community. To the extent that reception is not substantially degraded or costs unreasonably increased, all Permitted Antennas shall be screened from view from any street and nearby Lots to the maximum extent possible, and placement shall be made in the following order of preference:

- (1) Inside the structure of the house, not visible from the street

- (2) Rear yard or side yard, mounted on the house, in the least visible location below roofline
- (3) Back rooftop
- (4) Any other location approved by the ARC.
- B. If more than one (1) location on the Lot allows for adequate reception without imposing unreasonable expense or delay, the order of preference described above shall be used, and the least visible site shall be selected.
- C. Permitted Antennas shall not encroach upon common areas or any other Owner's property.
- D. Permitted Antennas may not be installed on balconies.

3.6.2 Installation of Antennae/Satellite Dishes

- A. All installations must comply with all applicable building codes and other governmental regulations, and must be secured so they do not jeopardize the safety of residents or cause damage to adjacent properties. Any installation must strictly comply with FCC guidelines.
- B. All Permitted Antennas shall be no larger, nor installed more visibly, than is necessary for reception of an acceptable signal.
- C. Owners are responsible for all costs associated with the Permitted Antenna, including but not limited to costs to install, replace, repair, maintain, relocate, or remove the Permitted Antenna.
- D. All cabling must be run internally when feasible, must be securely attached, and must be as inconspicuous as possible. Permitted Antennas, masts and any visible wiring may be required to be painted to match the color of the structure to which they are attached. The Owner should check with the installer/vendor for the appropriate type of paint.
- E. All other antennas, not addressed above, are prohibited.

3.7 Awnings

Awnings, including, without limitation, cloth or canvas overhangs, and sunshades, whether attached to a residence or free-standing (arbors, etc.), are not permitted.

3.8 Balconies and Decks

Balconies and Decks are not permitted, except for reconstruction of a balcony or deck constructed by a builder as part of the original construction of the home. Reconstruction requires approval of the ARC.

3.9 Barbecue/Gas Grills

Approval is not required. Only gas-fired barbecue grills are permitted; charcoal grills are not permitted. All barbecue grills, smokers, etc. must be stored in the Owner's garage or on a rear balcony or in a rear yard.

3.10 Basketball Backboards

Not permitted, whether portable or affixed.

3.11 Birdbaths

Approval is not required, subject to the following limitations. Placement in front or side yard is not allowed. Birdbaths are only permitted in the rear yard.

See Section 3.52, Statues or Fountains.

3.12 Birdhouses and Bird Feeders

Approval is not required, subject to the following limitations. If installed in the rear yard and the size is limited to one foot by two feet, no approval is required. No more than three of each of a birdhouse or bird feeder shall be installed on any Lot. Birdhouses or bird feeders may be mounted on a pole, provided the pole shall not exceed five (5) feet in height.

3.13 Clothes Lines and Hangers

Exterior clotheslines and hangers are not permitted.

3.14 Decks

See Section 3.8, Balconies and Decks.

3.15 Dog Houses

Approval is required. Dog houses are restricted to six (6) square feet and must be located in a fenced back yard. Dog houses must be installed at ground level, and must not be visible above the fence. Dog houses must also match the colors and materials of the exterior of the home. Limit of one dog house per Lot. Dog runs are not permitted.

3.16 Doors

Approval is not required for an already existing main entrance door to a home or an accessory building if the material matches or is similar to existing doors on the house and if the color is generally accepted as a complimentary color to that of existing doors on the house. Complementary colors would be the body, trim or accent colors of the house or white (for storm/screen doors).

A. Storm Doors. Approval is required.

- B.** Security Doors and Windows. All security or security-type doors and windows must be approved prior to installation.

3.17 Drainage

The Declaration requires that there be no interference with the established drainage pattern over any property. The established drainage pattern means the drainage pattern which exists at the time final grading of a Lot by the Declarant or a Builder is completed. It is very important to ensure that water drains away from the foundation of the house and that the flow patterns prevent water from flowing under or against the house foundation, walkways, sidewalks, and driveways into the street. Therefore, changes to landscaping are not permitted. The ARC may require a report from a drainage engineer as part of improvement plan approval. Landscaping and all drainage from downspouts off the house should conform to the established drainage pattern. Sump pump drainage should be vented a reasonable distance from the property line, on the Owner's property, to allow for absorption. Adverse effects to adjacent properties, including District lands, sidewalks and streets, will not be tolerated. Potted plants are permitted in containers not exceeding 18 inches in diameter.

3.18 Evaporative Coolers

Approval is required. No rooftop or window mount installations are allowed.

See Section 3.5, Air Conditioning Equipment.

3.19 Exterior Lighting

See Section 3.29, Lights and Lighting.

3.20 Fences

Fences will be constructed by the Developer or Builder. Perimeter fences and fences between Lots may not be removed, replaced, painted a different color or altered by any Owner. Adding a gate to a fence requires the approval of the ARC. Fences are owned and maintained by the District. Owners with pets may install 4 inch x 2 inch weld wire mesh on front and/or rear yard fences only with the approval of the ARC; if approved, the wire mesh must be on the inside of the fence.

3.21 Fire Pits

Fire pits are not permitted.

3.22 Firewood Storage

Storage of firewood is not permitted.

3.23 Flags/Flagpoles

Flags, pennants, banners and flagpoles are not permitted. However, an Owner or resident may display an American flag and/or a service flag bearing a star denoting the Owner's or resident's or his family member's active or reserve U.S. military service during a time of war or armed conflict. The flag may be displayed on the inside of a window or door of the home. The flag may not be larger than nine (9) inches by sixteen (16) inches.

3.24 Gardens – Flower or Vegetable

Flower and vegetable gardens are not permitted. Potted plants are allowed in containers not exceeding 18 inches in diameter (for round containers) or which do not exceed more than 12 inches in length on any side (for square and rectangular containers).

3.25 Grading and Grade Changes

See Section 3.17, Drainage.

3.26 Hanging of Clothes

See Section 3.13, Clothes Lines and Hangers.

3.27 Kennels

Approval will not be granted. Breeding or maintaining animals for a commercial purpose is prohibited.

3.28 Landscaping

Changes to landscaping are not permitted. However, replacement of dead or dying landscaping with like materials (or as close as possible) is permitted.

3.29 Lights and Lighting

Approval is not required for replacing existing lighting, including coach lights, with the same or similar lighting style and color as originally installed.

Approval is required to modify or add exterior lighting.

Approval is required to install motion detector spotlights, spotlights, floodlights or ballasted fixtures (sodium, mercury, multi-vapor, fluorescent, metal halide, etc.).

- A.** Considerations will include, but may not be limited to, the visibility, style and location of the fixture.
- B.** Exterior lighting for security and/or other uses must be directed at the ground and house, whereby the light cone stays within the property boundaries and the light source does not cause glare to other properties (bullet type light fixtures are recommended).

- C. Ground lighting along walks must be maintained in a working and sightly manner. Low- voltage or solar powered ground lighting fixtures which are typically affixed by stakes or similar posts are to be maintained in good aesthetic repair, be functional, not be a tripping or other physical hazard along pedestrian pathways, and remain generally vertical in their presentation.
- D. Holiday lighting and decorations do not require approval. It is required that they not be installed more than forty-five (45) days prior to the holiday. They shall be removed within thirty (30) days following the holiday.

3.30 Mailboxes

Communal mailboxes are owned and maintained by the District. Changes by Owners are not permitted. Postings of notices, posters, lost pet rewards and other materials on communal mailboxes is not permitted.

3.31 Ornaments/Art - Landscape/Yard

Approval is not required for yard ornaments which are installed in the rear yard and which are of a height less than three (3) feet.

Up to three (3) small (less than 12 inches in height) front yard ornaments may be installed in the front yard without approval, as long as the ornament is installed at ground level and the color and design integrate into the landscape.

Approval is required for any other yard ornaments.

See Section 3.52, Statues or Fountains.

3.32 Painting

Approval is required. The ARC generally will approve repainting if it is satisfied that color and/or color combinations are identical to the original manufacturer color established on the home and/or accessory improvement. Any changes to the color scheme must be submitted for approval and must conform to the general scheme of the Community.

3.33 Patios - Enclosed

See Section 3.3, Additions and Expansions.

3.34 Paving

Approval is required, regardless of whether for walks, driveways, patio areas or other purposes, and regardless of whether concrete, asphalt, brick, flagstones, stepping stones, pre-cast patterned, or exposed aggregate concrete pavers are used as the paving material.

3.35 Pipes

Approval is required for all exterior pipes, conduits and equipment. Adequate screening may also be required.

3.36 Play Structures and Sports Equipment

Play structures and sports equipment (trampolines, swing sets, fort structures, etc.) are not permitted.

3.37 Playhouses

Playhouse are not permitted.

3.38 Poles

See Section 3.23, Flags/Flagpoles.

3.39 Ponds and Water Features

Ponds and water features are not permitted.

3.40 Radio Antennae

See Section 3.6, Antennae/Satellite Dishes.

3.41 Radon Mitigation Systems

Approval is not required for equipment that complies with this Rule. Equipment must be painted a color similar or generally accepted as complimentary to the exterior of the house. All equipment shall be installed so as to minimize its visibility.

3.42 Roofing Materials

Approval is required for all roofing materials other than those originally used by the Builder. All buildings constructed on a Lot should be roofed with the same or greater quality and type of roofing material as originally used by the Builder.

Approval is not required for repairs to an existing roof with the same building material that exist on the building.

3.43 Rooftop Equipment

Approval is required. Equipment must be painted a color similar or generally accepted as complimentary to the roofing material of the house. All rooftop equipment shall be installed so as to minimize its visibility.

See Section 3.51 Solar Energy Devices.

3.44 Satellite Dishes

See Section 3.6, Antennae/Satellite Dishes.

3.45 Screen Doors

Screen doors require approval. See Section 3.16, Doors.

3.46 Seasonal Decorations

Approval is not required if installed on a lot within forty-five (45) days of a holiday, provided that an Owner is keeping with the Community standards, and provided that the decorations are removed within thirty (30) days of the holiday.

See Section 3.29, Lights and Lighting.

3.47 Security Devices.

Approval is not required. Security devices, including cameras and alarms, must be selected, located and installed so as to be an integral part of the house and not distract from the home's architecture and appearance. Cameras and housing sirens, speaker boxes, conduits and related exterior elements should be unobtrusive and inconspicuous. Such devices should be located where not readily visible and should be a color that blends with or matches the surface to which it is attached.

3.48 Shutters - Exterior

Approval is required. Shutters should be appropriate for the architectural style of the home and be of the appropriate proportion to the windows they frame. Shutters should be the same color as the "accent" color of the home (typically the same as the front door or other accent details).

3.49 Siding

Approval is required.

3.50 Signs

Approval is not required for one (1) temporary sign advertising property for sale or lease or one (1) open house sign, which shall be no larger than five (5) square feet and which are conservative in color and style; one (1) yard/garage sale signs which is no larger than 36" x 48"; and/or burglar alarm notification signs, ground staked or window mounted which are no larger than 8" x 8". Such signs may be installed in the front yard or on the back yard fence of the Lot.

Political signs (defined as signs that carry a message intended to influence the outcome of an election, including supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue) may be displayed within the boundaries of

an Owner's or resident's Lot without approval, political signs shall not exceed 36" by 48" in size and provided that no more than one (1) sign is permitted per candidate or ballot issue.

Approval is required for all other signs, except that signs celebrating a customary occasion (for example, the birth of a child or the school graduation of a child) is permitted for no more than seven (7) days. No lighted sign will be permitted unless utilized by the Developer and/or a Builder.

3.51 Solar Energy Devices

Approval is required in order to review aesthetic conditions. Photovoltaic (PV) Solar panels must lay flat on the roof, meet all applicable safety, building codes and electrical requirements, including solar panels for thermal systems (solar water heaters). The ARC is allowed to request changes as long as they don't significantly increase the cost or decrease the efficiency of the proposed device and panels. Please also see Colorado statute, C.R.S. Section 38-30-168, which governs the review and the Owner's installation of such devices.

3.52 Statues or Fountains

Approval is not required if statues or fountains are installed in the rear yard and are not greater than three (3) feet in height from the highest point, including any pedestal.

Approval is required if the statue or fountain is proposed for the front yard. Statue or fountain location in the front yard should be located close to the main entrance of the house.

See Section 3.11, Birdbaths and Section 3.31, Ornaments/Art – Landscape/Yard

3.53 Storage Sheds

See Section 3.2, Accessory Buildings.

3.54 Swamp Coolers

See Section 3.5, Air Conditioning Equipment, Section 3.18, Evaporative Coolers, and Section 3.43, Rooftop Equipment.

3.55 Television Antennae

See Section 3.6, Antennae/Satellite Dishes.

3.56 Tree Houses

Approval will not be granted. Tree houses are not permitted.

3.57 Vanes

See Section 3.61, Weather Vanes and Directionals.

3.58 Vents

See Section 3.43, Rooftop Equipment.

3.59 Walls

See Section 3.20, Fences and Section 3.60, Walls, Retaining.

3.60 Walls, Retaining

New retaining walls are not permitted. Retaining walls installed by the Declarant will be maintained by the District.

3.61 Weather Vanes and Directionals

Approval is required.

3.62 Wind Electric Generators

Approval is required. In addition to ARC approval, windmills and any other type of fixture, which fall under the criteria of a wind generator, or are used to generate power etc., must meet the requirement of the Colorado statute Section §40-2-124, C.R.S. and any applicable regulations of the Colorado Public Utilities Commission.

3.63 Windows Replacement

Approval is required, except that no approval is required for replacement of a window with a window of the same material, size, color and style. Considerations will include, but may not be limited to, size, color, existing and proposed window style and style of home.

3.64 Windows: Tinting, Security Bars, etc.

Approval is required for any visible window tinting. Highly reflective and/or dark tinting is considered too commercial for residential applications and is not permitted.

Approval is required for security bars and may not be approved on second story windows and other windows visible to the street.

Remainder of page intentionally left blank.

Appendix A

APPENDIX A: Architectural Review Request Form

ARCHITECTURAL REVIEW REQUEST FORM

Berkley Shores Metropolitan District
141 Union Blvd., Suite 150
Lakewood, CO 80228
303-987-0835

FOR OFFICE USE ONLY

Date Received _____

Crucial Date _____

Date Sent to Entity _____

Date Rcvd from Entity _____

HOMEOWNER'S NAME(S): _____

ADDRESS: _____

EMAIL ADDRESS: _____

PHONE(S): _____

My request involves the following type of improvement(s):

- | | | | |
|--|--|----------------------------------|--|
| <input type="checkbox"/> Landscaping | <input type="checkbox"/> Deck/Patio Slab | <input type="checkbox"/> Roofing | <input type="checkbox"/> Drive/Walk Addition |
| <input type="checkbox"/> Painting | <input type="checkbox"/> Patio Cover | | |
| <input type="checkbox"/> Weld Wire Mesh
Fencing | <input type="checkbox"/> Other: | | |

Include two copies of your plot plans, and describe improvements showing in detail what you intend to accomplish (see Article 2 of the Rules and Regulations of Berkley Shores). Be sure to show existing conditions as well as your proposed improvements and any applicable required screening (see the Rules and Regulations of Berkley Shores for requirement details for your specific proposed Improvement).

I understand that I must receive approval from the ARC in order to proceed with installation of Improvements if Improvements vary from the Rules and Regulations of Berkley Shores or, are not specifically exempt. I understand that I may not alter the drainage on my lot. I understand that the ARC is not responsible for the safety of Improvements, whether structural or otherwise, or conformance with building codes or other governmental laws or regulations, and that I may be required to obtain a building permit to complete the proposed Improvements. The ARC and the members thereof, as well as the District, the Board of Directors of the District, or any representative of the ARC, shall not be liable for any loss, damage or injury arising out of or in any way connected with the performance of the ARC for any action, failure to act, approval, disapproval, or failure to approve or disapprove submittals, if such action was in good faith or without malice. All work authorized by the ARC shall be completed within the time limits established and specified below, but if not specified, not later than ninety (90) days after the approval was granted. I further understand that following the completion of my approved Improvement the ARC reserves to right to inspect the Improvement at any time in order to determine whether the proposed Improvement has been completed and/or has been completed in compliance with this Architectural Review Request.

Date: _____ Homeowner's Signature: _____

ARC Action:

- Approved as submitted
- Approved subject to the following requirements:

- Disapproved for the following reasons:

All work to be completed no later than: _____

DRC/ARC Signature: _____ Date: _____

SUBMITTAL FEES

Submittal Fees shall be charged on the following schedule each submittal:

- Landscape Review and/or Fence Review - \$50
- Paint Color - \$50
- All other items - \$50

RESOLUTION NO. 2020-08-04

**RESOLUTION OF BERKLEY SHORES METROPOLITAN DISTRICT
ACKNOWLEDGING AND ADOPTING THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS OF BERKLEY SHORES**

1. Berkley Shores Metropolitan District (the “**District**”) is a duly and regularly created, established, organized, and existing metropolitan district, existing as such under and pursuant to Title 32, Article 1 of the Colorado Revised Statutes, as amended (“**C.R.S.**”).
2. HCD 6300 Lowell Boulevard, LLLP, a Colorado limited liability limited partnership (the “**Developer**”), the master developer of the Berkley Shores project (the “**Property**”) has executed a Declaration of Covenants, Conditions and Restrictions (the “**Declaration**”) for the Property recorded in the real property records of Adams County, State of Colorado, on September 16, 2020, at Reception No. 2020000092376, as the same may be amended and/or modified from time to time, and which Declaration declares that the Property is and shall be subject to the Declaration and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied, enjoyed, sold, transferred, hypothecated, maintained, altered and otherwise enjoyed in accordance with and subject to the covenants and use restrictions contained therein.
3. The Declaration provides that Berkley Shores Metropolitan District shall enforce each of the provisions provided therein.
4. Section 32-1-1004(8), C.R.S. authorizes Title 32 metropolitan districts to furnish covenant enforcement and design review services within the district if the declaration, rules and regulations, or similar document containing the covenants to be enforced for the area within the metropolitan district named the district as the enforcement or design review entity.
5. The Declaration assigns to the District all duties, rights and obligations to enforce the Declaration and to promulgate the Guidelines with respect to real property within the boundaries of the District that is subject to the Declaration.
6. The Board of Directors of the District (the “**Board**”) wishes to adopt the Declaration as an official policy of the District and to acknowledge the duties, obligations and rights assigned to the District pursuant to such Declaration.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BERKLEY SHORES METROPOLITAN DISTRICT, COUNTY OF ADAMS, COLORADO, AS FOLLOWS:

1. The foregoing Recitals are incorporated into and made a substantive part of this Resolution.
2. The Board hereby determines that it is in the best interests of the District and its property owners and users for the District to accept the assignment of all duties, rights and obligations under the Declaration and to provide the covenant enforcement and design review services established thereby.

3. The Board hereby authorizes and directs the officers of the District and District staff to take all actions necessary to execute the duties, rights and obligations assigned to the District by the Declaration.

4. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase, or word hereof, or the application thereof in any given circumstance, shall not affect the validity of the remainder of this Resolution, which shall be given effect in accordance with the manifest intent hereof.

5. This Resolution shall be effective upon recording of the Declaration in the Office of the Clerk and Recorder for Adams County, Colorado.

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO RESOLUTION OF
BERKLEY SHORES METROPOLITAN DISTRICT
ACKNOWLEDGING AND ADOPTING THE DECLARATION OF COVENANTS,
CONDITIONS AND USE RESTRICTIONS FOR BERKLEY SHORES]**

APPROVED AND ADOPTED on August 11, 2020.

**BERKLEY SHORES METROPOLITAN
DISTRICT**

By: Paul Malone
President

Digitally signed by Paul Malone
DN: c=US,
E=p.malone@highlanddevelopmentco.com,
CN=Paul Malone
Date: 2020.10.21 09:02:10-0600

Attest:

Natalie Satt

Digitally signed by Natalie Satt
DN: c=US, E=nsatt@highlanddevelopmentco.com,
O=Highland Development Company, CN=Natalie Satt
Date: 2020.10.21 09:21:20-0600

Secretary

RESOLUTION NO. 2020-08-05

RESOLUTION OF THE BOARD OF DIRECTORS OF THE BERKLEY SHORES METROPOLITAN DISTRICT ADOPTING THE POLICIES AND PROCEDURES GOVERNING THE ENFORCEMENT OF THE PROTECTIVE COVENANTS OF BERKLEY SHORES

- A. The Berkley Shores Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in the County of Adams, Colorado.
- B. The District operates pursuant to its Service Plan approved by the County of Adams on August 20, 2019, as the same may be amended and/or modified from time to time (the “**Service Plan**”).
- C. Pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power “to adopt, amend and enforce bylaws and rules and regulations not in conflict with the constitution and laws of this state for carrying on the business, objects, and affairs of the board and of the special district.”
- D. Pursuant to Section 32-1-1001(1)(j)(I), C.R.S., the District has the power “to fix and from time to time to increase or decrease fees, rates, tolls, penalties or charges for services, programs, or facilities furnished by the special district.”
- E. HDC 6300 Lowell Boulevard, LLLP (the “**Developer**”) has caused to be recorded the Declaration of Covenants and Restrictions of Berkley Shores, recorded on September 16, 2020, at Reception No. 202000092376, of the Adams County, Colorado, real property records, as the same may be amended and/or modified from time to time (the “**Covenants**”) applicable to the real property within the District (the “**Property**”).
- F. Pursuant to Section 32-1-1004(8), C.R.S., and pursuant to the District’s Service Plan, a metropolitan district may provide covenant enforcement within the district if the declaration, rules and regulations, or any similar document containing the covenants to be enforced for the area within the metropolitan district name the metropolitan district as the enforcement and design review entity.
- G. The Covenants provide that it is the intention of the Developer to empower the District to provide covenant enforcement services to the Property.
- H. Pursuant to the Covenants, the District may promulgate, adopt, enact, modify, amend, and repeal rules and regulations concerning and governing the Property and the enforcement of the Covenants.
- I. Pursuant to the Covenants, the District has the right to send demand letters and notices, to levy and collect fines, to negotiate, to settle, and to take any other actions with respect to any violation(s) or alleged violation(s) of the Covenants.
- J. The District desires to provide for the orderly and efficient enforcement of the Covenants by adopting rules and regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BERKLEY SHORES METROPOLITAN DISTRICT, ADAMS COUNTY, COLORADO THAT:

1. The Board of Directors of the District hereby adopt the Policies and Procedures Governing the Enforcement of the Protective Covenants of Berkley Shores as described in **Exhibit A**, attached hereto and incorporated herein by this reference (“**Policies and Procedures**”).

2. The Board of Directors declares that the Policies and Procedures are effective as of September 16, 2020.

3. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstances, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO RESOLUTION NO. 2020-08-05]

APPROVED AND ADOPTED this 11th day of August, 2020.

**BERKLEY SHORES METROPOLITAN
DISTRICT**

By: **Paul Malone**
President

Digitally signed by Paul Malone
DN: cn=US,
c=us, email=Paul.Malone@highlanddevelopmentco.com,
ou=Paul Malone,
Date: 2020.10.21 09:02:39-0500

Attest:

Natalie Satt
Secretary or Assistant Secretary

Digitally signed by Natalie Satt
DN: cn=US,
c=us, email=Natalie.Satt@highlanddevelopmentco.com,
ou=Natalie Satt,
Date: 2020.10.21 09:22:42-0500

EXHIBIT A

**POLICIES AND PROCEDURES GOVERNING THE ENFORCEMENT OF THE
PROTECTIVE COVENANTS OF BERKLEY SHORES**

Preamble

The Board of Directors of the Berkley Shores Metropolitan District (the “**District**”), has adopted the following Policies and Procedures Governing the Enforcement of the Protective Covenants of Berkley Shores (“**Policies and Procedures**”) pursuant to Sections 32-1-1001(1)(j)(I), 32-1-1001(1)(m), and Section 32-1-1004(8), C.R.S. These Policies and Procedures provide for the orderly and efficient enforcement of the Declaration of Covenants and Restrictions of Berkley Shores, recorded on September 16, 2020, at Reception No. 2020000092376 of the Adams County, Colorado real property records, and as may be amended from time to time (the “**Covenants**”).

Pursuant to the Covenants, it is the intention of HDC 6300 Lowell Boulevard, LLLP (the “**Developer**”) to empower the District to provide covenant enforcement services to the residents of the District.

The District, pursuant to the provisions of its Service Plan, which was approved by the County of Adams, on August 20, 2019, as it has been and may be amended from time to time, and pursuant to the Covenants, may enforce the Covenants through any proceeding in law or in equity against any Person(s) violating or attempting to violate any provision therein. Possible remedies include all of those available at law or in equity. In addition, the District has the right to send demand letters and notices, to levy and collect fines, to negotiate, to settle, and to take any other actions, with respect to any violation(s) or alleged violation(s) of the Covenants.

Unless otherwise specified, all references to the “District” made herein shall refer to the Berkley Shores Metropolitan District and its Board of Directors. The District has retained a management company (the “**District Manager**”) to assist it in managing its affairs, including the assessment and collection of penalties for violations of the Covenants under these Policies and Procedures.

ARTICLE 1. SCOPE OF POLICIES AND PROCEDURES

1.1 Scope. These Policies and Procedures shall apply to the enforcement of the Covenants, including the Rules and Regulations and Design Review Guidelines adopted pursuant thereto, as well as any reimbursable costs incurred by the District for enforcing the Covenants and for correction of noncompliance with the Covenants, including but not limited to, abatement of unsightly conditions, towing and storage of improperly parked vehicles, removal of trash, and removal of non-complying landscaping or improvements.

ARTICLE 2. VIOLATIONS OF THE COVENANTS

2.1 Violations. Any Person violating any provisions of the Covenants shall be liable to the District for any expense, loss, or damage occasioned by reason of such violation and shall also be liable to the District for the penalties set forth in Article 2.3 below.

2.2 Notice of Violation. A Notice of Violation shall be sent upon a determination, following investigation, by the District Manager that a violation is likely to exist. Such Notice of

Violation shall set forth the specifics of the alleged violation and the time period within which the alleged violation must be corrected, pursuant to the following classification guidelines:

a. Class I Violation: a violation that, in the sole discretion of the District, can be corrected immediately and/or does not require submission to, and approval by, the District of any plans and specifications. Class I Violations include, but are not limited to, parking violations, trash violations and other violations of the Covenants concerning annoying lights, sounds or odors. Class I Violations can in most cases be corrected within seven (7) days of notification. If the violation is not corrected within seven (7) days of notification, the District may take any appropriate action necessary to remedy the violation, including but not limited to, abatement of unsightly conditions, towing and storage of improperly parked vehicles, and removal of trash, etc.

b. Class II Violation: a violation that, in the sole discretion of the District, cannot be corrected immediately and/or require plans and specifications to be submitted to, and approval by, the District prior to any corrective action. Class II Violations include, but are not limited to, violations of the Covenants related to landscaping and construction of, or modification to, improvements. Class II Violations can in most cases be corrected within thirty (30) days of notification. If the violation is not corrected within thirty (30) days of notification, the District may take any appropriate action necessary to remedy the violation, including but not limited to, removing the non-complying landscaping or improvement.

2.3 Penalties. Penalties for violations of the Covenants shall be assessed as follows. Any penalties that have not been paid by the applicable due date shall be considered delinquent (the "**Delinquent Account**").

- a. First Offense – Notice of Violation, no penalty
- b. Second Repeated Offense – Fee of up to \$100.00
- c. Third Repeated Offense – Up to \$250.00
- d. Continuing Repeated Violation – Up to \$500 each day violation continues (each day constitutes a separate violation).

ARTICLE 3. INTEREST

3.1 Interest. Interest charges shall accrue and shall be charged on all amounts not paid by the applicable due date, including delinquent penalties and any amounts expended by the District to cure a violation of the Covenants or amounts expended by the District to repair damages caused as a result of a violation of the Covenants. Interest charges shall accrue and shall be charged at the maximum statutory rate of eighteen percent (18%) per annum.

ARTICLE 4. LIEN FILING POLICIES AND PROCEDURES

4.1 Perpetual Lien. Pursuant to Section 32-1-1001(1)(j)(I), C.R.S., all Fees and Charges, until paid, shall constitute a perpetual lien on and against the Property to be served by the District. Except for the for the lien against the Property created by the imposition of property

taxes by the District and other taxing jurisdictions pursuant to Section 32-1-1202, C.R.S., all liens for unpaid Fees and Charges shall to the fullest extent permitted by law, have priority over all other liens of record affecting the Property and shall run with the Property and remain in effect until paid in full. All liens contemplated herein may be foreclosed as authorized by law at such time as the District in its sole discretion may determine. Notwithstanding the foregoing, the lien policies and procedures set forth herein shall be implemented in order to ensure an orderly and fair execution of the lien filing and collections process.

4.2 District Manager's Procedures. The District Manager shall be responsible for collecting Fees and Charges imposed by the District against the Property. In the event payment of Fees and Charges is delinquent, the District Manager shall perform the procedures listed below. Any Fees and Charges which have not been paid by the applicable due date are considered delinquent:

a. Fifteen (15) Business days Past Due. A delinquent payment "Reminder Letter" shall be sent to the address of the last known owner of the Property according to the District Manager's records. In the event the above mailing is returned as undeliverable, the District Manager shall send a second copy of the Reminder Letter to: (i) the Property; and (ii) the address of the last known owner of the Property as found in the real property records of the Adams County, Colorado Assessor's office (collectively the "**Property Address**"). Said Reminder Letter shall request prompt payment of amounts due.

b. On the Fifteenth (15) Business day of the Month Following the Scheduled Due Date for Payment. A "Warning Letter" shall be sent to the Property Address requesting prompt payment and warning of further legal action should the Property owner fail to pay the total amount owing. Along with the Warning Letter, a summary of these Policies and Procedures, and a copy of the most recent account ledger reflecting the total amount due and owing to the District according to the records of the District Manager shall also be sent.

c. First (1) Business day of the Month Following the Postmark Date of the Warning Letter. Once the total amount owing on the Property, inclusive of Interest and Costs of Collections as defined below, has exceeded One Hundred Twenty Dollars (\$120.00) and the District Manager has performed its duties outlined in these Policies and Procedures, the District Manager shall refer the Delinquent Account to the District's General Counsel (the "**General Counsel**"). However, if the amount owing on the Delinquent Account is less than One Hundred Twenty Dollars (\$120.00), the District Manager shall continue to monitor the Delinquent Account until the amount owing on such account is One Hundred Twenty Dollars (\$120.00) or greater, at which point the Delinquent Account shall be referred to General Counsel. At the time of such referral, the District Manager shall provide General Counsel with copies of all notices and letters sent and a copy of the most recent ledger for the Delinquent Account.

4.3 General Counsel Procedures. Upon referral of a Delinquent Account from the District Manager, General Counsel shall perform the following:

a. Upon Referral of the Delinquent Account from the District Manager. A "Demand Letter" shall be sent to the Property Address, notifying the Property owner that his/her Property has been referred to General Counsel for further collections enforcement, including the filing of a lien against the Property. Along with the Demand Letter, a copy of the most recent

account ledger reflecting the total amount due and owing the District according to the records of the District Manager shall also be sent.

b. No Earlier Than Thirty (30) Business days from the Date of the Demand Letter. A Notice of Intent to File Lien Statement, along with a copy of the lien to be filed, shall be sent to the Property Address of the Delinquent Account notifying the Property owner that a lien will be filed within thirty (30) days of the Notice of Intent to File Lien Statement postmark date.

c. No Earlier Than Ten (10) Business days from the Postmark Date of the Notice of Intent to File Lien Statement. A lien for the total amount owing as of the date of the lien shall be recorded against the Property with the County Clerk and Recorder's Office; all Fees and Charges, Interest, and Costs of Collection (as defined below) will continue to accrue on the Delinquent Account and will run with the Property until the total amount due and owing the District is paid in full.

ARTICLE 5. COSTS OF COLLECTIONS

"Costs of Collections" are generated by the District Manager and General Counsel's collection efforts. They consist of the following fixed rates and hourly fees and costs:

5.1 Action Fees. The following fixed rate fees shall be charged to a Delinquent Account once the corresponding action has been taken by either the District Manager or General Counsel:

a. Reminder Letter Fee. No charge for the Reminder Letter. This action is performed by the District Manager.

b. Warning Letter Fee. Fifteen Dollars (\$15.00) per Warning Letter sent. This action is performed by the District Manager.

c. Demand Letter Fee. Fifty Dollars (\$50.00) per Demand Letter sent. This action is performed by General Counsel.

d. Notice of Intent to File Lien Fee. One Hundred Fifty Dollars (\$150.00) per Notice of Intent to File Lien Statement sent. This action is performed by General Counsel.

e. Lien Recording Fee. One Hundred Fifty Dollars (\$150.00) per each lien recorded on the Property. This action is performed by General Counsel.

f. Lien Release Fee. One Hundred Fifty Dollars (\$150.00) per each lien recorded on the Property. This action is performed by General Counsel.

5.2 Attorney Hourly Fees and Costs. After a lien has been filed, all hourly fees and costs generated by General Counsel to collect unpaid Fees and Charges shall also be assessed to the Delinquent Account.

5.3 Recovery of Costs of Collections. In accordance with Section 29-1-1102(8), C.R.S., nothing in these Policies and Procedures shall be construed to prohibit the District from recovering all the Costs of Collections whether or not outlined above.

ARTICLE 6.
WAIVER OF INTEREST AND COSTS OF COLLECTIONS

6.1 Waiver of Interest. The District Manager and General Counsel shall each have authority and discretion to waive or reduce portions of the Delinquent Account attributable to Interest. Such action shall be permitted if either the District Manager or General Counsel, in its discretion, determines that such waiver or reduction will facilitate the payment of the penalties due. Notwithstanding, if the cumulative amount due and owing the District on the Delinquent Account exceeds One Thousand Dollars (\$1,000.00), neither the District Manager nor General Counsel shall have any authority to waive or reduce any portion of the Interest. In such case, the person or entity owing in excess of One Thousand Dollars (\$1,000.00) shall first submit a request for a waiver or reduction, in writing, to the District, and the District shall make the determination in its sole discretion.

6.2 Waiver of Delinquent Penalties and Costs of Collections. Neither the District Manager nor General Counsel shall have the authority to waive any portion of delinquent penalties or Costs of Collections. Should the Property owner desire a waiver of such costs, she/he shall submit a written request to the District, and the District shall make the determination in its sole discretion.

6.3 No Waiver of Future Interest. Any waiver or reduction of Interest or other costs granted pursuant to Sections 6.1 and 6.2 hereof shall not be construed as a waiver or reduction of future Interest, or as the promise to waive or reduce future Interest. Nor shall any such waiver or reduction be deemed to bind, limit, or direct the future decision making power of the District, District Manager, or General Counsel, whether related to the Property in question or other properties within the District.

ARTICLE 7.
OPPORTUNITY TO BE HEARD

7.1 Opportunity to be Heard. Individuals who receive any notice or demand pursuant to these Policies and Procedures may request a hearing in accordance with the procedures set forth herein, or in the alternative, may elect to follow the Alternative Dispute Resolution procedures set forth in the Covenants.

7.2 Hearing Process. The hearing and appeal procedures established by this Article shall apply to all complaints concerning the interpretation, application, or enforcement of the Covenants, as each now exists or may hereafter be amended.

a. Complaint. Complaints concerning the interpretation, application, or enforcement of the Covenants must be presented in writing to the District Manager, or such representative as he or she may designate. Upon receipt of a complaint, the District Manager or designated representative, after a full and complete review of the allegations contained in the complaint, shall take such action and/or make such determination as may be warranted and shall notify the complainant of the action or determination by mail within fifteen (15) business days

after receipt of the complaint. Decisions of the District Manager which impact the District financially will not be binding upon the District unless approved by the Board of Directors of the District at a special or regular meeting of the District.

b. Hearing. In the event the decision of the District Manager or his representative is unsatisfactory to the complainant, the complainant may submit to the District a written request for formal hearing before a hearing officer (“**Hearing Officer**”), which may be a member of the Board of Directors or such other Person as may be appointed by the Board of Directors. Such request for a formal hearing must be submitted within twenty (20) business days from the date written notice of the decision of the District Manager or designated representative was mailed.

Upon receipt of the request, if it be timely and if any and all other prerequisites prescribed by these Policies and Procedures have been met, the Hearing Officer shall conduct a hearing at the District’s convenience but in any event not later than fifteen (15) business days after the submission of the request for formal hearing. The formal hearing shall be conducted in accordance with and subject to all pertinent provisions of these Policies and Procedures. Decisions of the Hearing Officer which impact the District financially will not be binding upon the District unless approved by the Board of Directors at a special or regular meeting of the District.

c. Rules. At the hearing, the Hearing Officer shall preside and the hearing shall be recorded. The complainant and representatives of the District shall be permitted to appear in person, and the complainant may be represented by any Person (including legal counsel) of his or her choice.

The complainant or his or her representative and the District representatives shall have the right to present evidence and arguments; the right to confront and cross-examine any Person; and the right to oppose any testimony or statement that may be relied upon in support of or in opposition to the matter complained of. The Hearing Officer may receive and consider any evidence which has probative value commonly accepted by reasonable and prudent Persons in the conduct of their affairs.

The Hearing Officer shall determine whether clear and convincing grounds exist to alter, amend, defer, or cancel the interpretation, application, and/or enforcement of the Policies and Procedures that are the subject of the complaint. The Hearing Officer’s decision shall be based upon evidence presented at the hearing. The burden of showing that the required grounds exist to alter, amend, defer, or cancel the action shall be upon the complainant.

d. Findings. Subsequent to the formal hearing, the Hearing Officer shall make written findings and an order disposing of the matter and shall mail a copy thereto to the complainant not later than fifteen (15) business days after the date of the formal hearing.

e. Appeals. In the event the complainant disagrees with the findings and order of the Hearing Officer, the complainant may, within fifteen (15) business days from the date such findings and order were mailed, file with the District a written request for an appeal thereof to the Board of Directors. The request for an appeal shall set forth with specificity the facts or exhibits presented at the formal hearing upon which the complainant relied and shall contain a brief statement of the complainant’s reasons for the appeal. The District shall compile a written record

of the appeal consisting of (1) a transcript of the recorded proceedings at the formal hearing, (2) all exhibits or other physical evidence offered and reviewed at the formal hearing, and (3) a copy of the written findings and order. The District shall consider the complainant's written request and the written record on appeal at its next regularly scheduled meeting held not earlier than ten (10) days after the filing of the complainant's request for appeal. The District's consideration of the appeal shall be limited exclusively to a review of the record on appeal and the complainant's written request for appeal. No further evidence shall be presented by any Person or party to the appeal, and there shall be no right to a hearing de novo before the Board of Directors.

f. District Board of Directors Findings. The Board of Directors shall make written findings and an order concerning the disposition of the appeal presented to it and shall cause notice of the decision to be mailed to the complainant within thirty (30) days after the Board of Directors' meeting at which the appeal was considered. The Board of Directors will not reverse the decision of the Hearing Officer unless it appears that such decision was contrary to the manifest weight of the evidence made available at the formal hearing.

g. Notices. A complainant shall be given notice of any hearing before the District Manager, the hearing officer, or before the Board of Directors, by certified mail at last seven (7) business days prior to the date of the hearing, unless the complainant requests or agrees to a hearing in less time. When a complainant is represented by an attorney, notice of any action, finding, determination, decision, or order affecting the complainant shall also be served upon the attorney.

h. Costs. All costs of the formal hearing and appeal processes shall be paid by the complainant, including, but not limited to, certified mailing, transcription of the recorded proceedings, and General Counsel fees.

ARTICLE 8. PAYMENT PLANS

8.1 Payment Plans. Neither the District Manager nor General Counsel shall have the authority to enter into or establish payment plans for the repayment of a Delinquent Account. Should the Property owner desire to enter into a payment plan with the District, such owner shall first submit a written request to the District and the District shall make the determination in its sole discretion.

ARTICLE 9. RATIFICATION OF PAST ACTIONS

9.1 Ratification of Past Actions. All waivers and payment plans heretofore undertaken by the District Manager or General Counsel that would otherwise have been authorized by these Policies and Procedures are hereby affirmed, ratified, and made effective as of the date said actions occurred.

ARTICLE 10.
ADDITIONAL ACTIONS

10.1 Additional Actions. The District directs and authorizes its officers, staff and consultants to take such additional actions and execute such additional documents as are necessary to give full effect to the intention of these Policies and Procedures.

ARTICLE 11.
COLORADO AND FEDERAL FAIR DEBT COLLECTIONS ACTS

11.1 Acts Not Applicable. Protective covenant enforcement as described herein is not a consumer transaction and, therefore, is not subject to the Colorado Fair Debt Collection Practices Act or the Federal Fair Debt Collections Practices Act.

ARTICLE 12.
SEVERABILITY

12.1 Severability. If any term or provision of these Policies and Procedures is found to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable term or provision shall not affect the validity of these Policies and Procedures as a whole but shall be severed herefrom, leaving the remaining terms or provisions in full force and effect.

ARTICLE 13.
SAVINGS PROVISION

13.1 Savings Provision. The failure to comply with the procedures set forth herein shall not affect the status of the Fees and Charges as a perpetual lien subject to foreclosure in accordance with law. Failure by the District Manager, General Counsel, or other authorized representative to take any action in accordance with the requirements as specifically provided herein shall not invalidate subsequent efforts to collect the Fees and Charges.