

BERKLEY SHORES METROPOLITAN DISTRICT

141 Union Boulevard, Suite 150
Lakewood, Colorado 80228
Phone: 303-987-0835

NOTICE OF SPECIAL MEETING AND AGENDA

DATE: August 11, 2020
TIME: 1:00 p.m.
PLACE: Highland Development Company, LLC
2100 N. Downing St.
Denver, CO 80205

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’S BOARD MEETING WILL BE ACCESSIBLE BY CONFERENCE CALL. THERE WILL BE ONE PERSON PRESENT AT THE PHYSICAL LOCATION POSTED ON THIS NOTICE AND ALL OTHER ATTENDEES WILL BE VIA TELEPHONE.

You can attend the meetings in any of the following ways:

- ACCESS:**
1. To attend via Zoom Videoconference, e-mail jhenry@specialdistrictlaw.com to obtain a link to the videoconference.
 2. To attend via telephone, dial 1-312-626-6799 and enter the following additional information:
 - a. Meeting ID: 930 6168 6155
 - b. Passcode: 289405

<u>Board of Directors</u>	<u>Office</u>	<u>Term Expires</u>
Paul Malone	President	May 2022
Natalie Satt	Secretary	May 2022
Philip Clow		May 2023
Michael Martinez	Assistant Secretary	May 2022
Victoria Almagno		May 2023

I. ADMINISTRATIVE MATTERS

- A. Confirm quorum and present disclosures of potential conflicts of interest.

- B. Approve agenda, confirm location of meeting and posting of meeting notice.

C. Public Comment.

D. Discuss results of May 5, 2020 Cancelled Regular Directors' Elections (enclosure).

E. Consider appointment of officers:

President: _____

Secretary: _____

Treasurer: _____

Assistant Secretaries: _____

F. Review and consider approval of February 24, 2020 Organizational Meeting Minutes (enclosure).

G. Ratify engagement of Special District Management Services, Inc. for District Management and Accounting Services (enclosure).

H. Review and consider engagement of Ballard Spahr LLP as District Bond Counsel (enclosure).

II. FINANCIAL MATTERS

A. Discuss and consider establishment of the District's operating account and authorize all Board Members to be signers on the account (with all checks requiring two signatures).

B. Discuss status of Cost Certification Report from Ranger Engineering, LLC and acceptance of District Reimbursable Costs and authorize necessary actions in conjunction therewith.

- i. Discuss status of Requisitions (under the Series 2020A Bonds) authorizing reimbursement to HDC 6300 Lowell Boulevard, LLLP and authorize necessary actions in conjunction therewith.
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- C. Conduct Public Hearing on the proposed 2020 Budget Amendment and consider adoption of Resolution No. 2020-08-01 to Amend the 2020 Budget (enclosure – draft Resolution).
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- D. Consider the appointment of the District Accountant to prepare the 2021 Budget and schedule 2021 Budget Hearing (suggested date is Monday, November 2, 2020 at 10:00 am.)
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III. LEGAL MATTERS

- A. Ratify approval of Service Agreement for Cost Verification Services between the District and Ranger Engineering, LLC (enclosure).
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- B. Discuss status of construction of water and sewer infrastructure and conveyance of same to Crestview Water and Sanitation District.
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- C. Discuss and consider adoption of a 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 (to be distributed).
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- D. Discuss Imposition of District Fees.
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- E. Discuss and consider adoption of Resolution No. 2020-08-02 Regarding Continuing Disclosure Policies and Procedures (enclosure).
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IV. COVENANT ENFORCMENT

- A. Discuss Covenants, Conditions and Restrictions of Berkley Shore.
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- B. Discuss and consider adoption of Resolution No. 2020-08-03; Resolution Adopting the Rules and Regulations of Berkley Shores (enclosure).
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- C. Discuss and consider adoption of Resolution No. 2020-08-04; Resolution Acknowledging and Adopting the Declaration of Covenants, Conditions and Restrictions of Berkley Shores (enclosure).
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- D. Discuss and consider adoption of Resolution No. 2020-08-05; Resolution Adopting the Policies and Procedures Governing the Enforcement of the Covenants, Conditions and Restrictions of Berkley Shores (enclosure).
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V. CONSTRUCTION MATTERS

- A. Discuss 2020 development / construction outlook.
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VI. OTHER BUSINESS

VII. ADJOURNMENT

**NOTICE OF CANCELLATION OF REGULAR ELECTION
BY THE DESIGNATED ELECTION OFFICIAL**

NOTICE IS HEREBY GIVEN by the Berkley Shores Metropolitan District, Adams County, Colorado, that at the close of business on the sixty-third day before the election there were not more candidates for director than offices to be filled, including candidates filing affidavits of intent to be write-in candidates; therefore, the election to be held on May 5, 2020, is hereby canceled pursuant to Section 1-13.5-513, C.R.S.

The following candidates are declared elected:

Victoria Almagno	until the second regular election (May 2, 2023)
Philip Clow	until the second regular election (May 2, 2023)

DATED: March 3, 2020

/s/ Jennifer S. Henry

Designated Election Official for
Berkley Shores Metropolitan District
c/o McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203-1254
Telephone No: (303) 592-4380

Published In: Northglenn / Thornton Sentinel / Westminster Window
Published On: March 19, 2020

RECORD OF PROCEEDINGS

MINUTES OF THE ORGANIZATIONAL MEETING OF
THE BOARD OF DIRECTORS OF THE
BERKLEY SHORES METROPOLITAN DISTRICT
(THE "DISTRICT")
HELD
February 24, 2020

An organizational meeting of the Board of Directors of the Berkley Shores Metropolitan District (referred to hereafter as the "Board") was convened on Monday, February 24, 2020, at 11:00 a.m., at the offices of Highland Development Company, LLC, 2100 N. Downing Street, Colorado 80205. The meeting was open to the public.

Directors In Attendance Were:

Paul Malone
Natalie Satt
Michael Martines
Victoria Almagno
Philip Clow

Also In Attendance Was:

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

DISCLOSURE OF
POTENTIAL
CONFLICTS OF
INTEREST

The Board discussed the requirements of Colorado law to disclose any potential conflicts of interest or potential breaches of fiduciary duty of the Board of Directors to the Secretary of State. Attorney Becher noted that a quorum was present and requested Board members to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting, and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with statute. It was noted by Attorney Becher that disclosures of potential conflicts of interest were filed with the Secretary of State for all directors, and no additional conflicts were disclosed at the meeting.

ADMINISTRATIVE
MATTERS

Agenda: The Board reviewed the Agenda for the District's organizational meeting. Following discussion, upon motion duly made by Director Satt, seconded by Director Malone and, upon vote unanimously carried, the Agenda 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

RECORD OF PROCEEDINGS

District's Board meeting. Following discussion, and upon motion duly made by Director Satt, seconded by Director Malone and, upon vote unanimously carried, the Board determined that because there was not a suitable or convenient location within the District's boundaries or within the county that the District is located to conduct this meeting, it was determined to conduct the meeting at the above-stated location. The Board further noted that notice of this location was duly posted and that it has not received any objections to the location or any requests that the meeting place be changed by taxpaying electors within the District's boundaries.

Method of Delivery of Meeting Packets: The Board directed that electronic meeting packets be emailed to the Board prior to meetings and hard copies be provided at meetings.

Oaths of Office and Organizational Documents: It was confirmed by Attorney Becher that the oaths of office and organizational documents have been filed with the proper offices.

Appointment of Officers: Following discussion, upon a motion duly made by Director Malone, seconded by Director Martines 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 Secretary:	Michael Martines and Victoria Almagno

Engagement of McGeady Becher P.C. as District Counsel: The Board considered the engagement of McGeady Becher P.C. as District Counsel. Following discussion, upon a motion duly made by Director Martines, seconded by Director Malone and, upon vote unanimously carried, the Board engaged McGeady Becher P.C. as District Counsel.

Engagement of District Manager and District Accountant: The Board expressed an interest in engaging Special District Management Services, Inc. and directed District Counsel to obtain a proposal for services.

Engagement of Bond Counsel: Discussion deferred.

Engagement of D.A. Davidson & Company for Investment Banking Services: The Board considered the engagement of D.A. Davidson & Company for Investment Banking Services. Following discussion, upon a motion duly made by Director Malone, seconded by Director Satt and, upon vote unanimously carried, the Board engaged D.A. Davidson & Company for Investment Banking Services.

RECORD OF PROCEEDINGS

Resolution No. 2020-02-01 Authorizing District Insurance Coverage through the Colorado Special Districts Property and Liability Pool and the Special District Association: Attorney Becher reviewed the statutory requirements for insurance coverage with the Board. Following discussion, the Board determined to obtain public officials' liability, general liability and comprehensive crime insurance coverage through the Colorado Special Districts Property and Liability Pool, to join the Special District Association ("SDA") and approve the Agency Services Agreement with T. Charles Wilson for insurance agency services. Upon motion duly made by Director Martines, seconded by Director Malone and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-01 to obtain insurance coverage through the Colorado Special Districts Property and Liability Pool, join the SDA and approved the Agency Services Agreement with T. Charles Wilson.

FINANCIAL MATTERS

Federal Employer Identification Number ("FEIN"), Sales Tax Exemption and PDPA Numbers: Following discussion, upon a motion duly made by Director Clow, seconded by Director Martines and, upon vote unanimously carried, the Board approved the execution of the following documents:

1. Application for FEIN;
2. Application for Sales Tax Exemption for Colorado; and
3. Application for Assignment of PDPA Number for Public Funds Deposited in Banks.

Investment Policy: Following discussion, upon a motion duly made by Director Clow, seconded by Director Almagno and, upon vote unanimously carried, the Board approved the establishment of a policy authorizing investments in accordance with state statutes.

Payment of Directors' Fees: The Board discussed the payment of Directors' Fees and opted to not pay Directors' Fees at this time.

Preparation of 2020 Budget: Following discussion, upon a motion duly made by Director Malone, seconded by Director Clow and, upon vote unanimously carried, the Board ratified the preparation of the District's 2020 Budget.

Public Hearing on 2020 Budget: The Board opened the public hearing to consider the District's proposed 2020 Budget. It was noted that Notice stating that the Board would consider adoption of the 2020 Budget and the date, time and place of the public hearing was published pursuant to statute.

No public comments were received, and the public hearing was closed.

Following review and discussion, upon a motion made by Director Martines,

RECORD OF PROCEEDINGS

seconded by Director Malone and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-02 to Adopt the 2020 Budget and Appropriating Sums of Money.

Establishment of District Bank Account: Discussion deferred.

LEGAL MATTERS

2020 Bond Issuance: The Board noted the District expects to issue bonds in 2020.

Agreements with Crestview Water and Sanitation District: The Board discussed the necessary Intergovernmental Agreement with Crestview Water and Sanitation District. No action taken.

Construction of District Eligible Improvements: It was noted that the developer would be constructing the District improvements.

Engineering and Cost Verification Services: The Board discussed the need to engage an engineer for cost verification services. The Board directed District Counsel to obtain a proposal from Ranger Engineering, LLC for services.

Imposition of District Fees: Discussion deferred.

Disclosure to Purchasers: The Board discussed the Disclosure to Purchasers required under the District's Service Plan and Attorney Becher noted that the Disclosure to Purchasers will be recorded with the Adams County Clerk and Recorder and provided to the developer to distribute to homebuyers in the sales materials.

Covenant Enforcement: It was noted that the District would be providing Covenant Enforcement Services. No action taken.

Operation Funding Agreement: The Board reviewed the proposed Operation Funding Agreement by and between the District and HDC 6300 Lowell Boulevard, LLLP. Following discussion, upon motion duly made by Director Martines, seconded by Director Satt and, upon vote unanimously carried, the Board approved the Operation Funding Agreement by and between the District and HDC 6300 Lowell Boulevard, LLLP.

Facilities Funding and Acquisition Agreement: The Board reviewed the proposed Facilities Funding and Acquisition Agreement by and between the District and HDC 6300 Lowell Boulevard, LLLP. Following discussion, upon motion duly made by Director Martines, seconded by Director Satt and, upon vote unanimously carried, the Board approved the Facilities Funding and Acquisition Agreement by and between the District and HDC 6300 Lowell Boulevard, LLLP.

RECORD OF PROCEEDINGS

Eligible Governmental Entity Agreement: Following discussion, upon motion duly made by Director Martines, seconded by Director Malone and, upon vote unanimously carried, the Board approved the Eligible Governmental Entity Agreement with the State of Colorado Statewide Internet Portal Authority for establishing a District website.

Resolution No. 2020-02-03; Establishing Regular Meeting Dates, Time and Location, Establishing District Website and Designating Location for Posting of 24-Hour Notices: Following discussion, upon a motion duly made by Director Martines, seconded by Director Malone and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-03; Establishing Regular Meeting Dates, Times and Location, Establishing District Website and Designating Location for Posting of 24-Hour Notices.

Resolution No. 2020-02-04; Resolution Providing Policy Regarding Recording of Public and Executive Session Meetings: Following discussion, upon a motion duly made by Director Malone, seconded by Director Almagno and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-04; Resolution Providing Policy Regarding Recording of Public and Executive Session Meetings.

Resolution No. 2020-02-05; Resolution Providing for the Defense and Indemnification of Directors and Employees of the District: Following discussion, upon a motion duly made by Director Malone, seconded by Director Clow and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-05; Resolution Providing for the Defense and Indemnification of Directors and Employees of the District.

Resolution No. 2020-02-06; Resolution Declaring the District's Intent to Reimburse Expenditures with the Proceeds of Future Tax-Exempt Bonds: Following discussion, upon a motion duly made by Director Malone, seconded by Director Martines and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-06; Resolution Declaring the District's Intent to Reimburse Expenditures with the Proceeds of Future Tax-Exempt Bonds.

Resolution No. 2020-02-07; Resolution Regarding the District's Intent to Reimburse Developer for Advances for Operations, Maintenance and Capital Expenses: Following discussion, upon a motion duly made by Director Malone seconded by Director Martines and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-07; Resolution Regarding the District's Intent to Reimburse Developer for Advances for Operations, Maintenance and Capital Expenses.

RECORD OF PROCEEDINGS

Resolution No. 2020-02-08; Resolution Regarding Colorado Open Records Act Requests: Following discussion, upon a motion duly made by Director Malone, seconded by Director Satt and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-08; Resolution Regarding Colorado Open Records Act Requests.

Resolution No. 2020-02-09; Resolution Regarding the Retention and Disposal of Public Records and Adopting a Public Records Retention Schedule: Following discussion, upon a motion duly made by Director Satt, seconded by Director Malone and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-09; Resolution Regarding the Retention and Disposal of Public Records and Adopting a Public Records Retention Schedule.

Resolution No. 2020-02-10 Calling May 5, 2020 Election: The Board discussed the May 5, 2020 election. Following discussion, upon motion duly made by Director Malone, seconded by Director Martines and, upon vote unanimously carried, the Board adopted Resolution No. 2020-02-10 Calling a May 5, 2020 Directors' Election which appointed Jennifer S. Henry as the Designated Election Official and authorized her to perform all tasks required for the May 5, 2020 Regular Election of the Board of Directors for the conduct of a mail ballot election.

CONSTRUCTION MATTERS

Development / Construction Outlook: 2020 development was discussed.

OTHER BUSINESS

Consent: Attorney Becher discussed with the Board the consent to be listed on the McGeady Becher P.C. website as a client. Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote unanimously carried, the Board approved the Consent.

ADJOURNMENT

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

Respectfully submitted,

By _____
Secretary for the Meeting

MANAGEMENT AGREEMENT

THIS AGREEMENT is made and entered into as of this 5th day of June, 2020 by and between BERKLEY SHORES METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District") and SPECIAL DISTRICT MANAGEMENT SERVICES, INC. (the "Company").

RECITALS

WHEREAS, the District was organized and exists pursuant to the laws of the State of Colorado to provide and operate certain public-purpose facilities and improvements for the benefit of its inhabitants and taxpayers; and

WHEREAS, the District requires management services in order to competently and efficiently meet its responsibilities; and

WHEREAS, the Company has the capacity and willingness to provide such services to the District;

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

ARTICLE I
APPOINTMENT OF MANAGER

- 1. Appointment of Manager. Effective as of June 5th, 2020, the District hereby retains the Company as the District Manager, and the Company hereby agrees to serve as District Manager pursuant to the terms and conditions set forth herein.
- 2. Independent Contractor. In performing its services as District Manager, the Company shall be an independent contractor to the District and not an employee or agent of the District.

ARTICLE II
DUTIES AND AUTHORITY

- 1. General Limitations and Requirements. The Company shall have the authority specified in Article II, Section 2 hereof to act for and on behalf of the District. The Company shall have no rights or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement or specifically authorized or ratified by the District's Board (the "Board") as reflected in the minutes of the Board meetings. The Company shall at all times conform to the stated policies established and approved by the Board and the scope of the Company's authority shall at all times be subject to the direction of the Board and shall keep the Board informed as to all matters concerning the services it is providing. The Company shall provide the services as set forth herein in full compliance with all applicable laws, rules, and regulations of any federal, state, county, or municipal body or agency thereof having jurisdiction over the activities of the District and/or the Company. The Company shall have no right or interest in any of the District's assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the services as provided for herein.
- 2. Specific Duties and Authority. The Company shall, in general, conduct or cause to be conducted the ordinary and usual business and affairs of the District in a reasonable, prudent, and professional business manner.

The Company shall report promptly to the Board any conditions, events, or other matters which in the Company's reasonable opinion require the attention of the Board.

The Company shall provide periodic reports to the Board regarding the status of District matters and actions taken or contemplated by the Company on behalf of the District pursuant to this Agreement.

A scope of services is attached as Appendix A.

**ARTICLE III
COMPENSATION**

For performance of services as set forth on Appendix A the Company's fees are billed monthly. The current rates at the time of execution of this Agreement are set forth below.

The following services are billed on a Time & Materials basis:

1. Administrative Management
2. Financial Management
3. Field Services
4. Billing & Collections

Billing for District Community Management are as outlined below:

Flat Fee Billing: \$8/closed home with a minimum of \$1,200 once the first unit has closed
To be billed on an hourly basis:

1. Work completed prior to first home closing
2. Communication with legal counsel, including but not limited to consultation regarding enforcement, covenant enforcement legal action and court appearances on behalf of the District.
3. Additional meetings and/or inspections as directed by the Board.

Supplies and Materials

	<u>Per</u>	<u>Cost</u>
Copies, Black and White	each \$	0.20
Copies, Color	each \$	0.69
Fax	page \$	0.20
Mileage	mile \$	0.58
Postage	each	at cost
Supplies	each	at cost
Digitizing of Records	hour \$	140.00

Hourly Rates

District Management & Administration:

Senior Managers & Managers \$140.00-90.00

Assistant Managers & Admin. Coordinators	\$115.00-50.00
<u>Finance & Accounting:</u>	
Senior Accountants & Accountants	\$130.00-60.00
Assistant Accountants & AP Coordinators	\$110.00-50.00
<u>Utility Billing Service:</u>	
	\$ 65.00
<u>Operations, Maintenance and Field Services:</u>	
	\$ 75.00 - 95.00
<u>Community Management:</u>	
Managers & Assistant Managers	\$ 95.00 -140.00
Administrative Support	\$ 75.00 -140.00

A one-time fee of \$500.00 is requested to set up the District's files.

The Board will be advised of any change in the billing rates.

There will be additional charges for out-of-pocket expenses, such as postage, facsimiles, letterhead, envelopes, printing, etc. and a monthly charge of \$35 will be applied for CINC services.

District records delivered to the Company in paper format will be digitized at the previously disclosed rate.

A one-time fee of \$500.00 is requested to set up the District's files.

Once established, if the District chooses to become inactive, a \$600 per year inactivity fee will apply.

ARTICLE IV DURATION, TERMINATION, AND DEFAULT

1. Term. The term of this Agreement shall commence JUNE 5TH, 2020, and shall continue, unless sooner terminated in accordance with other provisions of this Agreement, until December 31, 2020, and shall automatically renew each January 1 for an additional calendar year until notice is given as provided below in Article IV, Section 2.

2. Termination.

a. The Company may terminate this Agreement at any time and for any reason by providing the District written notice of intent to terminate at least 30 days prior to the date of termination.

b. The Board may terminate this Agreement without cause upon 30 days written notice. The Board may terminate this Agreement immediately upon the occurrence of any default by the Company and upon written notice to the Company from the Board specifying the nature of such default. A default shall be defined as the occurrence of any of the following:

1. The Company fails to perform any of its services in the manner or within the time required herein or commits or permits a breach of or default in any of its duties, liabilities, or obligations hereunder and fails to reasonably cure or remedy such failure, breach, or default within 10 days after written notice by the District specifying the nature of such failure, breach, or default, or if such breach or default cannot

reasonably be cured within 10 days, fails to commence such cure or remedy within said 10 day period or at any time thereafter fails to diligently prosecute such cure or remedy to completion.

c. Upon notice by either the Company or Board of intent to terminate the Agreement, the Company will continue to provide services pursuant to the terms of the Agreement up to and including the date of termination. During this period, the Company shall assist the District in the transition of the Company's duties and the delivery of all documents and property of the District to a contractor or employee designated by the District, at the then current hourly billing rate.

d. The Company shall retain the ability to sub-contract to an independent vendor any of the duties identified above either: (a) upon consent of the Board; or (b) in the event of an emergency. Company shall be responsible to the District for the performance of all duties performed by an independent vendor.

3. Ownership of Information and Materials. The Company shall, upon completion of its services or any sooner termination of this Agreement, and upon payment in full of all monies owed the Company, deliver to the District all written data and information generated by or for the Company in connection with the District or supplied to the Company by the District or the District's contractors or agents, and all drawings, plans, books, records, contracts, agreements, and all other documents and writing in its possession relating to its services or the District, and the District shall have the right to use the same without further compensation to the Company. Such data and information and all such documents shall at all times be the property of the District.

ARTICLE V INDEMNIFICATION AND INSURANCE

1. Indemnity. The Company hereby agrees to indemnify and hold harmless the District from claims, losses, injuries, expenses and costs related to the Company's negligent, reckless, willful or wanton acts and omissions in connection with this Agreement or related to the Company's services or work hereunder, but only within the scope of its duties or authority hereunder.

2. Insurance. The Company shall maintain, in full force and effect during the term of this Agreement, liability insurance and all required insurance for its employees, including worker's compensation insurance, in conjunction with the performance of its obligations under the terms of this Agreement. Upon execution of this Agreement, the Company agrees to provide proof of such insurance to the District.

3. Limited Assumption of Liability. To the extent permitted by law, the District expressly assumes liability for all damages resulting from any act, or failure to act, of the Company while performing duties directed by the District to the Company either under this Agreement specifically or under separate direction by the Board; provided that (a) such assumption of liability by the District is limited to only those damages resulting from events which are insurable under the District's general property and liability insurance policy, and (b) such assumption of liability is further limited to the extent that recovery for such damages is subject to all limitations imposed by the Colorado Governmental Immunity Act. The District shall defend, within the limits of the above limited assumption of liability, all such suits, actions and proceedings brought under such claims and pay all costs and expenses incidental thereto. The Company shall have the right, at its expense and in its discretion, to participate in the defense of any such suit, action, or proceeding, without relieving the District of any obligations hereunder. This provision for limited assumption of liability does not waive the defenses or limitations on damages provided for pursuant to the Colorado Governmental Immunity Act.

ARTICLE VI
MISCELLANEOUS

1. Assignment and Subcontracts. This Agreement is personal to the Company, and the Company shall have no right, power, or authority to assign this Agreement, or any portion hereof, without prior written consent of the District.

2. Notices. All notices, requests, demands, consents and other communications hereunder shall be transmitted in writing and shall be deemed to have been duly given when hand delivered or sent by certified United States mail, postage prepaid, with return receipt requested, or via facsimile, addressed to the parties as follows:

DISTRICT: BERKLEY SHORES METROPOLITAN DISTRICT
c/o McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203-1254

COMPANY: SPECIAL DISTRICT MANAGEMENT SERVICES, INC.
c/o Deborah D. McCoy, President
141 Union Boulevard, Suite 150
Lakewood, Colorado 80228

Either party may change the address at which it receives written notice by so notifying the other party in writing in the manner provided herein.

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

SPECIAL DISTRICT MANAGEMENT
SERVICES, INC.

By Deborah D. McCoy/cg
Deborah D. McCoy, President

BERKLEY SHORES METROPOLITAN DISTRICT

By [Signature]

APPENDIX A

The Company, as District Manager, shall fulfill the following duties and shall have the corresponding authority on behalf of the District:

BASIC MANAGEMENT DUTIES

1. Coordinate and attend all Board Meetings; draft agendas, minutes, and meeting notices; post in accordance with Colorado law.
2. Attend study sessions, executive sessions and special meetings of the Board as requested.
3. Maintain a business location and 24 hour availability for emergencies via answering service.
4. Maintain District's records in accordance with State laws and statutes which affect the District.
5. Perform statutory filings with the various state, county and local entities as required.
6. Assist the Board in the administration of District elections; serve as the designated Election Official for the same.
7. Track action items and keep detailed history of events related to action items assigned to all contractors, consultants and Board members.
8. Attend public forums as may be requested by the Board.
9. Resolve property owner concerns as they pertain to the District.
10. Coordinate with General Counsel.
11. Ensure timely compliance with all statutory filings.
12. Facilitate appropriate communication between the District and the property owners.
13. Review and monitor insurance coverage, evaluate risks and monitor coverages required for contractors.
14. File insurance claims and monitor status of reimbursements.
15. Distribute District information to new property owners.
16. Manage, administer, and enforce policies, rules, and regulations adopted by the Board.
17. Act as liaison to the other local governmental entities, associations, developers and builders within the community.
18. Upon request of the Board, prepare requests for proposals, solicit, evaluate and present bids for services required.
19. Maintain District website (if established).
20. Webpage design and maintenance.
21. Other duties as may be required or requested by the Board.

REGULAR OR SPECIAL ELECTIONS

1. Coordinate the conduct of regular or special elections, whether mail ballot or polling place.
2. District Manager or other staff members are trained and experienced to serve as the Designated Election Official and will perform all tasks in accordance with the Uniform Election Code and at the direction of the Board and the attorney.
3. Assist with constituent education surrounding ballot issues.

FINANCIAL MANAGEMENT

1. Prepare reports to track and project costs associated with annual landscaping and beautification.
2. Prepare periodic financial statements.
3. Monitor expenditures to preclude exceeding appropriated (budgeted) expenditures.
4. Assist auditor in performing the annual audit, to accomplish timely completion and filing.

5. Maintain accounting books and supporting records, including:
 - o Cash Receipts Journal.
 - o Cash Disbursements Journal.
 - o General Ledger.
 - o Accounts Receivable Journals and Ledgers.
6. Prepare all deposits; prepare disbursements for approval (coding invoices; cutting and disbursing checks).
7. Coordinate the preparation of disbursements for approval.
8. Prepare or assist in the annual budget preparation (including preparation of all budget documents).
9. Prepare or assist in the preparation of supplementary budgets and accompanying documents, if required.
10. Manage collections process coordinating with general counsel.

DISTRICT COMMUNITY MANAGEMENT SERVICES

1. Review and assist in the development of District Covenants, Rules and Regulations and/or Design Guidelines.
2. Create start-up Operations and Maintenance budgets, and make recommendations for potential District fees.
3. Work with District legal counsel in order to ensure all governing documents and associated fees abide by applicable laws and statutes.
4. Enforce Covenants, Rules and Regulations and/or Design Guidelines.
5. Develop, coordinate, and process Design and/or Architectural Review Requests.
6. Facilitate Design and/or Architectural Review Committee Meetings.
7. Resolve customer and property owner concerns.
8. Create and distribute Board Reports as needed, and attend and present information at Board meetings.
9. Communicate with community members, customers, vendors, and contractors.
10. Develop and distribute Welcome Packets and Community Newsletters.
11. Generate and ensure delivery of homeowner Notices.
12. Assist the Board in the development of community special events.
13. Develop and monitor the District community website, and provide online billing options.
14. Conduct Covenant, Design and/or Architectural inspections on a weekly, biweekly, monthly or quarterly bases as required.
15. Perform on-site review of Improvements for compliance.
16. Generate and maintain resident tracking sheets and inspection reports.
17. Follow-up on inspection Violations by noting, generating, and delivering Courtesy and/or Violation Notices.
18. Take and record photographic documentation as needed.

FIELD SERVICES (DISTRICT)

Oversee contracts and contractors providing service for:

1. Landscaping maintenance and upgrades.
2. Snow removal.
3. Pet waste stations.
4. Pest control services.
5. Repairs and maintenance for specific projects.
6. Process work orders for routine maintenance and repairs.
7. Perform site inspections as necessary to ensure the facilities are being properly maintained.
8. Upon request of the Board, prepare requests for proposals, solicit, evaluate and present bids for services required in connection with the facilities.
9. Oversee and follow up on all projects. Maintain communication with vendors providing services for the facilities.
10. Keep an inventory of the district property.
11. Validate work completed by contractors.
12. Provide professional locating services for the Districts non-potable system.
13. Other duties as may be required or requested by the Board.

BILLING AND COLLECTION SERVICES (if applicable) provide utility and fee billing and collection services, including:

1. Post/print/mail billing statements
2. Receive/record/deposit receipts
3. Follow-up on delinquent accounts
4. Communicate with customers and vendors
5. General reports for the Board
6. Certification of delinquent accounts
7. Set up and utilization of online bill pay features

1225 17th Street, Suite 2300
Denver, CO 80202-5596
TEL 303.292.2400
FAX 303.296.3956
www.ballardspahr.com

August 3, 2020

Via Electronic Mail

Board of Directors
Berkley Shores Metropolitan District
c/o Megan Becher
McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203-1254

Dear Ms. Becher:

We are pleased that Berkley Shores Metropolitan District (the “District”) has engaged Ballard Spahr LLP as bond counsel in connection with the District’s proposed issuance of its Limited Tax (Convertible to Unlimited Tax) General Obligation Bonds, Series 2020A⁽³⁾, in the presently estimated principal amount of \$2,000,000 (the “Bonds”).

This transmittal letter, together with the attached Terms of Representation, is intended to formalize our retention. It sets forth the scope of our engagement, outlines how we propose to staff the work for the District, describes the billing arrangements, discusses certain of our confidentiality obligations, and addresses certain conflict of interest understandings.

If this letter and the attached Terms of Representation correctly reflect your understanding, please sign, date and return the enclosed copy of this letter to me. We value our representation of the District and are grateful that the District will look to us for legal representation.

Very truly yours,

/s/ Kimberly Casey Reed

Enclosure

AGREED AND APPROVED

BERKLEY SHORES METROPOLITAN DISTRICT

By: _____

Name: _____

Title: _____

Date: _____

TERMS OF REPRESENTATION

The following terms together with the accompanying letter of engagement dated August 3, 2020 (the “**Transmittal Letter**”) constitute the terms of the engagement of Ballard Spahr LLP (“**Ballard Spahr**”) as the District’s bond counsel with respect to the proposed Bonds:

1. **CLIENT.** It is understood that Ballard Spahr’s client for purposes of this representation is limited to the District and does not include others.

2. **SCOPE OF REPRESENTATION.** It is currently contemplated that the Bonds will be secured by ad valorem property taxes of the District limited to 50 mills (subject to adjustment for changes in the method of calculating assessed valuation, and subject to conversion in some cases as described below), related specific ownership taxes, and any capital fees that may be imposed by the District in the future (although no such fees are presently anticipated). The ad valorem property tax pledge securing payment of the Bonds will convert to an unlimited property tax pledge at such time as the debt to assessed value ratio of the District is 50% or less. The Bonds will be further secured by a Reserve Fund (funded from proceeds of the Bonds) and a Surplus Fund (funded from excess pledged revenue). The Bonds are structured as fixed-rate bonds, fully amortizing within their term.

The Bonds are anticipated to be offered to financial institutions or institutional investors in a limited offering by D.A. Davidson & Co. (the “**Underwriter**”), using a limited offering memorandum prepared by counsel to the Underwriter, or separate counsel to the District (i.e., Ballard Spahr will not prepare such an offering memorandum as part of this engagement).

As bond counsel we will advise the District in connection with the structuring of the Bonds and will prepare the basic bond documents. In particular, we will (i) prepare an Indenture of Trust; (ii) prepare a resolution of the District authorizing the Bonds and other documents; (iii) prepare and/or review, as applicable, such other documents and agreements as may be required in connection with the Bonds or which we deem necessary for rendering our opinion, (iv) review a preliminary limited offering memorandum and limited offering memorandum prepared by counsel to the underwriter or separate counsel to the District, with respect to sections relating to the Bonds, the Indenture of Trust, the security for the Bonds and certain tax related matters, (v) negotiate opinions of the District’s counsel and other necessary opinions required to be delivered in connection with the issuance of the Bonds; (vi) prepare a tax certificate and a tax-exempt opinion; and (vii) prepare the forms of such closing documents, certificates and opinions of counsel as may be required by the terms of the financing, the District’s service plan and applicable federal and state laws.

As you know, bond counsel’s primary responsibility is to render an objective legal opinion with respect to the authorization and issuance of bonds and the status of any exemption provided to interest thereon under federal tax law. Subject to the completion of tax due-diligence and other proceedings to our satisfaction, on the date when the Bonds are issued, we will render our opinion in customary form to the District addressing the enforceability of the Bonds and the Indenture of Trust and the extent to which the interest on the Bonds is excluded from gross income for purposes of federal income tax. These opinions will be executed and delivered by us

in written form and will be based on facts, expectations and law existing as of the date of the opinion.

We assume no obligation to review the financial condition of the District or any other participant or the adequacy of the security provided to bondholders, and we will express no opinion relating thereto. However, we reserve the right to request such information as we consider necessary to inform ourselves of all aspects of the financing. As bond counsel we would also not assume responsibility for the accuracy, completeness or fairness of statements contained in any offering materials, other than any statements regarding validity of the Bonds, tax exemption or other issues that we expressly address in an opinion. While we may suggest alternative provisions for the documents to comply with legal requirements and accommodate the interests of the parties, we neither represent nor advocate the interests of any party to the transaction other than the District, and we expect that the developer(s) of the properties in the District, D.A. Davidson & Co., as the underwriter of the Bonds, and other parties will retain such other counsel as they deem necessary and appropriate to represent their interests.

3. STAFFING. Customarily, each client of Ballard Spahr is served by a Relationship Partner (a principal lawyer contact) and one or more Matter Billing Lawyers (a lawyer designated to oversee an individual matter that Ballard Spahr handles on your behalf). It is expected that Kimberly Reed will be the Relationship Partner and the Matter Billing Lawyer, and will have primary responsibility for work performed by Ballard Spahr under this engagement letter. The work or parts of it may be performed by other lawyers and legal assistants at Ballard Spahr. Such delegation may be for the purpose of involving lawyers or legal assistants with special expertise in a given area or for the purpose of providing services on the most efficient and timely basis. For example, the work on the bond counsel matters will be performed by Kimberly Reed, with the assistance of an associate, and the work on federal tax matters will be performed by Marybeth Orsini.

4. FEES AND EXPENSES. Our fee to act as bond counsel to the District in connection with the issuance of the Bonds (as presently proposed) will be \$45,000, a fee based on the structure, size and complexity of the financing transaction, and our estimate of the amount and nature of legal work necessary to accomplish a closing of the Bonds on or before October 1, 2020. This fee includes routine out of pocket disbursements (such as photocopying charges, delivery expenses, fax charges and postage). Any extraordinary disbursements or expenses authorized by the District will be billed to the District. If the anticipated structure of the Bonds changes significantly, we may propose an increase in the fee if warranted by the change, and the above proposed fee is nonbinding with respect to an issuance of the Bonds in accordance with a structure varying materially from the structure described above. Our fee for bond counsel services will be payable on the closing date for the Bonds.

5. RETENTION AND DISPOSITION OF DOCUMENTS. Following the termination of our representation, any otherwise nonpublic information the District has supplied to us which is retained by us will be kept confidential in accordance with applicable rules of professional conduct. At your request, the District's papers and property will be returned to the District promptly upon receipt of payment for outstanding fees and costs. Our own files pertaining to the matter will be retained by Ballard Spahr. These firm files include, for example,

firm administrative records, time and expense reports, personnel and staffing materials, credit and accounting records; and internal lawyers' work product such as drafts, notes, internal memoranda, and legal and factual research, including investigative reports, prepared by or for the internal use of lawyers. We reserve the right to destroy or otherwise dispose of any such documents or other materials retained by us within a reasonable time after the termination of the engagement.

6. REGARDING FEDERAL TAX ADVICE. In the course of our representation, we may render tax advice to the District on various legal matters. The District understands that it may not use such tax advice to avoid any penalties that may be imposed by the Internal Revenue Service unless, in accordance with the Internal Revenue Service rules of practice, we are specifically engaged to provide a formal, written tax opinion for that purpose. Accordingly, the District acknowledges that we may legend any written tax advice that we provide in the course of this engagement to indicate that it may not be relied on for purposes of penalty protection. The District further understands that our representation does not include the provision of any tax advice concerning transactions in which you may participate that would be "reportable transactions" within the meaning of Section 6707A of the Internal Revenue Code of 1986, as amended, and that our provision of tax advice concerning such transactions would require a separate engagement for that purpose.

7. CONFLICTS OF INTEREST. Ballard Spahr represents many other companies and individuals. It is possible that present or future clients of Ballard Spahr will have disputes or transactions with the District. For example, from time to time we represent investment banking firms with whom the District may have a relationship, such as D.A. Davidson & Co., that may be viewed as competing with the District's projects, but are not related to the District's project, and we would expect to continue with these representations. Accordingly, to prevent any future misunderstanding and to preserve Ballard Spahr's ability to represent the District and its other clients, the District and we agree as follows with respect to certain conflicts of interest issues:

(a) Unless we have the District's specific agreement that we may do so we will not represent another client in a matter which is substantially related to a matter in which we represent the District and in which the other client is adverse to the District. We understand the term "matter" to refer to transactions, negotiations, proceedings or other representations involving specific parties.

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

(c) The effect of subparagraph (b) above is that we may represent another client on any issue or matter in which the District might have an interest, including, but not limited to:

(i) Agreements; licenses; mergers and acquisitions; joint ventures; loans and financings; securities offerings; bankruptcy, receivership or insolvency (including, without limitation, representation of a debtor, secured creditor, unsecured creditor, potential or actual acquirer, contract party or other party-in-interest in a case under the federal bankruptcy code or

state insolvency laws or in a non-judicial debt restructuring, in which you are a debtor, creditor, contract party, potential or actual acquirer or other party-in-interest); patents, copyrights, trademarks, trade secrets or other intellectual property; real estate; government contracts; the protection of rights; representation before regulatory authorities as to these matters and others;

(ii) Representation of the debtor or other party in a Chapter 11 case under the Federal Bankruptcy Code in which you are a creditor, debtor or otherwise have an interest in the case;

(iii) Representation and advocacy with respect to legislative issues, policy issues, or regulatory issues, including rulemakings, administrative proceedings and enforcement proceedings; and

(iv) Litigation matters brought by or against you as long as such matters are not the same as or substantially related to matters in which we are, or have been, representing you.

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

8. APPLICATION OF THESE TERMS. The Transmittal Letter, this statement of general terms of representation, and the accompanying schedule of other charges will govern our relationship with you upon our retention even if you do not sign and return a copy of the Transmittal Letter. In the event that we agree to undertake additional matters, any such additional representations will be governed by the terms and conditions of this agreement unless we mutually agree otherwise in writing. Our representation will be deemed concluded at the time that we have rendered our final bill for services on this matter. If you disagree with any of these terms and conditions, please advise us immediately by return correspondence so that we can resolve any differences as early as possible and proceed with a clear, complete, and consistent understanding of our relationship. This letter agreement supersedes any prior agreement with you with respect to our engagement to provide professional services to you. The terms and conditions of this letter may be modified or amended only by written agreement signed by an authorized representative of the District and Ballard Spahr, and neither party may bind the other party by unilateral submission of additional or different terms and conditions absent written consent to such terms and conditions by the other party.

Ballard Spahr LLP

2020

Disbursement Pricing

Disbursement	Cost
Ballard Spahr Messenger	No Charge
Binding	No Charge
Cab Fares/Ride Share Services	Actual Cost
Courier Service	Actual Cost
Data Hosting	\$5 p/gb per month
Data Processing	\$200 p/gb
Document Production	No Charge
Duplicating	\$0.10 per page
Duplicating (Color)	\$0.45 per page
Outside Duplicating	Invoice Cost
Fax (Outgoing Only)	No Charge
Lexis	Actual (discounted) Cost
Library Research Services	Published Standard Cost
Long Distance Telephone	No Charge
Overtime	No Charge
Postage	No Charge
State Department Services	No Charge
Telephone (Credit Card Calls)	No Charge
Travel	Actual Cost

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
--------------	----------

B. The necessity has arisen for additional General Fund appropriations and 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:

General Fund	\$ _____
Capital Projects Fund	\$ _____
Debt Service Fund	\$ _____

BE IT FURTHER RESOLVED, that such sum is hereby appropriated from unexpected revenues available to the District to the General Fund, 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

Attest:

By: _____
Secretary

EXHIBIT A

Original and Amended Budget Appropriations

SERVICE AGREEMENT FOR COST VERIFICATION SERVICES

THIS SERVICE AGREEMENT FOR COST VERIFICATION SERVICES (“Agreement”) is entered into as of the 26th day of March, 2020, and effective the 20th day of MARCH, 2020 (the “Effective Date”), by and between **BERKLEY SHORES METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), and **RANGER ENGINEERING, LLC**, a Colorado limited liability company (the “Consultant”) (each a “Party” and, collectively, the “Parties”).

RECITALS

A. The District was organized pursuant to the laws of the State of Colorado in order to construct, operate and maintain certain public facilities and improvements in accordance with its service plan.

B. Pursuant to Section 32-1-1001(1)(d)(I), C.R.S., the District is permitted to enter into contracts and agreements affecting the affairs of the District.

C. The Consultant has experience in providing the services, as set forth in **Exhibit A** hereto, attached and incorporated herein (the “Services”), and is willing to provide such Services to the District for reasonable consideration.

D. The Parties desire to enter into this Agreement to establish the terms by which the Consultant will provide the Services to the District.

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

I. CONSULTANT DUTIES AND AUTHORITY

1.1 Duties of Consultant. The Consultant shall:

(a) Perform the Services, safely and in accordance with the highest standard of care, skill, and diligence provided by a professional consultant in performance of work similar to the Services.

(b) Be properly qualified to perform the Services. The Consultant does hereby warrant that the quality of the Services shall be as specified in this Agreement, shall conform in all respects to the requirements of this Agreement and shall be free of defects and deficiencies.

(c) Take all precautions necessary for safely and prudently conducting the Services required by this Agreement, including maintaining insurance as required under Section 4.2 hereof.

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

(e) Refrain from entering into any contract, oral or written, in the name of the District, and from incurring any debt, liability or obligation for or on behalf of the District. All obligations incurred by the Consultant shall be obligations of the Consultant and the Consultant shall hold the District harmless therefrom.

1.2 Limitations on Authority.

(a) The Consultant shall have no right or authority, expressed or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement or specifically authorized or ratified by the board of directors of the District as reflected in the minutes of the District board meetings. The Consultant shall at all times conform to the stated policies established and approved by the District.

(b) Independent Contractor Status. The Consultant is an independent contractor, as provided in Section 8-40-202(2)(b)(I)-(IV), C.R.S., as amended, and nothing herein contained shall constitute or designate the Consultant or any of its employees, agents, subcontractors or suppliers as employees of the District. The Services to be performed by the Consultant shall be at its sole cost, risk and expense, and no part of the cost thereof shall be charged to the District, except the payments to be made by the District to the Consultant for the Services performed as provided herein. The District shall not be responsible for the Consultant's means, methods, techniques, sequences or procedures of work or for safety precautions incident thereto. **The Consultant is not entitled to workers' compensation benefits and the Consultant is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

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

1.4 No Right or Interest in District Assets. The Consultant shall have no right or interest in any of the District's assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the Services contemplated herein.

1.5 Certification of Compliance with Illegal Alien Statute. By its execution hereof, the Consultant confirms and ratifies all of the certifications, statements, representations and warranties set forth in **Exhibit C** attached hereto and made a part hereof by this reference.

1.6 Work Product. "**Work Product**" shall consist of all written materials maintained by the Consultant in connection with performance of this Agreement, including, but not limited to, all test results, logs, surveys, maps, plans, drawings, specifications, reports, PDF formatted electronic files and other documents, in whatever form. The Consultant shall maintain

reproducible copies of any test results and logs which it obtains and shall make them available for the District's use, and shall provide such copies to the District upon request at reasonable commercial printing rates. Consultant agrees all right, title and interest in the Work Product is and shall remain the property of the District. If requested by the District, Consultant shall execute and deliver such documents as shall be necessary in the District's sole discretion, to assign, transfer and convey all rights in the Work Product to the District or its assignee. If Consultant fails to execute any documents required under this Section 1.6, then Consultant hereby irrevocably appoints the District its attorney-in-fact for the purpose of executing any required transfers of ownership or interests and any other documents necessary to effectuate this Section 1.6. Further, all Work Product, whether in paper or electronic form, reproductions thereof, or any information or instruments derived therefrom, shall be provided to the District immediately upon termination of this Agreement.

II. COMPENSATION

2.1 Compensation. The Consultant shall be paid as set forth in Exhibit B attached hereto on a time and materials basis, unless otherwise approved in advance by the District through a written change order in form substantially as attached hereto as Exhibit D ("Change Order").

2.2 Monthly Invoices and Payments. The Consultant shall submit to the District a monthly invoice, in a form acceptable to the District. Invoices shall be submitted and paid no more frequently than once a month.

2.3 Expenses. The Consultant is responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as set forth in Exhibit B, unless otherwise approved in advance by the District in writing.

2.4 Subject to Annual Budget and Appropriation; District Debt. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District hereunder requiring budgeting and appropriation of funds is subject to annual budgeting and appropriation. Nothing herein constitutes or creates an indebtedness or debt of the District within the meaning of any Colorado constitutional provision or statutory limitation.

III. TERM AND TERMINATION

3.1 Term. The term of this Agreement shall begin on the date set forth above, and shall expire upon satisfactory completion of the Services. Extensions of this Agreement must be pursuant to a Change Order executed by both Parties.

3.2 Termination. The District may terminate this Agreement for convenience or for cause, in whole or in part, by written notice of termination given to the Consultant at least thirty (30) days prior to the effective date of such termination. The Consultant may terminate this Agreement for convenience or for cause, in whole or in part, by written notice of termination given to the District at least thirty (30) days prior to the effective date of such termination. Any termination notice provided pursuant to this Section 3.2 shall specify the extent of termination and the effective date of the same.

The District shall pay the Consultant for all Services satisfactorily performed through the termination date.

IV. INDEMNIFICATION AND INSURANCE

4.1 Indemnification. The Consultant hereby agrees to indemnify, defend and hold the District and its affiliated entities or other persons or entities designated by the District, and their respective directors, trustees, officers, members, managers, agents and employees (collectively, the “**Indemnitees**”), harmless from any and all liability for damage, including, but not limited to, the reimbursement of attorneys’ fees and costs, arising out of death or bodily injury to persons or damage to property, in such amount that is represented by the degree or percentage of negligence or fault attributable to the Consultant and/or its agents, representatives, subcontractors, or suppliers.

4.2 Insurance Requirements. The Consultant shall procure, at its sole cost and expense, the insurance coverages set forth below, which insurance shall be placed with insurance companies rated at least “A:XIII” by A.M. Best Company. The Consultant shall give notice to the District at least thirty (30) days prior to the cancellation or nonrenewal of such policies. The Consultant shall give notice to the District within five (5) business days, or as soon as practicable, of any modification of any such policies. Consultant’s cost of maintaining the insurances required hereunder shall not be considered a reimbursable expense of the Consultant. The Consultant shall, upon request, promptly furnish the District with copies of policies obtained pursuant to this Section 4.2. Prior to commencing the Services, the Consultant shall furnish the District with certificates evidencing such insurance and provided further, however, with respect to the Workers’ Compensation Insurance required below, the Consultant must furnish to the District, prior to the commencement of any Services, duly executed and validated forms as prescribed by the state authority having jurisdiction evidencing that such insurance is in full force and effect. The District shall not pay any invoices until Consultant provides the certificates evidencing such insurance and Workers’ Compensation coverage.

(a) Liability Insurance Coverage.

(i) Workers’ Compensation Insurance. A Workers’ Compensation Insurance Policy in form and substance reasonably acceptable to the District and in an amount not less than the statutory benefits, including Employer’s Liability Insurance with limits of liability of not less than (i) \$500,000 for bodily injury by accident, each accident; (ii) \$500,000 for bodily injury by disease, each employee; and (iii) \$500,000 aggregate liability for disease. The Workers’ Compensation Insurance Policy, or an endorsement to such policy, must include a waiver of subrogation in favor of the District.

(ii) Commercial General Liability Insurance. A Commercial General Liability Insurance Policy written on an occurrence basis, in form and substance reasonably acceptable to the District, which policy shall include, without limitation, the District as an additional insured, a waiver of subrogation endorsement in favor of the District, cross liability and severability of interest endorsements, endorsements providing that the coverage afforded by the

insurance policy or policies is primary and non-contributing with any other insurance maintained by or available to the District, and appropriate language providing the following coverages: Premises and Operations Liability; Personal Injury Liability; Broad Form Property Damage Liability; Contractual Liability supporting the Consultant's indemnification agreements in favor of the District; Completed Operations and Products Liability; and Independent Contractor's Protective Liability. The Commercial General Liability Insurance Policy must be written with a combined single limit of liability of not less than \$1,000,000 for each occurrence of bodily injury and/or property damage and an annual aggregate of liability of not less than \$2,000,000 for bodily injury and/or property damage, and an annual aggregate of liability of not less than \$2,000,000 for Completed Operations and Products Liability.

(iii) Automobile Liability Insurance. An Automobile Liability Insurance Policy written on a per accident basis, in form and substance reasonably acceptable to the District. The Automobile Liability Insurance Policy must provide coverage for all owned, hired, rented and nonowned automobiles, and must include uninsured motorist coverages. The Automobile Liability Insurance Policy must be written with a combined single limit of liability of not less than \$1,000,000 for each accident for bodily injury and/or property damage.

(iv) Excess Liability Insurance. An Excess Liability Insurance Policy written in excess of the coverages provided by the insurance policies described in the preceding Subsections 4.2(a)(i) - (iii), in form and substance reasonably acceptable to the District, which policy will include the District as additional insured. The Excess Liability Insurance Policy must be written with a combined single limit of not less than \$1,000,000 for each occurrence of bodily injury/or property damage and annual aggregate.

(v) Professional Liability Insurance Coverage. The Consultant shall obtain and, continuously thereafter for eight (8) years from the date of substantial completion of the design, maintain in full force and effect a claims made policy covering errors, omissions and negligent acts in the performance of its Services hereunder, in an amount of \$1,000,000 per claim and annual aggregate. The Consultant shall be solely responsible for the payment of all deductibles. Consultant's deductibles or Consultant's self-insured retentions shall be approved by the District.

(b) Failure to Obtain and Obligation to Maintain Insurance. If the Consultant fails to furnish and maintain insurance as required by this Section 4.2, the District may purchase such insurance on behalf of the Consultant and deduct the cost of such insurance premium(s) from the compensation otherwise owed to the Consultant, and the Consultant shall furnish to the District any information needed to obtain such insurance. Except as otherwise expressly provided herein, all insurance policies required by the terms of this section shall be kept in full force and effect until the date of final payment to the Consultant for the Services specified in this Agreement. Notwithstanding anything to the contrary contained in this Agreement, the foregoing insurance requirements are in no

way intended to, and will not in any manner, limit or qualify the liabilities and/or indemnities assumed by the Consultant under or pursuant to this Agreement.

(c) Effect of Approval or Acceptance of Insurance. District acceptance and/or approval of any or all of the insurances required hereunder does not and shall not be construed to relieve Consultant from any obligations, responsibilities or liabilities under this Agreement.

V. MISCELLANEOUS

5.1 Assignment. The Consultant shall not assign any of its rights or delegate any of its duties hereunder to any person or entity. Any purported assignment or delegation in violation of the provisions hereof shall be void and of no effect.

5.2 Modification; Amendment. This Agreement may be amended from time to time by agreement between the Parties hereto; provided, however, that no amendment, modification, or alteration of the terms or provisions hereof shall be binding upon the District or the Consultant unless the same is in writing and duly executed by the Parties.

5.3 Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

5.4 Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

5.5 Governing Law and Jurisdiction. This Agreement shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Agreement shall be exclusive to the State District Court in and for the County of Adams, Colorado.

5.6 Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

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

5.8 Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via FedEx or other nationally recognized overnight air courier service, by electronically-

confirmed email transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To District: Berkley Shores Metropolitan District
141 Union Blvd., Suite 150
Lakewood, Colorado 80228-1898
Phone: (303) 987-0835
Email: @sdmsi.com
Attn: David Solin

With a Copy To: McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Phone: (303) 592-4380
Email: mbecher@specialdistrictlaw.com
Attn: Megan M. Becher

To Consultant: Ranger Engineering, LLC
2590 Cody Ct.
Lakewood, Colorado 80215
Phone: (720) 940-3345
Email: ckoranda@rangerengineeringllc.com
Attn: Collin Koranda, PE

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with FedEx or other nationally recognized overnight air courier service, upon electronic confirmation of email transmission, or three (3) business days after deposit in the United States mail. By giving the other Party hereto at least ten (10) days' written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address.

5.9 Default/Remedies. If either Party fails to perform any of its responsibilities, obligations or agreements to be performed in accordance with the provisions of this Agreement, and if such failure of performance continues for a period of thirty (30) days following written notice of default from the other Party (or such additional period of time as may reasonably be required to cure such default; provided that the curative action is commenced within such thirty (30) day period and is diligently and continuously pursued to completion), then the non-defaulting Party, at its option, may elect (i) to treat this Agreement as remaining in full force and effect; or (ii) terminate this Agreement as of any specified date. The non-defaulting Party shall additionally be entitled to exercise all remedies available at law or in equity. In the event of any litigation or other proceeding to enforce the terms, covenants or conditions hereof, the non-defaulting Party in any such litigation or other proceeding shall obtain as part of its judgment or award its reasonable attorneys' fees.

5.10 Instruments of Further Assurance. Each Party covenants it will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts,

instruments, and transfers as may reasonably be required for the performance of their obligations hereunder.

5.11 Compliance with Law. This Agreement is intended to be performed in accordance with and only to the extent permitted by all applicable laws, ordinances, rules, and regulations of the jurisdiction in which the Agreement is performed. The Consultant declares it has complied and will comply with all federal, state and local laws regarding business permits, certificates and licenses required to perform the Services.

5.12 Non-Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed to be a waiver of any subsequent default hereunder. Notwithstanding any provision to the contrary in this Agreement, no term or condition of this Agreement shall be construed or interpreted as a waiver, either expressed or implied, of any of the immunities, rights, benefits or protection provided to the District under the Colorado Governmental Immunity Act.

5.13 Inurement. This Agreement shall inure to and be binding on the heirs, executors, administrator, successors, and permitted assigns of the Parties hereto.

5.14 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

5.15 Conflicts. If any term or provision(s) in any Exhibit attached as part of this Agreement conflicts with any term or provision(s) in the body of this Agreement, the term or provision(s) contained in the body of this Agreement shall control.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO SERVICE AGREEMENT]

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

Consultant: RANGER ENGINEERING, LLC

By: Collin Koranda

Its: Principal

STATE OF COLORADO)
) ss.
COUNTY OF JEFFERSON)

The foregoing instrument was acknowledged before me this 11 day of March 2020, 2020, by Collin Koranda, as Principal of Ranger Engineering, LLC.

Witness my hand and official seal.

My commission expires: 04/08/2020

JUAN DIEGO GARCIA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20084012501
MY COMMISSION EXPIRES APR. 8, 2020

[Signature]
Notary Public

District:
BERKLEY SHORES METROPOLITAN DISTRICT

By: [Signature]
President

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 26th day of MARCH, 2020, by Paul Malone, as President of Berkley Shores Metropolitan District.

Witness my hand and official seal.

My commission expires: NOVEMBER 1, 2020

NATALIE SATT
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164041623
MY COMMISSION EXPIRES NOVEMBER 01, 2020

[Signature]
Notary Public

EXHIBIT A
SCOPE OF SERVICES

ENGINEER'S REPORT AND CERTIFICATION OF DISTRICT ELIGIBLE COSTS

1. Receive and review documentation (i.e. plans, contracts, agreements, invoices, pay applications, proofs of payment, etc.) of District costs to date.
2. Determine District eligible costs and verify as reasonable and paid.
3. Perform a site visit (photographs of constructed improvements will be taken for the District's record) if construction has started, to verify reasonableness of percentages complete as indicated by the contractor pay applications.
4. Categorize all District eligible costs according to the Service Plan categories, or as otherwise directed by the District.
5. Meet with or call the District as necessary to provide updates and receive answers to questions that may arise.
6. Prepare and deliver an Engineer's Report and Certification, as a single PDF document, to the District on a monthly basis, or as needed by the District.

**EXHIBIT B
COMPENSATION**

**ENGINEER'S REPORT AND CERTIFICATION MONTHLY COST ESTIMATE
TOTAL: \$6,000-\$8,000**

**ONGOING ENGINEER'S REPORT AND CERTIFICATION COST ESTIMATE:
TBD**

Reimbursable expenses shall mean one hundred fifteen percent (115%) of all costs incurred by Ranger relative to the Project, including without limitation all approved outside consultants' fees, reproduction costs, messenger or special mail service, mileage and other Project-related expenses.

The T&M fees for all services to be completed that are not authorized to begin by December 31, 2020 are subject to a 5 percent increase per annum.

**SCHEDULE OF TIME
AND MATERIAL RATES FOR 2020**

<u>CATEGORY</u>	<u>CURRENT HOURLY RATES</u>
Professional Engineer	\$150.00
Project Manager	\$140.00
Staff Engineer	\$135.00
Expert Testimony & Depositions	\$250.00
	<u>REIMBURSABLES</u>
Mileage (2020 IRS Rate)	\$0.58/mile
Reimbursable Expenses	Cost + 15%

EXHIBIT C
CERTIFICATION OF CONSULTANT

1. Pursuant to the requirements of Section 8-17.5-102(1), C.R.S., the Consultant hereby certifies to the District that the Consultant does not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that it will participate in the E-Verify Program or Department Program (as defined in Sections 8-17.5-101(3.3) and (3.7), C.R.S.) in order to confirm the employment eligibility of all employees of the Consultant who are newly hired to perform work under the Agreement.

2. In accordance with Section 8-17.5-102(2)(a), C.R.S., the Consultant shall not:

(a) Knowingly employ or contract with an illegal alien to perform work under the Agreement; or

(b) Enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

3. The Consultant represents and warrants it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program or the Department Program.

4. The Consultant is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the Agreement is in effect.

5. If the Consultant obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, the Consultant shall:

(a) Notify the subcontractor and the District within three (3) days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(b) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

6. The Consultant shall comply with any reasonable request by the Colorado Department of Labor and Employment (“**Department**”) made in the course of an investigation that the Department is undertaking, pursuant to the law.

7. If the Consultant violates any provision of Section 8-17.5-102(1), C.R.S., the District may terminate the Agreement immediately and the Consultant shall be liable to the District for actual and consequential damages of the District resulting from such termination, and the District shall report such violation by the Consultant to the Colorado Secretary of State, as required by law.

EXHIBIT D
FORM OF CHANGE ORDER

Change Order No:	Date Issued:
Name of Agreement:	
Date of Agreement:	District(s):
Other Party/Parties:	

CHANGE IN SCOPE OF SERVICES (describe):
--

CHANGE IN AGREEMENT PRICE:	CHANGE IN TERM OF AGREEMENT:
Original Price: \$	Original Term: Expires _____, 20
Increase of this Change Order: \$	New Term: Expires _____, 20
Price with all Approved Change Orders: \$	Agreement Time with all Approved Change Orders:

APPROVED:	
By:	
	District

APPROVED:	
By:	
	Consultant

RESOLUTION NO. 2020-08-02

**RESOLUTION OF THE BOARD OF DIRECTORS OF
BERKLYE SHORES METROPOLITAN DISTRICT REGARDING CONTINUING
DISCLOSURE POLICIES AND PROCEDURES**

A. The Berkley Shores Metropolitan District, Adams County, Colorado (the “**District**”) has entered into the continuing disclosure undertaking(s) set forth in **Exhibit A** attached hereto (referred to collectively herein, whether one or more than one, the “**Continuing Disclosure Undertaking**”).

B. The Board of Directors of the District (the “**Board**”) desires to adopt policies and procedures in an effort to ensure compliance by the District with its obligations set forth in the Continuing Disclosure Undertaking (the “**Continuing Disclosure Policy**”).

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

1. The Continuing Disclosure Policy, as hereby approved, adopted and made a part of the public records of the District, shall be to impose the procedures set forth in **Exhibit B** attached hereto (the “**Compliance Procedures**”).

2. The Board hereby delegates the tasks and responsibilities set forth in the Compliance Procedures to the responsible parties as set forth therein.

3. The Continuing Disclosure Policy is intended to supplement any previous post-issuance compliance procedures that may have been adopted by the District and any procedures evidenced in writing by any Official Statement or continuing disclosure undertaking heretofore or hereafter issued, entered into or executed and delivered by the District or on its behalf.

4. The Board may revise the Continuing Disclosure Policy from time to time as the Board deems necessary or desirable to comply with federal and state securities laws or otherwise as the Board may determine in its sole discretion.

5. Prior to the engagement of the responsible parties listed in the Compliance Procedure, and other consultants as may applicable with respect to the Continuing Disclosure Undertaking, such responsible parties and consultants shall be required to review and comply with the Continuing Disclosure Policy, including, without limitation, the responsibilities set forth in the Compliance Procedures.

6. Within thirty (30) days, or earlier if necessary, of entering into any new continuing disclosure undertaking and/or with respect to any changes or modifications to the Continuing Disclosure Undertaking, the responsible parties and consultants shall meet with bond counsel and disclosure counsel to review the continuing disclosure compliance requirements and develop a process for compliance with respect to such new and/or changed continuing disclosure undertaking.

RESOLUTION APPROVED AND ADOPTED on August 11, 2020.

**BERKLYE SHORES METROPOLITAN
DISTRICT**

By: _____
President

Attest:

By: _____
Secretary

EXHIBIT A

Continuing Disclosure Undertaking

EXHIBIT B

COMPLIANCE PROCEDURE

Berkley Shores Metropolitan District, Adams County, Colorado

\$2,003,000 Limited Tax (Convertible to Unlimited Tax) General Obligation Bonds, Series 2020A(3)

Subject to SEC Rule 15c2-12: NO

FINANCIAL DISCLOSURES	
Submittal Date to Trustee	Required Documentation Prepared By:
<p>Quarterly Reports*</p> <ul style="list-style-type: none"> • May 5 • August 5 • November 5 • February 5 <p>(commencing with the Quarterly Report due for the period ending September 30, 2020 and due to the Trustee on November 5, 2020)</p>	<p>Section 1 of the Quarterly Report (to be completed for each Quarterly Report until the Annual Report Conversion Date, as defined in the Continuing Disclosure Agreement): HDC 6300 Lowell Boulevard, LLLP ("Developer") to provide to Special District Management Services, Inc. ("District Accountant") at least thirty (30) days prior to submittal date.</p> <ul style="list-style-type: none"> • Building Permit Activity • Certificate of Occupancy Activity • Land Entitlements • Land Sales <p>Section 2 of the Quarterly Report: UMB Bank, n.a. ("Trustee") to provide to the District Accountant ten (10) days prior to submittal date.</p> <p>Section 3 of the Quarterly Report: District Accountant to complete.</p> <p>Section 4 of the Quarterly Report: District Accountant to complete.</p>
<p>Annual Reports*</p> <p>No later than November 5 of each year (commencing November 5, 2020)</p> <p>[Same requirements of Quarterly Report except removal of Section 1 <i>after</i> the Annual Report Conversion Date]</p>	<p>Section 5 of the Quarterly Report:</p> <p>To be provided (i) if prior to the Annual Report Conversion Date, annually as part of the Quarterly Report due on or before November 15, and (ii) if after the Annual Report Conversion Date, as part of the Annual Financial Report</p> <ul style="list-style-type: none"> • Annual Audited Financial Statements • History of Assessed Valuations and Actual Value • Assessed Valuations of Classes of Property • History of Mill Levies and Property Tax Collections for the District • Top Largest Owners of Taxable Property Within the District • Mill Levies Applicable to Property in the District • General Obligation Debt Ratios of the District
<p>Annual Budget Report</p> <p>No later than January 31 of each year.</p> <p>The first Annual Budget Report will be due for the year beginning January 1, 2021, due to the Trustee on January 31, 2021.</p>	<p>Section 1 of the Annual Budget Report:</p> <ul style="list-style-type: none"> • Annual Budget as adopted by the District <p>Section 2 of the Annual Budget Report:</p> <ul style="list-style-type: none"> • Assessed Value of the District as certified by the county assessor • Actual Value of the District as certified by the county assessor <p>Section 3 of the Annual Budget Report:</p> <ul style="list-style-type: none"> • Mill levies certified by the District

*If any submittal date falls on a day which is not a Business Day (as defined in **Exhibit A**, Continuing Disclosure Agreement), the report will be provided to the Trustee on the Next succeeding Business Days.

Procedure:

1. District Accountant will prepare first draft of the report due.
2. District Accountant to submit report to UMB Bank, n.a. on applicable submittal date.

NOTICE OF MATERIAL EVENT		
Reporting / Submittal Deadlines	Responsible Party to Report Event of Default	Party Responsible to Notify Trustee of Event of Default
District shall cause the Trustee to provide, in a timely manner, not in excess of ten (10) business days after the occurrence of the event, a notice of such event to the MSRB	Special District Management Services, Inc., McGeady Becher, or anyone who has actual knowledge of a material event	Special District Management Services, Inc.

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 _____, at Reception No. _____ 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 _____.

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. 2020-08-04]

APPROVED AND ADOPTED this 11th day of August, 2020

**BERKLEY SHORES METROPOLITAN
DISTRICT**

By: _____
President

Attest:

Secretary or Assistant Secretary

EXHIBIT A

RULES AND REGULATIONS OF BERKLEY SHORES

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 _____, 2020, at Reception No. _____, 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: _____
President

Attest:

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 _____, 2020, at Reception No. _____, 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 _____, 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: _____
President

Attest:

Secretary or Assistant Secretary

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 _____, 2020, at Reception No. _____ 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.