

## BERKLEY SHORES METROPOLITAN DISTRICT

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

### **NOTICE OF SPECIAL MEETING AND AGENDA**

|                                   |                       |                                |
|-----------------------------------|-----------------------|--------------------------------|
| <b><u>Board of Directors:</u></b> | <b><u>Office:</u></b> | <b><u>Term/Expiration:</u></b> |
| Paul Malone                       | President             | 2025/May 2025                  |
| Philip Clow                       | Treasurer             | 2023/May 2023                  |
| Natalie Satt                      | Secretary             | 2025/May 2025                  |
| Michael Martinez                  | Assistant Secretary   | 2025/May 2025                  |
| Victoria Almagno                  | Assistant Secretary   | 2023/May 2023                  |

**DATE:**        **August 17, 2022 (Wednesday)**

**TIME:**        **10:00 A.M.**

**LOCATION:**   **Zoom Meeting**

<https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09>

**Telephone Number:** 1 253-215-8782

**Meeting ID:** 546 911 9353

**Passcode:** 912873

I.        PUBLIC COMMENT (Comments are limited to three (3) minutes per speaker)

A.        \_\_\_\_\_

II.       ADMINISTRATIVE MATTERS

A.        Present Disclosures of Potential Conflicts of Interest and confirm quorum.

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B.        Approve Agenda, confirm location of the meeting and posting of meeting notices.

\_\_\_\_\_

C.        Consider approval of Minutes from November 1, 2021 Special Meeting (enclosure).

\_\_\_\_\_

D.        Discuss results of the cancelled of May 3, 2022 Regular Special District Election (enclosure).

\_\_\_\_\_

E. Consider Appointment of Officers:

President \_\_\_\_\_  
 Treasurer \_\_\_\_\_  
 Secretary \_\_\_\_\_  
 Asst. Secretary \_\_\_\_\_  
 Asst. Secretary \_\_\_\_\_  
 Asst. Secretary \_\_\_\_\_

III. FINANCIAL MATTERS

A. Review and ratify approval of the payment of claims as follows (enclosures):

| Fund         | Period Ending<br>Nov. 30, 2021 | Period Ending<br>Dec. 31, 2021 | Period Ending<br>Jan. 31, 2022 | Period Ending<br>Feb 28, 2022 |
|--------------|--------------------------------|--------------------------------|--------------------------------|-------------------------------|
| General      | \$ 11,680.28                   | \$ 5,730.47                    | \$ 3,230.89                    | \$ 3,654.49                   |
| Debt         | \$ -0-                         | \$ -0-                         | \$ -0-                         | \$ -0-                        |
| Capital      | \$ 1,567.50                    | \$ 1,041.60                    | \$ 1,066.80                    | \$ 1,218.24                   |
| <b>Total</b> | <b>\$ 13,247.78</b>            | <b>\$ 6,772.07</b>             | <b>\$ 4,297.69</b>             | <b>\$ 4,872.73</b>            |

| Fund         | Period Ending<br>March 31, 2022 | Period Ending<br>April 30, 2022 | Period Ending<br>May 31, 2022 | Period Ending<br>June 30, 2022 |
|--------------|---------------------------------|---------------------------------|-------------------------------|--------------------------------|
| General      | \$ 6,060.12                     | \$ 4,815.78                     | \$ 6,184.57                   | \$ 5,808.00                    |
| Debt         | \$ -0-                          | \$ -0-                          | \$ -0-                        | \$ -0-                         |
| Capital      | \$ 1,516.20                     | \$ 1,335.60                     | \$ 907.92                     | \$ 1,700.40                    |
| <b>Total</b> | <b>\$ 7,576.32</b>              | <b>\$ 6,151.38</b>              | <b>\$ 7,092.49</b>            | <b>\$ 7,508.40</b>             |

| Fund         | Period Ending<br>July 31, 2022 |
|--------------|--------------------------------|
| General      | \$ 8,111.89                    |
| Debt         | \$ -0-                         |
| Capital      | \$ 2,309.76                    |
| <b>Total</b> | <b>\$ 10,421.65</b>            |

B. Review and accept the Unaudited Financial Statements through the period ending June 30, 2022 and Schedule of Cash Position updated as of June 30, 2022 (enclosure).

C. Conduct Public Hearing to consider Amendment to 2021 Budget and consider adoption of a Resolution to Amend the 2021 Budget (enclosure).

D. Ratify approval of the request for extension of time to file the 2021 audit (enclosure).

- E. Review and consider approval of 2021 Audit and authorize execution of Representations Letter (draft audit – enclosed).
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#### IV. LEGAL MATTERS

- A. Consider ratification of Amendment to Advance and Reimbursement Agreement for Operations and Maintenance Expenses (enclosure).
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#### V. COVENANT ENFORCEMENT MATTERS

- A. Update on Landscape Maintenance.
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- B. Discuss fencing requests submitted for Architectural Review.
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- C. Discuss and ratify approval of Agreement between the District and Altitude Community Law for Covenant-Related Legal Services (enclosure).
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- D. Discuss the Districts Covenant, Conditions and Restrictions.
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- 1. Discuss lot lines, fencing matters, and landscape maintenance options.
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#### VI. CONSTRUCTION MATTERS

- A. Discuss status of development.
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#### VII. OTHER MATTERS

- A. 

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#### VIII. ADJOURNMENT: **THE NEXT REGULAR MEETING IS SCHEDULED FOR NOVEMBER 7, 2022 – BUDGET HEARING.**

## RECORD OF PROCEEDINGS

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### MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE BERKLEY SHORES METROPOLITAN DISTRICT (THE “DISTRICT”) HELD NOVEMBER 1, 2021

A special meeting of the Board of Directors of the Berkley Shores Metropolitan District (referred to hereafter as the “Board”) was convened on Monday, November 1, 2021, at 10:00 a.m., via an online meeting at: <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZU3Fqdz09>; Meeting ID: 546 911 9353, Passcode: 912873. The meeting was open to the public via conference call at Dial-In: 1-253-215-8782.

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Directors In Attendance Were:

Paul Malone, President

Philip Clow, Treasurer

Natalie Satt, Secretary

Following discussion, upon motion duly made by Director Malone seconded by Director Satt and, upon vote, unanimously carried, the absences of Directors Martines and Almagno were excused.

Also In Attendance Were:

David Solin and James Ruthven; Special District Services, Inc. (“SDMS”)

Jennifer L. Ivey; Icenogle Seaver Pogue, P.C.

**DISCLOSURE OF  
POTENTIAL  
CONFLICTS OF  
INTEREST**

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

**PUBLIC  
COMMENTS**

There were no public comments at this time.

## RECORD OF PROCEEDINGS

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### **ADMINISTRATIVE MATTERS**

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

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

**Approval of Meeting Location:** The Board noted that notice of the time, date, and location of the meeting was duly posted.

**Minutes:** The Board reviewed the Minutes of the June 7, 2021 Special Meeting.

Following discussion, upon motion duly made by Director Satt, seconded by Director Malone and, upon vote, unanimously carried, the Minutes of the June 7, 2021 Special Meeting were approved, as presented.

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### **FINANCIAL MATTERS**

**Claims:** The Board considered ratifying the approval of the payment of claims as follows:

| Fund         | Period Ending<br>May 31, 2021 | Period Ending<br>June 30, 2021 | Period Ending<br>July 31, 2021 | Period Ending<br>Aug. 31, 2021 |
|--------------|-------------------------------|--------------------------------|--------------------------------|--------------------------------|
| General      | \$ 2,388.56                   | \$ 1,161.26                    | \$ 1,009.41                    | \$ 2,297.26                    |
| Debt         | \$ -0-                        | \$ -0-                         | \$ -0-                         | \$ -0-                         |
| Capital      | \$ 3,401.23                   | \$ 1,598.40                    | \$ 1,263.30                    | \$ -0-                         |
| <b>Total</b> | <b>\$ 5,789.79</b>            | <b>\$ 2,759.66</b>             | <b>\$ 2,272.71</b>             | <b>\$ 2,297.26</b>             |

| Fund         | Period Ending<br>August<br>Special Payment | Period Ending<br>Sept. 30, 2021 | Period Ending<br>Oct. 31, 2021 |
|--------------|--|---------------------------------|--------------------------------|
| General      | \$ 3,048.24                                | \$ 3,073.23                     | \$ 3,997.77                    |
| Debt         | \$ -0-                                     | \$ 4,000.00                     | \$ -0-                         |
| Capital      | \$ -0-                                     | \$ -0-                          | \$ 874.20                      |
| <b>Total</b> | <b>\$ 3,048.24</b>                         | <b>\$ 7,073.23</b>              | <b>\$ 4,871.97</b>             |

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

**Unaudited Financial Statements and Schedule of Cash Position:** Mr. Ruthven reviewed with the Board the unaudited financial statements of the District, setting forth the cash deposits, investments, budget analysis and the schedule of cash position statement updated as of September 30, 2021.

## RECORD OF PROCEEDINGS

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Following review and discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the unaudited financial statements and the schedule of cash position statement were accepted, as presented.

**2020 Audit:** Mr. Ruthven reviewed with the Board the 2020 Audit.

Following review and discussion, upon motion duly made by Director Clow, seconded by Director Malone and, upon vote, unanimously carried, the Board ratified approval of the 2020 Audit and authorization of execution of the Audit Representations Letter.

**2021 Audit:** The Board discussed the 2021 Audit. It was noted the District Accountant is working on obtaining a proposal.

Following discussion, upon motion duly made by Director Satt, seconded by Director Malone and, upon vote, unanimously carried, the Board approved the engagement of an Auditor to perform the 2021 Audit, for an amount not to exceed \$7,000.

**2021 Budget Amendment Hearing:** The President opened the public hearing to consider the Resolution to Amend the 2021 Budget and discuss related issues.

It was noted that publication of Notice stating that the Board would consider adoption of a Resolution to Amend the 2021 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to this public hearing. No public comments were received, and the public hearing was closed.

Mr. Solin reviewed with the Board the proposed 2021 Budget Amendment and Ms. Ivey presented to the Board of Directors a Resolution for approval and adoption of the 2021 budget amendment and appropriating funds therefor.

Following review and discussion, Director Malone moved to adopt the Resolution to Amend 2021 Budget and appropriate the funds, Director Satt seconded the motion and, upon vote, unanimously carried, the Board adopted Resolution No. 2021-11-01 to Amend the 2021 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

**2022 Budget Hearing:** The President opened the public hearing to consider the proposed 2022 Budget and discuss related issues.

## RECORD OF PROCEEDINGS

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It was noted that publication of Notice stating that the Board would consider adoption of the 2022 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to or at this public hearing. No public comments were received, and the President closed the public hearing.

Mr. Solin reviewed with the Board the estimated year-end 2021 revenues and expenditures and the proposed 2022 estimated revenues and expenditures and Ms. Ivey presented to the Board of Directors a Resolution for approval and adoption of the 2022 Budget, appropriating fund therefor and certification of a mill levy thereunder.

Following discussion, the Board considered the adoption of Resolution No. 2021-11-02 to Adopt the 2022 Budget and Appropriate Sums of Money and Resolution No. 2021-11-03 to Set Mill Levies (for the General Fund at 25.000 mills and the Debt Service Fund at 35.000 mills, and 0.230 mills for Refunds and Abatements for a total of 60.230 mills). Upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Resolutions were adopted, the funds were appropriated, and the mill levies certified, as discussed, and execution of the Certification of Budget and Certification of Mill Levies was authorized, subject to receipt of final Certification of Assessed Valuation from the County on or before December 10, 2021. Mr. Solin was authorized to transmit the Certification of Mill Levies to the Board of County Commissioners of Adams County and the Division of Local Government not later than December 15, 2021. Mr. Solin was also authorized to transmit the Certification of Budget to the Division of Local Government not later than January 30, 2022. Copies of the adopted Resolutions are attached hereto and incorporated herein by this reference.

**Cost Verifications Report from Ranger Engineering, LLC:** There was no Cost Verifications Report from Ranger Engineering, LLC to discuss at this time.

**Reimbursement to HDC 6300 Lowell Boulevard, LLLP under Facilities Funding and Acquisition Agreement:** There were no reimbursements to HDC 6300 Lowell Boulevard, LLLP under Facilities Funding and Acquisition Agreement to approve at this time.

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### **LEGAL MATTERS**

**Annual Resolution:** Ms. Ivey presented to and reviewed with the Board a resolution, prepared annually to handle the District's ongoing operation and business. After review and discussion, upon motion by Director Satt, second by Director Malone, and unanimous vote, the Board of Directors approved the resolution including the election of the following officers to the Board of Directors and regular meeting date/location:

## RECORD OF PROCEEDINGS

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|                      |                  |
|----------------------|------------------|
| President/Chairman:  | Paul Malone      |
| Treasurer:           | Philip Clow      |
| Secretary:           | Natalie Satt     |
| Assistant Secretary: | Michael Martines |
| Assistant Secretary: | Victoria Almagno |

June 6, 2022 and November 7, 2022, at 10:00 A.M., via video conference. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

§32-1-809, C.R.S. Reporting Requirements, Mode of Eligible Elector Notification for 2022: The Board discussed §32-1-809, C.R.S. reporting requirements and mode of eligible elector notification for 2022.

Following discussion, upon motion duly made by Director Satt, seconded by Director Malone and, upon vote, unanimously carried, the Board determined to post the required transparency notice information on the Special District Association's website.

DLG-70 Mill Levy Certification Form: The Board considered authorizing the District Accountant to prepare and sign the DLG-70 Mill Levy Certification form for certification to the Board of County Commissioners and other interested parties.

Following discussion, upon motion duly made by Director Satt, seconded by Director Malone and, upon vote, unanimously carried, the Board authorized the District Accountant to prepare and sign the DLG-70 Mill Levy Certification form for certification to the Board of County Commissioners and other interested parties.

**Election Resolution:** Ms. Ivey presented to and reviewed with the Board the 2022 Regular Special District Election Resolution. Following discussion and upon motion by Director Clow, second by Director Satt, and unanimous vote, the Board of Directors approved the 2022 Regular Special District Election Resolution. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

**2021 Legislative Report:** Ms. Ivey presented to and reviewed with the Board a memorandum regarding 2021 Legislation.

Website Compliance: Ms. Ivey presented to and reviewed with the Board a memorandum regarding website compliance.

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## RECORD OF PROCEEDINGS

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### **COVENANT ENFORCEMENT MATTERS**

**Executive Session:** Pursuant to Section 24-6-402(4)(b), C.R.S., upon motion duly made by Director Malone, seconded by Director Satt and, upon an affirmative vote of at least two-thirds of the quorum present, the Board convened in executive session at 10:44 a.m. for the purpose of receiving legal advice on specific legal questions related to covenant enforcement under Section 24-6-402(4)(b), C.R.S.

Pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S., no record will be kept of the remaining portion of this executive session that, in the opinion of the District's general counsel, constitutes privileged attorney-client communication pursuant to Section 24-6-402(4)(b), C.R.S.

Also pursuant to § 24-6-402(4), C.R.S., the Board did not adopt any proposed policy, position, resolution, rule, regulation or take formal action during execution session.

The Board reconvened in regular session at 10:55 a.m.

**Resolution Adopting an Amended Covenant Enforcement Policy:** The Board reviewed a Resolution Adopting an Amended Covenant Enforcement Policy.

Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board adopted the Resolution Adopting an Amended Covenant Enforcement Policy.

**Resolution Adopting Amended Rules and Regulations of Berkley Shores:** The Board reviewed a Resolution Adopting Amended Rules and Regulations of Berkley Shores.

Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board adopted the Resolution Adopting Amended Rules and Regulations of Berkley Shores.

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### **CONSTRUCTION MATTERS**

**Development:** The Board entered into discussion regarding the status of the development. It was noted the project is expected to close out in July 2022.

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### **OTHER BUSINESS**

There was no other business at this time.

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## RECORD OF PROCEEDINGS

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### **ADJOURNMENT**

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

Respectfully submitted,

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

**RESOLUTION OF DESIGNATED ELECTION OFFICIAL  
REGARDING CANCELLATION OF ELECTION AND  
DECLARATION DEEMING CANDIDATES ELECTED**

BERKLEY SHORES METROPOLITAN DISTRICT  
Adams County, Colorado

A. The Designated Election Official of the Berkley Shores Metropolitan District (“**District**”) has been duly authorized by the Board of Directors of the District to cancel the election and declare candidates elected at the close of business on the sixty-third (63<sup>rd</sup>) day before the election to be conducted on May 3, 2022, pursuant to that certain Resolution Calling Election attached hereto as **Exhibit A**.

B. On the sixty-third (63<sup>rd</sup>) 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.

NOW, THEREFORE, be it resolved by the Designated Election Official of the District that:

1. The regular election to be conducted on May 3, 2022, is hereby cancelled pursuant to Section 1-13.5-513, C.R.S.
2. The following candidates are declared elected for the following terms of office:

| <u>Name</u>      | <u>Term</u>                       |
|------------------|-----------------------------------|
| Paul Malone      | Second Regular Election, May 2025 |
| Michael Martines | Second Regular Election, May 2025 |
| Natalie Satt     | Second Regular Election, May 2025 |

DATED this 2nd day of March, 2022.

BERKLEY SHORES METROPOLITAN  
DISTRICT

By:   
David Solin, Designated Election Official  
Berkley Shores Metropolitan District  
141 Union Boulevard, Suite 150  
Lakewood, Colorado 80228  
Phone: (303) 987-0835

**EXHIBIT A**

Resolution Calling Election

**RESOLUTION OF  
THE BOARD OF DIRECTORS OF  
BERKLEY SHORES METROPOLITAN DISTRICT  
2022 REGULAR SPECIAL DISTRICT ELECTION RESOLUTION**

At a special meeting of the Board of Directors of the Berkley Shores Metropolitan District, Adams County, Colorado, held at 10:00 A.M., on Monday, November 1, 2021, via online meeting at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCOUZEcVBBOGZVU3Fqdz09> and via telephone at 1-253-215-8782, Meeting ID: 546 911 9353, Passcode: 912873, at which a quorum was present, the following resolution was adopted:

**WHEREAS**, Berkley Shores Metropolitan District (the “District”) was organized pursuant to the Special District Act, Article 1 of Title 32, C.R.S. (the “Act”), after approval of the eligible electors of the District, by order of the District Court in and for Adams County, Colorado, dated January 27, 2020; and

**WHEREAS**, elections may be held pursuant to the Act; the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S. (the “Uniform Code”); and the Colorado Local Government Election Code, Article 13.5 of Title 1, C.R.S. (the “Local Government Election Code”) (the Act, Uniform Code, and Local Government Election Code are collectively referred to herein as the “Election Laws”) for the purpose of 1) electing members of the Board and 2) presenting certain ballot questions to the eligible electors of the District; and

**WHEREAS**, pursuant to § 32-1-305.5(3)(b), C.R.S., the terms of office of members of the Board of Directors for the District (the “Board”) elected in a regular special district election held in 2022 are for three (3) years; and

**WHEREAS**, the Board currently includes five (5) members elected to serve on the Board, zero (0) members appointed to fill vacancies on the Board, and zero (0) vacancies; and

**WHEREAS**, the term of office for three (3) members of the Board for the District shall expire after their successors are elected at the next regular election for the District scheduled to be held on the Tuesday succeeding the first Monday of May in accordance with § 1-13.5-111(1), C.R.S.: May 3, 2022; and

**WHEREAS**, in accordance with the Election Laws, an election must be conducted to elect to the Board of the District three (3) Directors to serve for terms of three years and zero (0) Directors to serve terms of one year; and

**WHEREAS**, the number of Directors to be elected to the Board of the District may increase following the adoption of this Resolution should a Director’s office be deemed vacant in accordance with § 32-1-905, C.R.S. prior to the election; and

**WHEREAS**, pursuant to § 32-1-804(1), C.R.S., the Board shall govern the conduct of the election and shall render all interpretations and make all decisions as to controversies or other matters arising in the conduct of the election; and

**WHEREAS**, §§ 1-1-111(2), 1-13.5-108, and 32-1-804(2), C.R.S. provide that all powers and authority granted to the Board for the conduct of regular and special elections, including making all initial decisions as to controversies or other matters arising in the operation of the Local Government Election Code, may be exercised by a “Designated Election Official” designated by the Board; and

**WHEREAS**, §§ 1-13.5-501(1) & -(1.7), C.R.S., require that, between seventy-five (75) and one hundred (100) days before a regular election, the Designated Election Official shall provide public notice of a call for nominations for the election by two methods: (1) by emailing the notice to each active registered elector of the District as of the date that is one hundred fifty (150) days prior to the election or, if no email address is on file, by mail as provided in § 1-13.5-501(1.7), C.R.S., and (2) by any one of the following means: publication, as defined in § 1-13.5-501(2), C.R.S.; including the notice as a prominent part of an informational mailing sent by the District to the eligible electors of the District; posting the information of the official website of the District; or, if permitted under § 1-13.5-501(1.7)(b)(IV), C.R.S., posting the notice in at least three public places within the boundaries of the metropolitan district and, in addition, in the office of the Clerk and Recorder of Adams County

**WHEREAS**, § 1-13.5-1104(2), C.R.S. requires the Designated Election Official to supervise the distributing, handling, and counting of ballots and the survey of returns, and to take the necessary steps to protect the confidentiality of the ballots cast and the integrity of the election; and

**WHEREAS**, § 1-7.5-107(4)(b)(II), C.R.S. specifies that the Designated Election Official shall designate a secure drop-off location that is under his or her supervision, and § 1-5-102(1), C.R.S. requires that the Designated Election Official divide the jurisdiction into as many election precincts as he or she deems expedient for the convenience of eligible electors of the jurisdiction and designate the polling place for each precinct; and

**WHEREAS**, § 1-13.5-1004(1), C.R.S. provides that the Designated Election Official shall keep a list of names of eligible electors who have applied for absentee voters’ ballots and those permanent absentee voters placed on the list pursuant to § 1-13.5-1003(2), C.R.S., which list must contain certain other information as set out by statute; and

**WHEREAS**, § 1-13.5-513(1), C.R.S. provides that if the only matter before the electors in an election is the election of persons to office and if, at the close of business day on the sixty-third (63<sup>rd</sup>) day before the election or at any time thereafter, there are not more candidates than offices to be filled at the election, the Designated Election Official shall cancel the election and declare the candidates elected if so instructed by resolution of the governing body; and

**WHEREAS**, § 1-11-103(3), C.R.S. provides that if an election is cancelled pursuant to § 1-13.5-513(1), C.R.S., the District shall file notice and a copy of the resolution of such cancellation with the Colorado Division of Local Government (the “Division”); and

**WHEREAS**, §§ 1-11-103(3) & 32-1-104(1), C.R.S. require the District to certify to the Division the results of any elections held by the District and include the District’s business address, telephone number, and contact person; and

**WHEREAS**, the Board desires to call an election and set forth herein the procedures for conducting such election as authorized by the Election Laws.

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

1. The Board hereby calls a regular election of the eligible electors of the District to be held between the hours of 7:00 A.M. and 7:00 P.M. on the Tuesday succeeding the first Monday of May pursuant to and in accordance with § 1-13.5-111(1), C.R.S., the Election Laws, and other applicable laws (May 3, 2022), for the purpose of electing three (3) Directors to serve a three-year term and zero (0) Directors to serve a one-year term on the Board (the “Election”), as such numbers may change due to one or more vacancies arising on the Board after the adoption of this Resolution and prior to the Election. The Election shall be conducted as an independent mail ballot election, pursuant to Part 11 of the Local Government Election Code.

2. Pursuant to § 32-1-804(2), C.R.S., the Board hereby names David Solin, of Special District Management Services, Inc., as the Designated Election Official for the Election. The Board hereby directs the District’s general counsel to oversee the general conduct of the Election and authorizes the Designated Election Official to take all other action necessary for the proper conduct thereof. The Designated Election Official shall act as the primary contact with the Clerk and Recorder of Adams County, Colorado (the “County”) and shall be primarily responsible for ensuring the proper conduct of the Election, including, but not limited to, distributing, handling, and counting of ballots and the survey of returns, taking the necessary steps to protect the confidentiality of the ballots cast and the integrity of the Election, appointing election judges as necessary, appointing the board of canvassers, arranging for the required notices of the Election and printing of ballots, maintaining a permanent absentee voter list, and directing that all other appropriate actions be accomplished.

3. The Board hereby directs the Designated Election Official to provide public notice of a call for nominations for the Election in accordance with the requirements of § 1-13.5-501, C.R.S., which shall include information regarding the director offices to be voted upon at the Election, where a self-nomination and acceptance form or letter may be obtained, the deadline for submitting the self-nomination and acceptance form or letter to the Designated Election Official, and information on obtaining an absentee ballot. The notice shall be emailed to each active registered elector of the District as specified in the registration list provided by the Adams County Clerk and Recorder as of the date that is one hundred fifty days prior to the date of the Election or,

if no email address is on file, by mail as provided in § 1-13.5-501(1.7), C.R.S. In addition, public notice shall be provided by publication as defined in § 1-13.5-501(2), C.R.S.

4. The Board deems it expedient for the convenience of the electors that it shall establish a polling place & drop-off location for all regular and special elections of the District. There shall be one (1) polling place & drop-off location for the elections. This polling place & drop-off location shall be used for any regular or special elections to be held in 2022 and in each year thereafter until such polling place & drop-off location is changed by duly adopted resolution of the Board. Such polling place & drop-off location shall be located at 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228. All voters for the District, including handicapped and nonresident voters unless otherwise permitted by law, shall return their ballots to the designated polling place & drop-off location by mail or delivery. All eligible electors may also obtain a replacement ballot from the polling place & drop-off location until 7:00 P.M. on election day in accordance with § 1-13.5-1105(4), C.R.S. A map showing the District's boundaries is on file at the offices of Special District Management Services, Inc. and is available for examination by all interested persons.

5. Applications for an absentee voter's ballot or for permanent absentee voter status may be filed with the Designated Election Official, 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228, between the hours of 8:00 a.m. and 5:00 p.m., until the close of business on the Tuesday immediately preceding the Election (April 26, 2022).

6. Pursuant to § 1-13.5-303, C.R.S., all candidates must file a self-nomination and acceptance form or letter signed by the candidate and by an eligible elector of the District as a witness to the signature of the candidate with the Designated Election Official no later than 5:00 P.M. on the day that is sixty-seven (67) days prior to the Election (February 25, 2022). Self-nomination and acceptance forms are available at the Designated Election Official's office located at the above address.

7. Pursuant to § 1-13.5-513, C.R.S., the Board hereby authorizes and directs the Designated Election Official to cancel the Election and declare the candidates elected if, at or after the close of business on the sixty-third (63<sup>rd</sup>) day before the Election (March 1, 2022), there are not more candidates for director than offices to be filled, including candidates filing affidavits of intent to be write-in candidates, and so long as the only matter before the electors is the election of persons to office. Under these circumstances, the Board further authorizes and directs the Designated Election Official to provide notice of the cancellation by publication in accordance with § 1-13.5-501, C.R.S. and to post notice of the cancellation at each polling location, the office of the Designated Election Official, the Adams County Clerk and Recorder's Office, and with the Division. The Designated Election Official shall also file notice and a copy of this Resolution authorizing the cancellation of the Election with the Division pursuant to § 1-11-103(3), C.R.S. The Designated Election Official shall also notify the candidates that the Election was canceled and they were elected by acclamation.

8. In accordance with §§ 1-11-103(3) & 32-1-104(1), C.R.S., the District directs the Designated Election Official to notify the Division of the results of any elections held by the District, including the District's business address, telephone number, and contact person within thirty (30) days after the Election (June 2, 2022).



9. The Designated Election Official and the officers, agents, consultants, and employees, if any, of the District are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

10. All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the Board, the Designated Election Official, and the officers, agents, consultants, and employees, if any, of the District, and directed toward holding the Election for the purposes stated herein are hereby ratified, approved, and confirmed.

11. All prior acts, orders, or resolutions, or parts thereof, by the District in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order, or resolution, or part thereof, heretofore repealed.

12. If any section, paragraph, clause, or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

13. The District shall be responsible for the payment of any and all costs associated with the conduct of the Election, including its cancellation, if necessary, and those costs incurred pursuant to the terms and conditions of an election agreement with the County, if any.


14. This Resolution shall take effect on the date and at the time of its adoption.

**[Remainder of page intentionally left blank.]**

Whereupon, a motion was made and seconded, and upon a majority vote, this Resolution was approved by the Board.

**ADOPTED AND APPROVED THIS 1ST DAY OF NOVEMBER, 2021.**

**BERKLEY SHORES METROPOLITAN  
DISTRICT**



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Paul Malone, President

ATTEST:



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Natalie Satt, Secretary

**Berkley Shores Metropolitan District  
November-21**

| Vendor                                | Invoice #      | Date       | Due Date   | Amount      | Expense Account     | Account Number |
|---------------------------------------|----------------|------------|------------|-------------|---------------------|----------------|
| Colorado Community Media              | 39732          | 10/29/2021 | 11/28/2021 | \$ 23.04    | Miscellaneous       | 1685           |
| Crestview Water & Sanitation District | 1431           | 10/22/2021 | 11/21/2021 | \$ 851.59   | Utilities           | 1762           |
| Icenogle Seaver Pogue, P.C.           | 20775          | 10/31/2021 | 10/31/2021 | \$ 3,161.00 | Legal               | 1675           |
| McGeady Becher P.C.                   | 14158 09/2021  | 9/30/2021  | 9/30/2021  | \$ -        | Legal               | 1675           |
| Simmons Wheeler P.C.                  | 31611          | 9/30/2021  | 9/30/2021  | \$ 6,500.00 | Audit               | 1615           |
| Special District Management Services  | Oct-21         | 10/31/2021 | 10/31/2021 | \$ 635.10   | Management          | 3614           |
| Special District Management Services  | Oct-21         | 10/31/2021 | 10/31/2021 | \$ 52.29    | Miscellaneous       | 1685           |
| Special District Management Services  | Oct-21         | 10/31/2021 | 10/31/2021 | \$ 932.40   | Accounting          | 3612           |
| Special District Management Services  | Oct-21         | 10/31/2021 | 10/31/2021 | \$ 19.00    | Property Management | 1710           |
| Special District Management Services  | Oct-21         | 10/31/2021 | 10/31/2021 | \$ 621.60   | Accounting          | 1612           |
| Special District Management Services  | Oct-21         | 10/31/2021 | 10/31/2021 | \$ 423.40   | Management          | 1614           |
| Waste Management of Colorado, Inc.    | 73S8733-2514-7 | 11/1/2021  | 12/1/2021  | \$ 28.36    | Miscellaneous       | 1685           |

\$ 13,247.78

**Berkley Shores Metropolitan District  
November-21**

|   | <u>General</u>     | <u>Debt</u>   | <u>Capital</u>    | <u>Totals</u>      |
|---|--------------------|---------------|-------------------|--------------------|
| <b>Disbursements</b>                          | \$ 11,680.28       |               | \$ 1,567.50       | \$ 13,247.78       |
| <b>Total Disbursements from Checking Acct</b> | <b>\$11,680.28</b> | <b>\$0.00</b> | <b>\$1,567.50</b> | <b>\$13,247.78</b> |

**Berkley Shores Metropolitan District  
December-21**

| <b>Vendor</b>                                      | <b>Invoice #</b> | <b>Date</b> | <b>Due Date</b> | <b>Amount</b> | <b>Expense Account</b> | <b>Account Number</b> |
|--|------------------|-------------|-----------------|---------------|------------------------|-----------------------|
| Colorado Special District Property & Liability Poo | POL-0009246      | 9/26/2021   | 9/26/2021       | \$ 1,835.00   | Pre-Paid Insurance     | 1143                  |
| Crestview Water & Sanitation District              | 1433 11-2021     | 11/23/2021  | 12/21/2021      | \$ 185.77     | Utilities              | 1762                  |
| Icenogle Seaver Pogue, P.C.                        | 20906            | 11/30/2021  | 11/30/2021      | \$ 1,816.00   | Legal                  | 1675                  |
| Special District Management Services               | Nov-21           | 11/30/2021  | 11/30/2021      | \$ 495.60     | Management             | 3614                  |
| Special District Management Services               | Nov-21           | 11/30/2021  | 11/30/2021      | \$ 45.09      | Miscellaneous          | 1685                  |
| Special District Management Services               | Nov-21           | 11/30/2021  | 11/30/2021      | \$ 546.00     | Accounting             | 3612                  |
| Special District Management Services               | Nov-21           | 11/30/2021  | 11/30/2021      | \$ 180.50     | Property Management    | 1710                  |
| Special District Management Services               | Nov-21           | 11/30/2021  | 11/30/2021      | \$ 364.00     | Accounting             | 1612                  |
| Special District Management Services               | Nov-21           | 11/30/2021  | 11/30/2021      | \$ 330.40     | Management             | 1614                  |
| T. Charles Wilson                                  | 10328            | 10/25/2021  | 1/1/2022        | \$ 495.00     | Pre-Paid Insurance     | 1143                  |
| Waste Management of Colorado, Inc.                 | 7400852-2514-3   | 12/1/2021   | 12/31/2021      | \$ 478.71     | Miscellaneous          | 1685                  |

\$6,772.07

**Berkley Shores Metropolitan District  
December-21**

|   | <b>General</b>    | <b>Debt</b>   | <b>Capital</b>    | <b>Totals</b>     |
|---|-------------------|---------------|-------------------|-------------------|
| <b>Disbursements</b>                          | \$ 5,730.47       |               | \$ 1,041.60       | \$ 6,772.07       |
| <b>Total Disbursements from Checking Acct</b> | <b>\$5,730.47</b> | <b>\$0.00</b> | <b>\$1,041.60</b> | <b>\$6,772.07</b> |

**Berkley Shores Metropolitan District**  
**January-22**

| <b>Vendor</b>                         | <b>Invoice #</b> | <b>Date</b> | <b>Due Date</b> | <b>Amount</b> | <b>Expense Account</b> | <b>Account Number</b> |
|---------------------------------------|------------------|-------------|-----------------|---------------|------------------------|-----------------------|
| Crestview Water & Sanitation District | 1429 12-2021     | 12/22/2021  | 1/21/2022       | \$ 316.25     | Utilities              | 1762                  |
| Icenogle Seaver Pogue, P.C.           | 20982            | 12/31/2021  | 12/31/2021      | \$ 1,882.00   | Legal                  | 1675                  |
| Pet Scoop                             | 379403           | 12/31/2021  | 1/15/2022       | \$ 179.25     | Property Management    | 1710                  |
| Special District Management Services  | Dec-21           | 12/31/2021  | 12/31/2021      | \$ 37.69      | Miscellaneous          | 1685                  |
| Special District Management Services  | Dec-21           | 12/31/2021  | 12/31/2021      | \$ 358.40     | Accounting             | 1612                  |
| Special District Management Services  | Dec-21           | 12/31/2021  | 12/31/2021      | \$ 537.60     | Accounting             | 3612                  |
| Special District Management Services  | Dec-21           | 12/31/2021  | 12/31/2021      | \$ 352.80     | Management             | 1614                  |
| Special District Management Services  | Dec-21           | 12/31/2021  | 12/31/2021      | \$ 529.20     | Management             | 3614                  |
| Special District Management Services  | Dec-21           | 12/31/2021  | 12/31/2021      | \$ 104.50     | Property Management    | 1710                  |
|                                       |                  |             |                 | \$ 4,297.69   |                        |                       |

**Berkley Shores Metropolitan District  
January-22**

|   | <b>General</b>     | <b>Debt</b>   | <b>Capital</b>     | <b>Totals</b>      |
|---|--------------------|---------------|--------------------|--------------------|
| <b>Disbursements</b>                          | <b>\$ 3,230.89</b> |               | <b>\$ 1,066.80</b> | <b>\$ 4,297.69</b> |
| <b>Total Disbursements from Checking Acct</b> | <b>\$3,230.89</b>  | <b>\$0.00</b> | <b>\$1,066.80</b>  | <b>\$4,297.69</b>  |



**Berkley Shores Metropolitan District**  
**February-22**

| <b>Vendor</b>                         | <b>Invoice #</b> | <b>Date</b> | <b>Due Date</b> | <b>Amount</b> | <b>Expense Account</b> | <b>Account Number</b> |
|---------------------------------------|------------------|-------------|-----------------|---------------|------------------------|-----------------------|
| Crestview Water & Sanitation District | 1451             | 1/25/2022   | 2/21/2022       | \$ 182.83     | Utilities              | 1762                  |
| Environmental Designs Inc.            | 148837           | 2/3/2022    | 3/5/2022        | \$ 781.25     | Snow Removal           | 1722                  |
| Icenogle Seaver Pogue, P.C.           | 21185            | 1/31/2022   | 1/31/2022       | \$ 669.00     | Legal                  | 1675                  |
| Pet Scoop                             | 387249           | 1/31/2022   | 2/15/2022       | \$ 143.40     | Property Management    | 1710                  |
| Special District Management Services  | Jan-22           | 1/31/2022   | 1/31/2022       | \$ 60.09      | Miscellaneous          | 1685                  |
| Special District Management Services  | Jan-22           | 1/31/2022   | 1/31/2022       | \$ 492.48     | Management             | 1614                  |
| Special District Management Services  | Jan-22           | 1/31/2022   | 1/31/2022       | \$ 738.72     | Management             | 3614                  |
| Special District Management Services  | Jan-22           | 1/31/2022   | 1/31/2022       | \$ 319.68     | Accounting             | 1612                  |
| Special District Management Services  | Jan-22           | 1/31/2022   | 1/31/2022       | \$ 479.52     | Accounting             | 3612                  |
| Special District Management Services  | Jan-22           | 1/31/2022   | 1/31/2022       | \$ 250.00     | Property Management    | 1710                  |
| Waste Management of Colorado, Inc.    | 7445124-2514-4   | 1/4/2022    | 2/3/2022        | \$ 370.54     | Miscellaneous          | 1685                  |
| Waste Management of Colorado, Inc.    | 7488100-2514-2   | 2/1/2022    | 2/4/2022        | \$ 385.22     | Miscellaneous          | 1685                  |
|                                       |                  |             |                 | \$ 4,872.73   |                        |                       |

**Berkley Shores Metropolitan District  
February-22**

|   | <b>General</b>    | <b>Debt</b>   | <b>Capital</b>    | <b>Totals</b>     |
|---|-------------------|---------------|-------------------|-------------------|
| <b>Disbursements</b>                          | \$ 3,654.49       |               | \$ 1,218.24       | \$ 4,872.73       |
| <b>Total Disbursements from Checking Acct</b> | <b>\$3,654.49</b> | <b>\$0.00</b> | <b>\$1,218.24</b> | <b>\$4,872.73</b> |

**Berkley Shores Metropolitan District**  
**March-22**

| Vendor                                | Invoice #      | Date      | Due Date  | Amount     | Expense Account     | Account Number |
|---------------------------------------|----------------|-----------|-----------|------------|---------------------|----------------|
| Colorado Community Media              | 48989          | 2/18/2022 | 3/14/2022 | \$ 30.08   | Election            | 1635           |
| Crestview Water & Sanitation District | 1450           | 2/28/2022 | 3/21/2022 | \$ 42.51   | Utilities           | 1762           |
| Environmental Designs Inc.            | 149210         | 2/10/2022 | 3/14/2022 | \$1,380.00 | Snow Removal        | 1722           |
| Environmental Designs Inc.            | 150094         | 3/4/2022  | 3/14/2022 | \$ 725.00  | Snow Removal        | 1722           |
| Icenogle Seaver Pogue, P.C.           | 21332          | 2/28/2022 | 2/28/2022 | \$1,044.50 | Legal               | 1675           |
| Pet Scoop                             | 390763         | 2/28/2022 | 3/15/2022 | \$ 143.40  | Property Management | 1710           |
| Special District Association          | SDA-2022       | 2/23/2022 | 3/14/2022 | \$ 418.92  | Insurance/SDA Dues  | 1670           |
| Special District Management Services  | Feb-22         | 2/28/2022 | 2/28/2022 | \$ 450.60  | Management          | 3614           |
| Special District Management Services  | Feb-22         | 2/28/2022 | 2/28/2022 | \$ 251.60  | Election            | 1635           |
| Special District Management Services  | Feb-22         | 2/28/2022 | 2/28/2022 | \$ 47.47   | Miscellaneous       | 1685           |
| Special District Management Services  | Feb-22         | 2/28/2022 | 2/28/2022 | \$1,065.60 | Accounting          | 3612           |
| Special District Management Services  | Feb-22         | 2/28/2022 | 2/28/2022 | \$ 280.00  | Property Management | 1710           |
| Special District Management Services  | Feb-22         | 2/28/2022 | 2/28/2022 | \$ 710.40  | Accounting          | 1612           |
| Special District Management Services  | Feb-22         | 2/28/2022 | 2/28/2022 | \$ 300.40  | Management          | 1614           |
| Waste Management of Colorado, Inc.    | 7529939-2514-4 | 3/1/2022  | 3/31/2022 | \$ 449.22  | Miscellaneous       | 1685           |
| Xcel Energy                           | 766483162      | 2/3/2022  | 2/24/2022 | \$ 236.62  | Utilities           | 1762           |

\$7,576.32

**Berkley Shores Metropolitan District  
March-22**

|   | <b>General</b>     | <b>Debt</b>   | <b>Capital</b>     | <b>Totals</b>      |
|---|--------------------|---------------|--------------------|--------------------|
| <b>Disbursements</b>                          | <b>\$ 6,060.12</b> |               | <b>\$ 1,516.20</b> | <b>\$ 7,576.32</b> |
| <b>Total Disbursements from Checking Acct</b> | <b>\$6,060.12</b>  | <b>\$0.00</b> | <b>\$1,516.20</b>  | <b>\$7,576.32</b>  |

**Berkley Shores Metropolitan District**  
**April-22**

| <b>Vendor</b>                         | <b>Invoice #</b> | <b>Date</b> | <b>Due Date</b> | <b>Amount</b> | <b>Expense Account</b> | <b>Account Number</b> |
|---------------------------------------|------------------|-------------|-----------------|---------------|------------------------|-----------------------|
| Colorado Community Media              | 52017            | 3/25/2022   | 4/24/2022       | \$ 32.12      | Election               | 1635                  |
| Crestview Water & Sanitation District | 1467             | 3/24/2022   | 4/21/2022       | \$ 42.51      | Utilities              | 1762                  |
| Environmental Designs Inc.            | 150584           | 3/18/2022   | 4/17/2022       | \$ 65.00      | Snow Removal           | 1722                  |
| Environmental Designs Inc.            | 150327           | 3/11/2022   | 4/10/2022       | \$ 32.50      | Snow Removal           | 1722                  |
| Environmental Designs Inc.            | 148472           | 1/31/2022   | 3/2/2022        | \$ 823.75     | Snow Removal           | 1722                  |
| Icenogle Seaver Pogue, P.C.           | 21415            | 3/31/2022   | 3/31/2022       | \$1,037.00    | Legal                  | 1675                  |
| Pet Scoop                             | 396406           | 3/31/2022   | 4/15/2022       | \$ 179.25     | Property Management    | 1710                  |
| Special District Management Services  | Mar-22           | 3/31/2022   | 3/31/2022       | \$ 722.88     | Management             | 3614                  |
| Special District Management Services  | Mar-22           | 3/31/2022   | 3/31/2022       | \$ 251.60     | Election               | 1635                  |
| Special District Management Services  | Mar-22           | 3/31/2022   | 3/31/2022       | \$ 55.16      | Miscellaneous          | 1685                  |
| Special District Management Services  | Mar-22           | 3/31/2022   | 3/31/2022       | \$ 612.72     | Accounting             | 3612                  |
| Special District Management Services  | Mar-22           | 3/31/2022   | 3/31/2022       | \$ 850.00     | Property Management    | 1710                  |
| Special District Management Services  | Mar-22           | 3/31/2022   | 3/31/2022       | \$ 408.48     | Accounting             | 1612                  |
| Special District Management Services  | Mar-22           | 3/31/2022   | 3/31/2022       | \$ 481.92     | Management             | 1614                  |
| Waste Management of Colorado, Inc.    | 7574585-2514-9   | 4/1/2022    | 5/1/2022        | \$ 512.13     | Miscellaneous          | 1685                  |
| Xcel Energy                           | 770510043        | 3/7/2022    | 3/25/2022       | \$ 44.36      | Utilities              | 1762                  |

\$6,151.38

**Berkley Shores Metropolitan District  
April-22**

|   | <b>General</b>     | <b>Debt</b>   | <b>Capital</b>     | <b>Totals</b>      |
|---|--------------------|---------------|--------------------|--------------------|
| <b>Disbursements</b>                          | <b>\$ 4,815.78</b> |               | <b>\$ 1,335.60</b> | <b>\$ 6,151.38</b> |
| <b>Total Disbursements from Checking Acct</b> | <b>\$4,815.78</b>  | <b>\$0.00</b> | <b>\$1,335.60</b>  | <b>\$6,151.38</b>  |

**Berkley Shores Metropolitan District**  
**May-22**

| <b>Vendor</b>                                       | <b>Invoice #</b> | <b>Date</b> | <b>Due Date</b> | <b>Amount</b> | <b>Expense Account</b> | <b>Account Number</b> |
|---|------------------|-------------|-----------------|---------------|------------------------|-----------------------|
| Colorado Special District Property & Liability Pool | 16288            | 4/15/2022   | 4/15/2022       | \$ 848.00     | Insurance/SDA Dues     | 1670                  |
| Crestview Water & Sanitation District               | 1468             | 4/26/2022   | 5/21/2022       | \$1,301.69    | Utilities              | 1762                  |
| Icenogle Seaver Pogue, P.C.                         | 21631            | 4/30/2022   | 4/30/2022       | \$ 573.00     | Legal                  | 1675                  |
| Pet Scoop   | 404657           | 4/30/2022   | 5/15/2022       | \$ 191.20     | Property Management    | 1710                  |
| ProPet Distributors Inc.                            | 138635           | 4/18/2022   | 5/18/2022       | \$ 927.40     | Property Management    | 1710                  |
| Special District Management Services                | Apr-22           | 4/30/2022   | 4/30/2022       | \$ 312.96     | Management             | 3614                  |
| Special District Management Services                | Apr-22           | 4/30/2022   | 4/30/2022       | \$ 29.60      | Election               | 1635                  |
| Special District Management Services                | Apr-22           | 4/30/2022   | 4/30/2022       | \$ 56.16      | Miscellaneous          | 1685                  |
| Special District Management Services                | Apr-22           | 4/30/2022   | 4/30/2022       | \$ 594.96     | Accounting             | 3612                  |
| Special District Management Services                | Apr-22           | 4/30/2022   | 4/30/2022       | \$ 450.00     | Property Management    | 1710                  |
| Special District Management Services                | Apr-22           | 4/30/2022   | 4/30/2022       | \$ 396.64     | Accounting             | 1612                  |
| Special District Management Services                | Apr-22           | 4/30/2022   | 4/30/2022       | \$ 208.64     | Management             | 1614                  |
| Waste Management of Colorado, Inc.                  | 7618938-2514-8   | 5/2/2022    | 6/1/2022        | \$ 574.19     | Miscellaneous          | 1685                  |
| Xcel Energy   | 774508099        | 4/5/2022    | 4/25/2022       | \$ 628.05     | Utilities              | 1762                  |
|   |                  |             |                 | \$7,092.49    |                        |                       |

**Berkley Shores Metropolitan District  
May-22**

|   | <b>General</b>     | <b>Debt</b>   | <b>Capital</b>   | <b>Totals</b>      |
|---|--------------------|---------------|------------------|--------------------|
| <b>Disbursements</b>                          | <b>\$ 6,184.57</b> |               | <b>\$ 907.92</b> | <b>\$ 7,092.49</b> |
| <b>Total Disbursements from Checking Acct</b> | <b>\$6,184.57</b>  | <b>\$0.00</b> | <b>\$907.92</b>  | <b>\$7,092.49</b>  |



**Berkley Shores Metropolitan District**  
**June-22**

| <b>Vendor</b>                         | <b>Invoice #</b> | <b>Date</b> | <b>Due Date</b> | <b>Amount</b> | <b>Expense Account</b> | <b>Account Number</b> |
|---------------------------------------|------------------|-------------|-----------------|---------------|------------------------|-----------------------|
| Crestview Water & Sanitation District | 1482             | 6/13/2022   | 7/13/2022       | \$ 1,535.43   | Utilities              | 1762                  |
| Icenogle Seaver Pogue, P.C.           | 2022             | 5/31/2022   | 5/31/2022       | \$ 1,186.60   | Legal                  | 1675                  |
| Pet Scoop                             | 410017           | 5/31/2022   | 6/15/2022       | \$ 191.20     | Property Management    | 1710                  |
| Special District Management Services  | May-22           | 5/31/2022   | 5/31/2022       | \$ 954.48     | Management             | 3614                  |
| Special District Management Services  | May-22           | 5/31/2022   | 5/31/2022       | \$ 88.80      | Election               | 1635                  |
| Special District Management Services  | May-22           | 5/31/2022   | 5/31/2022       | \$ 92.87      | Miscellaneous          | 1685                  |
| Special District Management Services  | May-22           | 5/31/2022   | 5/31/2022       | \$ 745.92     | Accounting             | 3612                  |
| Special District Management Services  | May-22           | 5/31/2022   | 5/31/2022       | \$ 880.00     | Property Management    | 1710                  |
| Special District Management Services  | May-22           | 5/31/2022   | 5/31/2022       | \$ 497.28     | Accounting             | 1612                  |
| Special District Management Services  | May-22           | 5/31/2022   | 5/31/2022       | \$ 636.32     | Management             | 1614                  |
| Waste Management of Colorado, Inc.    | 7661093-2514-8   | 6/1/2022    | 7/1/2022        | \$ 585.19     | Miscellaneous          | 1685                  |
| Xcel Energy                           | 778546510        | 5/4/2022    | 5/24/2022       | \$ 114.31     | Utilities              | 1762                  |
|                                       |                  |             |                 | \$ 7,508.40   |                        |                       |

**Berkley Shores Metropolitan District**  
**June-22**

|   | <b>General</b>     | <b>Debt</b>   | <b>Capital</b>     | <b>Totals</b>      |
|---|--------------------|---------------|--------------------|--------------------|
| <b>Disbursements</b>                          | <b>\$ 5,808.00</b> |               | <b>\$ 1,700.40</b> | <b>\$ 7,508.40</b> |
| <b>Total Disbursements from Checking Acct</b> | <b>\$5,808.00</b>  | <b>\$0.00</b> | <b>\$1,700.40</b>  | <b>\$7,508.40</b>  |

**Berkley Shores Metropolitan District**  
**July-22**

| <b>Vendor</b>                         | <b>Invoice #</b> | <b>Date</b> | <b>Due Date</b> | <b>Amount</b> | <b>Expense Account</b> | <b>Account Number</b> |
|---------------------------------------|------------------|-------------|-----------------|---------------|------------------------|-----------------------|
| Crestview Water & Sanitation District | 1484             | 6/22/2022   | 7/21/2022       | \$ 2,085.85   | Utilities              | 1762                  |
| Icenogle Seaver Pogue, P.C.           | 21939            | 6/30/2022   | 6/30/2022       | \$ 1,515.53   | Legal                  | 1675                  |
| Pet Scoop                             | 413174           | 6/30/2022   | 7/15/2022       | \$ 239.00     | Property Management    | 1710                  |
| Special District Management Services  | Jun-22           | 6/30/2022   | 6/30/2022       | \$ 1,634.88   | Management             | 3614                  |
| Special District Management Services  | Jun-22           | 6/30/2022   | 6/30/2022       | \$ 249.43     | Miscellaneous          | 1685                  |
| Special District Management Services  | Jun-22           | 6/30/2022   | 6/30/2022       | \$ 674.88     | Accounting             | 3612                  |
| Special District Management Services  | Jun-22           | 6/30/2022   | 6/30/2022       | \$ 1,660.00   | Property Management    | 1710                  |
| Special District Management Services  | Jun-22           | 6/30/2022   | 6/30/2022       | \$ 449.92     | Accounting             | 1612                  |
| Special District Management Services  | Jun-22           | 6/30/2022   | 6/30/2022       | \$ 1,089.92   | Management             | 1614                  |
| Waste Management of Colorado, Inc.    | 7705305-2514-4   | 7/1/2022    | 7/31/2022       | \$ 714.60     | Miscellaneous          | 1685                  |
| Xcel Energy                           | 782547733        | 6/3/2022    | 6/23/2022       | \$ 107.64     | Utilities              | 1762                  |
|                                       |                  |             |                 | \$ 10,421.65  |                        |                       |

**Berkley Shores Metropolitan District**  
**July-22**

|   | <b>General</b>     | <b>Debt</b>   | <b>Capital</b>     | <b>Totals</b>       |
|---|--------------------|---------------|--------------------|---------------------|
| <b>Disbursements</b>                          | <b>\$ 8,111.89</b> |               | <b>\$ 2,309.76</b> | <b>\$ 10,421.65</b> |
| <b>Total Disbursements from Checking Acct</b> | <b>\$8,111.89</b>  | <b>\$0.00</b> | <b>\$2,309.76</b>  | <b>\$10,421.65</b>  |

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Schedule of Cash Position**  
**June 30, 2022**

|                    | <u>Rate</u> | <u>Operating</u>           | <u>Debt<br/>Service</u>     | <u>Capital<br/>Projects</u> | <u>Total</u>                |
|--------------------|-------------|----------------------------|-----------------------------|-----------------------------|-----------------------------|
| <b>Checking:</b>   |             |                            |                             |                             |                             |
| First Bank         |             | \$ 15,379.08               | \$ 8,250.88                 | \$ -                        | \$ 23,629.96                |
| <b>Trustee:</b>    |             |                            |                             |                             |                             |
| UMB Bond Fund      |             | -                          | 139,554.61                  | -                           | 139,554.61                  |
| UMB Reserve Fund   |             | -                          | 218,438.97                  | -                           | 218,438.97                  |
| <b>Total Funds</b> |             | <u><b>\$ 15,379.08</b></u> | <u><b>\$ 366,244.46</b></u> | <u><b>\$ -</b></u>          | <u><b>\$ 381,623.54</b></u> |

**2022 Mill Levy Information**

|                             |                      |
|-----------------------------|----------------------|
| General Fund Mill Levy      | 25.000               |
| Debt Service Fund Mill Levy | 35.000               |
| Refunds & Abatements        | <u>0.230</u>         |
| Total Certified Mill Levy   | <u><u>60.230</u></u> |

**Board of Directors**

**Board Members**

- \* Paul Malone
- \* Philip Clow
- \* Natalie Satt
- \* Michael Martines
- \* Victoria Almagno
  
- \* authorized signer on checking account

**BERKLEY SHORES METROPOLITAN DISTRICT**

**FINANCIAL STATEMENTS**

**June 30, 2022**

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**COMBINED BALANCE SHEET - ALL FUND TYPES AND ACCOUNT GROUPS**  
**June 30, 2022**

|  | <b>GENERAL</b>   | <b>DEBT<br/>SERVICE</b> | <b>CAPITAL<br/>PROJECTS</b> | <b>FIXED<br/>ASSETS</b> | <b>LONG-TERM<br/>DEBT</b> | <b>TOTAL<br/>MEMO ONLY</b> |
|--|------------------|-------------------------|-----------------------------|-------------------------|---------------------------|----------------------------|
| <b><u>Assets and Other Debits</u></b>  |                  |                         |                             |                         |                           |                            |
| <b>Assets</b>  |                  |                         |                             |                         |                           |                            |
| Cash in Bank - FirstBank   | \$ 15,379        | \$ 8,251                | \$ -                        | \$ -                    | \$ -                      | \$ 23,630                  |
| UMB Bond Fund  | -                | 139,555                 | -                           | -                       | -                         | 139,555                    |
| UMB Reserve Fund   | -                | 218,439                 | -                           | -                       | -                         | 218,439                    |
| Property Taxes Receivable  | 79               | -                       | -                           | -                       | -                         | 79                         |
| Total Current Assets   | 15,458           | 366,244                 | -                           | -                       | -                         | 381,703                    |
| <b>Other Debits</b>  |                  |                         |                             |                         |                           |                            |
| Amount in Debt Service Fund  | -                | -                       | -                           | -                       | 366,244                   | 366,244                    |
| Amount to be Provided for Debt   | -                | -                       | -                           | -                       | 2,356,888                 | 2,356,888                  |
| Total Other Debits   | -                | -                       | -                           | -                       | 2,723,132                 | 2,723,132                  |
| <b>Capital Assets</b>  |                  |                         |                             |                         |                           |                            |
| Construction in Process  | -                | -                       | -                           | 1,771,027               | -                         | 1,771,027                  |
| Total Capital Assets   | -                | -                       | -                           | 1,771,027               | -                         | 1,771,027                  |
| <b>Total Assets</b>  | <b>\$ 15,458</b> | <b>\$ 366,244</b>       | <b>\$ -</b>                 | <b>\$ 1,771,027</b>     | <b>\$ 2,723,132</b>       | <b>\$ 4,875,861</b>        |
| <b>Liabilities</b>   |                  |                         |                             |                         |                           |                            |
| Accounts Payable   | \$ -             | \$ -                    | \$ 659                      | \$ -                    | \$ -                      | \$ 659                     |
| 2020A Bonds Payable  | -                | -                       | -                           | -                       | 2,312,000                 | 2,312,000                  |
| Op Funding - Due Developer   | -                | -                       | -                           | -                       | 87,345                    | 87,345                     |
| Op Funding - Accrued Interest  | -                | -                       | -                           | -                       | 4,810                     | 4,810                      |
| Cap Funding - Due Developer  | -                | -                       | -                           | -                       | 286,116                   | 286,116                    |
| Cap Funding - Accrued Interest   | -                | -                       | -                           | -                       | 32,861                    | 32,861                     |
| Total Liabilities  | -                | -                       | 659                         | -                       | 2,723,132                 | 2,723,791                  |
| <b>Deferred Inflows of Resources</b>   |                  |                         |                             |                         |                           |                            |
| Deferred Property taxes  | 79               | -                       | -                           | -                       | -                         | 79                         |
| Total Deferred Inflows of Resources  | 79               | -                       | -                           | -                       | -                         | 79                         |
| <b>Fund Balance</b>  |                  |                         |                             |                         |                           |                            |
| Investment in Fixed Assets   | -                | -                       | -                           | 1,771,027               | -                         | 1,771,027                  |
| Fund Balance   | 1                | 407,370                 | (1)                         | -                       | -                         | 407,369                    |
| Current Year Earnings  | 15,379           | (41,125)                | (658)                       | -                       | -                         | (26,405)                   |
| Total Fund Balances  | 15,379           | 366,244                 | (659)                       | 1,771,027               | -                         | 2,151,991                  |
| <b>Total Liabilities, Deferred Inflows of Resources<br/>and Fund Balance</b> | <b>\$ 15,458</b> | <b>\$ 366,244</b>       | <b>\$ -</b>                 | <b>\$ 1,771,027</b>     | <b>\$ 2,723,132</b>       | <b>\$ 4,875,861</b>        |

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Statement of Revenues, Expenditures and**  
**Change in Fund Balance - Budget and Actual**  
**For the 6 Months Ending**  
**June 30, 2022**  
**General Fund**

| <b>Account Description</b>                           | <b>Period Actual</b> | <b>YTD Actual</b> | <b>Budget</b>    | <b>Favorable<br/>(Unfavorable)<br/>Variance</b> | <b>% of<br/>Budget</b> |
|--|----------------------|-------------------|------------------|---|------------------------|
| <b>Revenues</b>                                      |                      |                   |                  |   |                        |
| Developer Advance                                    | \$ 17,060            | \$ 31,941         | \$ 175,000       | \$ (143,059)                                    | 18.3%                  |
| Miscellaneous income                                 | 50                   | 50                | -                | (50)  | -                      |
| Property Tax Revenue                                 | 11,341               | 13,353            | 14,922           | (1,569)   | 89.5%                  |
| Specific Ownership Taxes                             | -                    | -                 | 895              | (895)   | 0.0%                   |
| <b>Total Revenues</b>                                | <b>28,451</b>        | <b>45,344</b>     | <b>190,817</b>   | <b>(145,573)</b>                                | <b>23.8%</b>           |
| <b>Expenditures</b>                                  |                      |                   |                  |   |                        |
| Accounting   | 1,302                | 2,332             | 15,000           | 12,668  | 15.5%                  |
| Management   | 1,327                | 2,120             | 20,000           | 17,880  | 10.6%                  |
| Audit  | -                    | -                 | 5,500            | 5,500   | 0.0%                   |
| Billing  | -                    | -                 | 6,000            | 6,000   | 0.0%                   |
| Election   | 402                  | 684               | 3,000            | 2,316   | 22.8%                  |
| Insurance/SDA Dues                                   | 848                  | 4,047             | 5,500            | 1,453   | 73.6%                  |
| Utilities  | 3,846                | 4,311             | 20,000           | 15,689  | 21.6%                  |
| Legal  | 2,797                | 4,510             | 18,000           | 13,490  | 25.1%                  |
| Miscellaneous  | 2,116                | 3,668             | 2,000            | (1,668)   | 183.4%                 |
| Treasurer's Fees                                     | -                    | -                 | 224              | 224   | 0.0%                   |
| Property Management                                  | 2,742                | 3,558             | 14,400           | 10,842  | 24.7%                  |
| Snow Removal   | 921                  | 3,808             | 13,000           | 9,193   | 29.3%                  |
| Landscape Improvements                               | 927                  | 927               | -                | (927)   | -                      |
| Landscape Maintenance                                | -                    | -                 | 20,000           | 20,000  | 0.0%                   |
| Irrigation Repair                                    | -                    | -                 | 2,000            | 2,000   | 0.0%                   |
| Detention Pond Maintenance                           | -                    | -                 | 5,000            | 5,000   | 0.0%                   |
| Operations & Maintenance Res.                        | -                    | -                 | 5,000            | 5,000   | 0.0%                   |
| Repairs & Maintenance                                | -                    | -                 | 4,000            | 4,000   | 0.0%                   |
| Fence Repairs  | -                    | -                 | 2,500            | 2,500   | 0.0%                   |
| Contingency  | -                    | -                 | 10,000           | 10,000  | 0.0%                   |
| Emergency Reserve                                    | -                    | -                 | 5,725            | 5,725   | 0.0%                   |
| <b>Total Expenditures</b>                            | <b>17,228</b>        | <b>29,966</b>     | <b>176,849</b>   | <b>146,883</b>                                  | <b>16.9%</b>           |
| Excess (Deficiency) of Revenues<br>Over Expenditures | 11,223               | 15,379            | 13,968           | 1,411   |                        |
| Beginning Fund Balance                               | 4,156                | 1                 | 4,608            | (4,607)   |                        |
| <b>Ending Fund Balance</b>                           | <b>\$ 15,379</b>     | <b>\$ 15,379</b>  | <b>\$ 18,576</b> | <b>\$ (3,297)</b>                               |                        |



**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Statement of Revenues, Expenditures and**  
**Change in Fund Balance - Budget and Actual**  
**For the 6 Months Ending**  
**June 30, 2022**  
**Debt Service Fund**

| <b>Account Description</b>                           | <b>Period Actual</b> | <b>YTD Actual</b> | <b>Budget</b>     | <b>Favorable<br/>(Unfavorable)<br/>Variance</b> | <b>% of<br/>Budget</b> |
|--|----------------------|-------------------|-------------------|---|------------------------|
| <b>Revenues</b>                                      |                      |                   |                   |   |                        |
| Property Tax Revenue                                 | \$ 2,817             | \$ 18,694         | \$ 20,700         | \$ (2,006)                                      | 90.3%                  |
| Specific Ownership Tax                               | -                    | -                 | 1,242             | (1,242)   | 0.0%                   |
| Interest Income                                      | 137                  | 894               | 200               | 694   | 447.2%                 |
| <b>Total Revenues</b>                                | <u>2,954</u>         | <u>19,588</u>     | <u>22,142</u>     | <u>(2,554)</u>                                  | <u>88.5%</u>           |
| <b>Expenditures</b>                                  |                      |                   |                   |   |                        |
| Bond Interest  | -                    | 60,690            | 121,380           | 60,690  | 50.0%                  |
| Paying Agent/Trustee Fees                            | -                    | 24                | 5,500             | 5,476   | 0.4%                   |
| Miscellaneous  | -                    | -                 | 250               | 250   | 0.0%                   |
| Treasurer's Fees                                     | -                    | -                 | 1,242             | 1,242   | 0.0%                   |
| Contingency  | -                    | -                 | 10,000            | 10,000  | 0.0%                   |
| <b>Total Expenditures</b>                            | <u>-</u>             | <u>60,714</u>     | <u>138,372</u>    | <u>77,658</u>                                   | <u>43.9%</u>           |
| Excess (Deficiency) of Revenues<br>Over Expenditures | 2,954                | (41,125)          | (116,230)         | 75,105  |                        |
| Beginning Fund Balance                               | 363,291              | 407,370           | 401,780           | 5,590   |                        |
| <b>Ending Fund Balance</b>                           | <u>\$ 366,244</u>    | <u>\$ 366,244</u> | <u>\$ 285,550</u> | <u>\$ 80,694</u>                                |                        |

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Statement of Revenues, Expenditures and**  
**Change in Fund Balance - Budget and Actual**  
**For the 6 Months Ending,**  
**June 30, 2022**  
**Capital Projects Fund**

| <u>Account Description</u>                           | <u>Period Actual</u> | <u>YTD Actual</u> | <u>Budget</u> | <u>Favorable<br/>(Unfavorable)<br/>Variance</u> | <u>% of<br/>Budget</u> |
|--|----------------------|-------------------|---------------|---|------------------------|
| <b>Revenues</b>                                      |                      |                   |               |   |                        |
| Developer Advance                                    | \$ 2,261             | \$ 6,020          | \$ 37,400     | \$ (31,380)                                     | 16.1%                  |
| <b>Total Revenues</b>                                | <u>2,261</u>         | <u>6,020</u>      | <u>37,400</u> | <u>(31,380)</u>                                 | <u>16.1%</u>           |
| <b>Expenditures</b>                                  |                      |                   |               |   |                        |
| Accounting   | 1,545                | 3,499             | 12,000        | 8,501   | 29.2%                  |
| Management   | 1,189                | 3,180             | 8,000         | 4,820   | 39.7%                  |
| Legal  | -                    | -                 | 12,000        | 12,000  | 0.0%                   |
| Engineering  | -                    | -                 | 5,400         | 5,400   | 0.0%                   |
| <b>Total Expenditures</b>                            | <u>2,734</u>         | <u>6,678</u>      | <u>37,400</u> | <u>30,722</u>                                   | <u>17.9%</u>           |
| Excess (Deficiency) of Revenues<br>Over Expenditures | (474)                | (658)             | -             | (658)   |                        |
| Beginning Fund Balance                               | (185)                | (1)               | -             | (1)   |                        |
| <b>Ending Fund Balance</b>                           | <u>\$ (659)</u>      | <u>\$ (659)</u>   | <u>\$ -</u>   | <u>\$ (659)</u>                                 |                        |

## RESOLUTION FOR SECOND AMENDMENT TO 2021 BUDGET

**COMES NOW**, Paul Malone, the President of the Berkley Shores Metropolitan District (the “District”), and certifies that at a special meeting of the Board of Directors of the District held, Wednesday, the 17th day of August, 2022, at 9:00 A.M., via online meeting at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> and via telephone at 1 253-215-8782, Meeting ID: 546 911 9353, Passcode: 912873, the following Resolution was adopted by affirmative vote of a majority of the Board of Directors, to-wit:

WHEREAS, the Board of Directors of the District approved the amendment to appropriated funds for the fiscal year 2021 as follows:

|                       |              |
|-----------------------|--------------|
| Capital Projects Fund | \$ 1,125,000 |
|-----------------------|--------------|

and;

**WHEREAS**, the necessity has arisen for additional expenditures and transfers by the District due to additional costs which could not have been reasonably anticipated at the time of adoption of the budget, requiring the expenditure of funds in excess of those amended appropriations for the fiscal year 2021; and

**WHEREAS**, funds are available for such an expenditure and transfer from surplus revenue funds of the District; and

**WHEREAS**, due and proper notice was published on Thursday, August 11, 2022 in the *Northglenn-Thornton Sentinel*, indicating (i) the date and time of the hearing at which the adoption of the proposed second amendment will be considered; (ii) that the proposed second amendment is available for inspection by the public at a designated place; and (iii) that any interested persons may file any objections to the proposed second amendment at any time prior to the final adoption of the budget by the District, as shown on the publisher’s Affidavit of Publication attached hereto as Exhibit A and incorporated herein by this reference; and

**WHEREAS**, the proposed second amendment was open for inspection by the public at a designated place; and

**WHEREAS**, a public hearing was held on Wednesday, August 17, 2022, and interested persons were given the opportunity to file or register any objections to said proposed second amendment, and any such objections were considered by the Board of Directors; and

**NOW THEREFORE, BE IT RESOLVED** that the Board of Directors of the District shall and hereby does amend the budget for the fiscal year 2021 as follows:

Capital Projects Fund

\$ 2,338,000

**BE IT FURTHER RESOLVED**, that such sums are hereby appropriated from the revenues of the District to the Capital Projects Fund for the purpose stated and that any ending fund balances shall be reserved for purposes of Article X, Section 20 of the Colorado Constitution.

Whereupon, a motion was made by Director [REDACTED] and seconded by Director [REDACTED], and upon a unanimous vote this Resolution was approved by the Board of Directors.

**APPROVED AND ADOPTED THIS 17<sup>TH</sup> DAY OF AUGUST, 2022.**

BERKLEY SHORES METROPOLITAN DISTRICT

\_\_\_\_\_  
By: Paul Malone, President

ATTEST:

\_\_\_\_\_  
By: Natalie Satt, Secretary

**EXHIBIT A**

Notice of Special Meeting

Affidavit of Publication

Notice as to Proposed 2021 Second Budget Amendment



OFFICE OF THE STATE AUDITOR • LOCAL GOVERNMENT AUDIT DIVISION

KERRI L. HUNTER, CPA • STATE AUDITOR

## Request for Extension of Time to File Audit for Year End December 31, 2021 ONLY

If someone other than an elected board member submitted an extension request, this form should be signed by a member of the elected governing body and submitted with the audit by September 30, 2022.

Requests may be submitted via internet portal: <https://apps.leg.co.gov/osa/lg>.

|   |  |
|---|--|
| Government Name:  | <u>Berkley Shores Metropolitan District</u>                      |
| Name of Contact:  | <u>Steve Beck</u>  |
| Address:  | <u>141 Union Blvd Ste 150</u>                                    |
| City/Zip Code   | <u>Lakewood, CO 80228-1898</u>                                   |
| Phone Number:   | <u>(303) 987-0835 Ext. 206</u>                                   |
| Fax Number:   | <u>(303) 987-2032</u>  |
| E-mail  | <u><a href="mailto:sbeck@sdmsi.com">sbeck@sdmsi.com</a></u>      |
| Fiscal Year Ending (mm/dd/yyyy):  | <u>12/31/2021</u>  |
| Amount of Time Requested (in days):<br>(Not to exceed 60 calendar days) | <u>60 days</u><br><u>Audit Due:</u><br><u>September 30, 2022</u> |
| Comments (optional):  | <u>N/A</u>   |

I understand that if the audit is not submitted within the approved extension of time, the government named in the extension request will be considered in default without further notice, and the State Auditor shall take further action as prescribed by Section 29-1-606(5)(b), C.R.S.

**Must be signed by a member of the governing board.**

Signature

Printed Name:

Paul Malone

Title:

President

Date:

07 / 18 / 2022

BERKLEY SHORES METROPOLITAN DISTRICT

Financial Statements

Year Ended December 31, 2021

with

Independent Auditors' Report

DRAFT 6-8-2022

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# BERKLEY SHORES METROPOLITAN DISTRICT

## BALANCE SHEET/STATEMENT OF NET POSITION GOVERNMENTAL FUNDS December 31, 2021

|   | <u>General</u>   | <u>Debt<br/>Service</u> | <u>Capital<br/>Projects</u> | <u>Total</u>      | <u>Adjustments</u>  | Statement<br>of<br><u>Net Position</u> |
|---|------------------|-------------------------|-----------------------------|-------------------|---------------------|--|
| <b>ASSETS</b>   |                  |                         |                             |                   |                     |  |
| Cash  | \$ 5,104         | \$ -                    | \$ -                        | \$ 5,104          | \$ -                | \$ 5,104                               |
| Cash - restricted   | -                | 400,590                 | 1,042                       | 401,632           | -                   | 401,632                                |
| Receivable - County Treasurer   | 4,842            | 6,779                   | -                           | 11,621            | -                   | 11,621                                 |
| Developer Advance Receivable  | 2,735            | -                       | 1,066                       | 3,801             | (3,801)             | -                                      |
| Property taxes receivable   | 14,922           | 20,700                  | -                           | 35,622            | -                   | 35,622                                 |
| Prepaid expenses  | 450              | -                       | -                           | 450               | -                   | 450                                    |
| Capital assets not being depreciated                                    | -                | -                       | -                           | -                 | 1,771,026           | 1,771,026                              |
| Total Assets  | <u>\$ 28,053</u> | <u>\$ 428,069</u>       | <u>\$ 2,108</u>             | <u>\$ 458,230</u> | <u>1,767,225</u>    | <u>2,225,455</u>                       |
| <b>LIABILITIES</b>  |                  |                         |                             |                   |                     |  |
| Accounts payable  | \$ 13,131        | \$ -                    | \$ 2,108                    | \$ 15,239         | -                   | 15,239                                 |
| Accrued interest on bonds   | -                | -                       | -                           | -                 | 10,115              | 10,115                                 |
| Long-term liabilities:  |                  |                         |                             |                   |                     |  |
| Due in more than one year   | -                | -                       | -                           | -                 | 2,667,444           | 2,667,444                              |
| Total Liabilities   | <u>13,131</u>    | <u>-</u>                | <u>2,108</u>                | <u>15,239</u>     | <u>2,677,559</u>    | <u>2,692,798</u>                       |
| <b>DEFERRED INFLOWS OF RESOURCES</b>                                    |                  |                         |                             |                   |                     |  |
| Deferred property taxes   | <u>14,922</u>    | <u>20,700</u>           | <u>-</u>                    | <u>35,622</u>     | <u>-</u>            | <u>35,622</u>                          |
| Total Deferred Inflows of Resources                                     | <u>14,922</u>    | <u>20,700</u>           | <u>-</u>                    | <u>35,622</u>     | <u>-</u>            | <u>35,622</u>                          |
| <b>FUND BALANCES/NET POSITION</b>                                       |                  |                         |                             |                   |                     |  |
| Fund Balances:  |                  |                         |                             |                   |                     |  |
| Nonspendable:   |                  |                         |                             |                   |                     |  |
| Prepays   | 450              | -                       | -                           | 450               | (450)               | -                                      |
| Restricted:   |                  |                         |                             |                   |                     |  |
| Emergencies   | 5,725            | -                       | -                           | 5,725             | (5,725)             | -                                      |
| Debt service  | -                | 407,369                 | -                           | 407,369           | (407,369)           | -                                      |
| Unassigned  | <u>(6,175)</u>   | <u>-</u>                | <u>-</u>                    | <u>(6,175)</u>    | <u>6,175</u>        | <u>-</u>                               |
| Total Fund Balances   | <u>-</u>         | <u>407,369</u>          | <u>-</u>                    | <u>407,369</u>    | <u>(407,369)</u>    | <u>-</u>                               |
| Total Liabilities, Deferred Inflows of<br>of Resource and Fund Balances | <u>\$ 28,053</u> | <u>\$ 428,069</u>       | <u>\$ 2,108</u>             | <u>\$ 458,230</u> |                     |  |
| Net Position:   |                  |                         |                             |                   |                     |  |
| Restricted for:   |                  |                         |                             |                   |                     |  |
| Emergencies   |                  |                         |                             |                   | 5,725               | 5,725                                  |
| Debt service  |                  |                         |                             |                   | 397,254             | 397,254                                |
| Capital projects  |                  |                         |                             |                   | -                   | -                                      |
| Unrestricted  |                  |                         |                             |                   | <u>(905,944)</u>    | <u>(905,944)</u>                       |
| Total Net Position  |                  |                         |                             |                   | <u>\$ (502,965)</u> | <u>\$ (502,965)</u>                    |

The notes to the financial statements are an integral part of these statements.

# BERKLEY SHORES METROPOLITAN DISTRICT

## STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES/STATEMENT OF ACTIVITIES GOVERNMENTAL FUNDS

For the Year Ended December 31, 2021

|  | <u>General</u> | <u>Debt<br/>Service</u> | <u>Capital<br/>Projects</u> | <u>Total</u>      | <u>Adjustments</u>  | Statement<br>of<br><u>Activities</u> |
|--|----------------|-------------------------|-----------------------------|-------------------|---------------------|--------------------------------------|
| <b>EXPENDITURES</b>  |                |                         |                             |                   |                     |                                      |
| General expenses:  |                |                         |                             |                   |                     |                                      |
| Accounting   | \$ 4,861       | \$ -                    | \$ 7,291                    | \$ 12,152         | \$ -                | \$ 12,152                            |
| Audit  | 6,500          | -                       | -                           | 6,500             | -                   | 6,500                                |
| Insurance  | 3,068          | -                       | -                           | 3,068             | -                   | 3,068                                |
| Legal  | 12,328         | -                       | 5,714                       | 18,042            | -                   | 18,042                               |
| Management fees  | 3,017          | -                       | 4,526                       | 7,543             | -                   | 7,543                                |
| Miscellaneous expenses                                       | 2,121          | -                       | 24                          | 2,145             | -                   | 2,145                                |
| Utilities  | 8,123          | -                       | -                           | 8,123             | -                   | 8,123                                |
| Property management  | 1,319          | -                       | -                           | 1,319             | -                   | 1,319                                |
| Capital outlay:  |                |                         |                             |                   |                     |                                      |
| Engineering  | -              | -                       | 4,725                       | 4,725             | -                   | 4,725                                |
| Capital outlay   | -              | -                       | 1,277,147                   | 1,277,147         | (1,277,147)         | -                                    |
| Repayment of developer advances                              | -              | -                       | 1,038,139                   | 1,038,139         | (1,038,139)         | -                                    |
| Debt service:  |                |                         |                             |                   |                     |                                      |
| Bond interest expense  | -              | 121,380                 | -                           | 121,380           | -                   | 121,380                              |
| Paying agent/trustee fees                                    | -              | 4,082                   | -                           | 4,082             | -                   | 4,082                                |
| Developer advance interest                                   | -              | -                       | -                           | -                 | 23,650              | 23,650                               |
| Total Expenditures   | <u>41,337</u>  | <u>125,462</u>          | <u>2,337,566</u>            | <u>2,504,365</u>  | <u>(2,291,636)</u>  | <u>212,729</u>                       |
| <b>GENERAL REVENUES</b>                                      |                |                         |                             |                   |                     |                                      |
| Property taxes   | 4,121          | 5,769                   | -                           | 9,890             | -                   | 9,890                                |
| Specific ownership taxes                                     | 722            | 1,010                   | -                           | 1,732             | -                   | 1,732                                |
| Interest income  | <u>-</u>       | <u>270</u>              | <u>43</u>                   | <u>313</u>        | <u>-</u>            | <u>313</u>                           |
| Total General Revenues                                       | <u>4,843</u>   | <u>7,049</u>            | <u>43</u>                   | <u>11,935</u>     | <u>-</u>            | <u>11,935</u>                        |
| <b>EXCESS (DEFICIENCY) OF REVENUES<br/>OVER EXPENDITURES</b> |                |                         |                             |                   |                     |                                      |
|  | (36,494)       | (118,413)               | (2,337,523)                 | (2,492,430)       | 2,291,636           | (200,794)                            |
| <b>OTHER FINANCING SOURCES (USES)</b>                        |                |                         |                             |                   |                     |                                      |
| Developer advances   | 41,857         | -                       | 1,305,118                   | 1,346,975         | (1,346,975)         | -                                    |
| Transfers in (out)   | <u>(5,363)</u> | <u>4,031</u>            | <u>1,332</u>                | <u>-</u>          | <u>-</u>            | <u>-</u>                             |
| Total Other Financing Sources (Uses)                         | <u>36,494</u>  | <u>4,031</u>            | <u>1,306,450</u>            | <u>1,346,975</u>  | <u>(1,346,975)</u>  | <u>-</u>                             |
| NET CHANGES IN FUND BALANCES                                 | -              | (114,382)               | (1,031,073)                 | (1,145,455)       | 1,145,455           |                                      |
| CHANGE IN NET POSITION                                       |                |                         |                             |                   | (200,794)           | (200,794)                            |
| <b>FUND BALANCES/NET POSITION:</b>                           |                |                         |                             |                   |                     |                                      |
| BEGINNING OF YEAR  | <u>-</u>       | <u>521,751</u>          | <u>1,031,073</u>            | <u>1,552,824</u>  | <u>(1,854,995)</u>  | <u>(302,171)</u>                     |
| END OF YEAR  | <u>\$ -</u>    | <u>\$ 407,369</u>       | <u>\$ -</u>                 | <u>\$ 407,369</u> | <u>\$ (910,334)</u> | <u>\$ (502,965)</u>                  |

The notes to the financial statements are an integral part of these statements.

# BERKLEY SHORES METROPOLITAN DISTRICT

## STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL - GENERAL FUND

For the Year Ended December 31, 2021

|  | Original and<br><u>Final Budget</u> | <u>Actual</u>  | Variance<br>Favorable<br>(Unfavorable) |
|--|-------------------------------------|----------------|--|
| REVENUES   |                                     |                |  |
| Property taxes                                       | \$ 4,900                            | \$ 4,121       | \$ (779)                               |
| Specific ownership taxes                             | <u>294</u>                          | <u>722</u>     | <u>428</u>                             |
| Total Revenues                                       | <u>5,194</u>                        | <u>4,843</u>   | <u>(351)</u>                           |
| EXPENDITURES   |                                     |                |  |
| Accounting   | 15,000                              | 4,861          | 10,139                                 |
| Audit  | 5,000                               | 6,500          | (1,500)                                |
| Election   | -                                   | -              | -                                      |
| Insurance  | 8,000                               | 3,068          | 4,932                                  |
| Legal  | 15,000                              | 12,328         | 2,672                                  |
| Management fees                                      | 17,500                              | 3,017          | 14,483                                 |
| Miscellaneous expenses                               | 2,000                               | 2,121          | (121)                                  |
| Property management                                  | -                                   | 1,319          | (1,319)                                |
| Covenant control                                     | 14,400                              |                | 14,400                                 |
| Billing  | 6,000                               |                | 6,000                                  |
| Landscape maintenance                                | 20,000                              |                | 20,000                                 |
| Irrigation repair                                    | 1,500                               |                | 1,500                                  |
| Snow removal   | 13,000                              |                | 13,000                                 |
| Detention pond maintenance                           | 5,000                               |                | 5,000                                  |
| Operations & maintenance reserve                     | 5,000                               |                | 5,000                                  |
| Repairs & maintenace                                 | 4,000                               |                | 4,000                                  |
| Fence repairs  | 2,500                               |                | 2,500                                  |
| Utilities  | 25,000                              | 8,123          | 16,877                                 |
| Treasurer's fees                                     | 74                                  | -              | 74                                     |
| Contingency  | 12,500                              | -              | 12,500                                 |
| Emergency reserve                                    | <u>5,406</u>                        | <u>-</u>       | <u>5,406</u>                           |
| Total Expenditures                                   | <u>176,880</u>                      | <u>41,337</u>  | <u>135,543</u>                         |
| EXCESS (DEFICIENCY) OF REVENUES<br>OVER EXPENDITURES |                                     |                |  |
|  | (171,686)                           | (36,494)       | 135,192                                |
| OTHER FINANCING SOURCES (USES)                       |                                     |                |  |
| Developer advances                                   | 175,000                             | 41,857         | (133,143)                              |
| Transfers in (out)                                   | <u>-</u>                            | <u>(5,363)</u> | <u>(5,363)</u>                         |
| Total Other Financing Sources (Uses)                 | <u>175,000</u>                      | <u>36,494</u>  | <u>(138,506)</u>                       |
| NET CHANGE IN FUND BALANCE                           | 3,314                               | -              | (3,314)                                |
| FUND BALANCE:  |                                     |                |  |
| BEGINNING OF YEAR                                    | <u>4,500</u>                        | <u>-</u>       | <u>(4,500)</u>                         |
| END OF YEAR  | <u>\$ 7,814</u>                     | <u>\$ -</u>    | <u>\$ (7,814)</u>                      |

The notes to the financial statements are an integral part of these statements.

# BERKLEY SHORES METROPOLITAN DISTRICT

## Notes to Financial Statements December 31, 2021

### Note 1: Summary of Significant Accounting Policies

The accounting policies of the Berkley Shores Metropolitan District (“the District”), located in Adams County, Colorado, (the “County”), conform to the accounting principles generally accepted in the United States of America (“GAAP”) as applicable to governmental units. The Governmental Accounting Standards Board (“GASB”) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The following is a summary of the more significant policies consistently applied in the preparation of financial statements.

#### Definition of Reporting Entity

The District was organized on January 27, 2020, as a quasi-municipal organization established under the State of Colorado Special District Act. The District was established to finance and construct certain public infrastructure improvements that benefit the citizens of the District. The District's primary revenues are property taxes. The District is governed by an elected Board of Directors.

As required by GAAP, these financial statements present the activities of the District, which is legally separate and financially independent of other state and local governments. The District follows GASB Statement No. 61, The Financial Reporting Entity: Omnibus, which amended GASB Statement No. 14, The Financial Reporting Entity and GASB Statement No. 39, Determining Whether Certain Organizations are Component Units, which provides guidance for determining which governmental activities, organizations and functions should be included within the financial reporting entity. GASB sets forth the financial accountability of a governmental organization's elected governing body as the basic criterion for including a possible component governmental organization in a primary government's legal entity. Financial accountability includes, but is not limited to, appointment of a voting majority of the organization's governing body, ability to impose its will on the organization, a potential for the organization to provide specific financial benefits or burdens and fiscal dependency. The pronouncements also require including a possible component unit if it would be misleading to exclude it.

The District is not financially accountable for any other organization. The District has no component units as defined by the GASB.

The District has no employees and all operations and administrative functions are contracted.

#### Basis of Presentation

The accompanying financial statements are presented per GASB Statement No. 34 - Special Purpose Governments.

## BERKLEY SHORES METROPOLITAN DISTRICT

### Notes to Financial Statements December 31, 2021

The government-wide financial statements (i.e. the governmental funds balance sheet/statement of net position and the governmental funds statement of revenues, expenditures, and changes in fund balances/statement of activities) report information on all of the governmental activities of the District. The statement of net position reports all financial and capital resources of the District. The difference between the (a) assets and deferred outflows of resources and the (b) liabilities and deferred inflows of resources of the District is reported as net position. The statement of activities demonstrates the degree to which expenditures/expenses of the governmental funds are supported by general revenues. For the most part, the effect of interfund activity has been removed from these statements.

The statement of activities demonstrates the degree to which the direct and indirect expenses of a given function or segment are offset by program revenues. *Direct expenses* are those that are clearly identifiable with a specific function or segment. *Program revenues* include 1) charges to customers or applicants who purchase, use or directly benefit from goods, services, or privileges provided by a given function or segment and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as *general revenues*.

Major individual governmental funds are reported as separate columns in the fund financial statements.

#### Measurement Focus, Basis of Accounting and Financial Statement Presentation

The government-wide financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of the related cash flows. Property taxes are recognized as revenues in the year for which they are collected.

Governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified accrual basis of accounting*. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be *available* when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the District considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. The material sources of revenue subject to accrual are property taxes and interest. Expenditures, other than interest on long-term obligations, are recorded when the liability is incurred or the long-term obligation is paid.

The District reports the following major governmental funds:

General Fund – The General Fund is the general operating fund of the District. It is used to account for all financial resources not accounted for and reported in another fund.

## BERKLEY SHORES METROPOLITAN DISTRICT

### Notes to Financial Statements December 31, 2021

Debt Service Fund – The Debt Service Fund is used to account for all financial resources that are restricted, committed or assigned to expenditures for principal, interest and other debt related costs.

Capital Projects Fund – The Capital Projects Fund is used to account for all financial resources that are restricted, committed or assigned to expenditures for capital outlays, including the acquisition or construction of capital facilities and other assets.

#### Budgetary Accounting

In accordance with the State Budget Law of Colorado, the District's Board of Directors holds public hearings in the fall of each year to approve the budget and appropriate the funds for the ensuing year. The District's Board of Directors can modify the budget by line item within the total appropriation without notification. The appropriation can only be modified upon completion of notification and publication requirements. The budget includes each fund on its basis of accounting unless otherwise indicated. The appropriation is at the total fund expenditures level and lapses at year end.

On November 1, 2021, the District amended its total appropriations in the in the Capital Projects Fund from \$25,400 to \$1,125,000 primarily due to the payment of developer advances that was not originally budgeted. On ???, the District further amended its total appropriations in the in the Capital Projects Fund from \$1,125,000 to \$2,338,000 primarily due to the acceptance of assets from the developer that was not originally budgeted.

#### Assets, Liabilities, Deferred Outflows/Inflows of Resources and Net Position

##### Fair Value of Financial Instruments

The District's financial instruments include cash and cash equivalents, accounts receivable and accounts payable. The District estimates that the fair value of all financial instruments at December 31, 2021, does not differ materially from the aggregate carrying values of its financial instruments recorded in the accompanying balance sheet. The carrying amount of these financial instruments approximates fair value because of the short maturity of these instruments.

##### Deposits and Investments

The District's cash and cash equivalents are considered to be cash on hand and short-term investments with maturities of three months or less from the date of acquisition. Investments for the government are reported at fair value.

The District follows the practice of pooling cash and investments of all funds to maximize investment earnings. Except when required by trust or other agreements, all cash is deposited to and disbursed from a minimum number of bank accounts. Cash in excess of immediate operating requirements is pooled for deposit and investment flexibility. Investment earnings are allocated periodically to the participating funds based upon each fund's average equity balance in the total cash.

## BERKLEY SHORES METROPOLITAN DISTRICT

### Notes to Financial Statements December 31, 2021

#### Estimates

The preparation of these financial statements in conformity with GAAP requires the District management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

#### Deferred Outflows/Inflows of Resources

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, *deferred outflows of resources*, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/expenditure) until then. As of December 31, 2021, The District has no items that qualify for reporting in this category.

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, *deferred inflows of resources*, represents an acquisition of net position that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The District has one item that qualifies for reporting in this category. Deferred property taxes are deferred and recognized as an inflow of resources in the period that the amounts become available.

#### Long-Term Obligations

In the government-wide financial statements, long-term debt and other long-term obligations are reported as liabilities in the applicable governmental activities.

#### Capital Assets

Capital assets, which include property, plant, equipment and infrastructure assets (e.g. roads, bridges, sidewalks, and similar items), are reported in the applicable governmental activities columns in the government-wide financial statements. Capital assets are defined by the District as assets with an initial, individual cost of more than \$5,000 and an estimated useful life in excess of two years. Such assets are recorded at historical or estimated historical cost if purchased or constructed. Donated capital assets are recorded at acquisition value at the date of donation.

The costs of normal maintenance and repairs that do not add to the value of the assets or materially extend the life of the asset are not capitalized. Improvements are capitalized and depreciated over the remaining useful lives of the related fixed assets, as applicable using the straight-line method. Depreciation on property that will remain assets of the District is reported on the Statement of Activities as a current charge. Improvements that will be conveyed to other governmental entities are classified as construction in progress and are not depreciated. Land and certain landscaping improvements are not depreciated. No depreciation expense was recognized during 2021.

## BERKLEY SHORES METROPOLITAN DISTRICT

### Notes to Financial Statements December 31, 2021

#### Property Taxes

Property taxes are levied by the District's Board of Directors. The levy is based on assessed valuations determined by the County Assessor generally as of January 1 of each year. The levy is normally set by December 15 by certification to the County Commissioners to put the tax lien on the individual properties as of January 1 of the following year. The County Treasurer collects the determined taxes during the ensuing calendar year. The taxes are payable by April or if in equal installments, at the taxpayers' election, in February and June. Delinquent taxpayers are notified in July or August and the sales of the resultant tax liens on delinquent properties are generally held in November or December. The County Treasurer remits the taxes collected monthly to the District.

Property taxes, net of estimated uncollectible taxes, are recorded initially as deferred inflows in the year they are levied and measurable since they are not normally available nor are they budgeted as a resource until the subsequent year. The deferred property taxes are recorded as revenue in the subsequent year when they are available or collected.

#### Fund Equity

Fund balance of governmental funds is reported in various categories based on the nature of any limitations requiring the use of resources for specific purposes. Because circumstances differ among governments, not every government or every governmental fund will present all of these components. The following classifications make the nature and extent of the constraints placed on a government's fund balance more transparent:

#### Nonspendable Fund Balance

Nonspendable fund balance includes amounts that cannot be spent because they are either not spendable in form (such as inventory or prepaids) or are legally or contractually required to be maintained intact.

The nonspendable fund balance in the General Fund in the amount of \$450 represents prepaid expenditures.

#### Restricted Fund Balance

The restricted fund balance includes amounts restricted for a specific purpose by external parties such as grantors, bondholders, constitutional provisions or enabling legislation.

The restricted fund balance in the General Fund represents Emergency Reserves that have been provided as required by Article X, Section 20 of the Constitution of the State of Colorado. A total of 5,725 of the General Fund balance has been restricted in compliance with this requirement.

The restricted fund balance in the Debt Service Fund in the amount of \$407,369 is restricted for the payment of the costs associated with the Series 2020A(3) Bonds. (See Note 4)



BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2021

Committed Fund Balance

The portion of fund balance that can only be used for specific purposes pursuant to constraints imposed by a formal action of the government's highest level of decision-making authority, the Board of Directors. The constraint may be removed or changed only through formal action of the Board of Directors.

Assigned Fund Balance

Assigned fund balance includes amounts the District intends to use for a specific purpose. Intent can be expressed by the District's Board of Directors or by an official or body to which the Board of Directors delegates the authority.

Unassigned Fund Balance

Unassigned fund balance includes amounts that are available for any purpose. Positive amounts are reported only in the General Fund, all other funds can report negative amounts.

For the classification of Governmental Fund balances, the District considers an expenditure to be made from the most restrictive first when more than one classification is available.

Net Position

Net Position represents the difference between assets and deferred outflows of resources less liabilities and deferred inflows of resources. The District reports three categories of net position, as follows:

Net investment in capital assets – consists of net capital assets, reduced by outstanding balances of any related debt obligations and deferred inflows of resources attributable to the acquisition, construction, or improvement of those assets and increased by balances of deferred outflows of resources related to those assets.

Restricted net position – net position is considered restricted if their use is constrained to a particular purpose. Restrictions are imposed by external organizations such as federal or state laws. Restricted net position is reduced by liabilities and deferred inflows of resources related to the restricted assets.

Unrestricted net position – consists of all other net position that does not meet the definition of the above two components and is available for general use by the District.

When an expense is incurred for purposes for which both restricted and unrestricted net position are available, the District will use the most restrictive net position first.

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2021

Note 2: Cash

As of December 31, 2021, cash and investments are classified in the accompanying financial statements as follows:

Statement of net position:

|                   |                   |
|-------------------|-------------------|
| Cash              | \$ 5,104          |
| Cash - Restricted | <u>401,632</u>    |
| Total             | <u>\$ 406,736</u> |

Cash and investments as of December 31, 2021 consist of the following:

|                                      |                   |
|--------------------------------------|-------------------|
| Deposits with financial institutions | \$ 6,146          |
| Investments - COLOTRUST              | <u>400,590</u>    |
|                                      | <u>\$ 406,736</u> |

Deposits

Custodial Credit Risk

The Colorado Public Deposit Protection Act, ("PDPA") requires that all units of local government deposit cash in eligible public depositories. State regulators determine eligibility. Amounts on deposit in excess of federal insurance levels must be collateralized. The eligible collateral is determined by the PDPA. PDPA allows the institution to create a single collateral pool for all public funds. The pool is to be maintained by another institution, or held in trust for all the uninsured public deposits as a group. The market value of the collateral must be at least equal to 102% of the aggregate uninsured deposits. The State Commissioners for banks and financial services are required by statute to monitor the naming of eligible depositories and reporting of the uninsured deposits and assets maintained in the collateral pools.

The District has a formal policy for deposits in accordance with state statutes. As of December 31, 2021, none of the District's deposits were exposed to custodial credit risk.

Investments

Investment Valuation

The District categorizes its fair value measurements within the fair value hierarchy established by generally accepted accounting principles. The hierarchy is based on the valuation inputs used to measure the fair value of the asset. Level 1 inputs are quoted prices in active markets for identical assets; Level 2 inputs are significant other observable inputs; Level 3 inputs are significant unobservable inputs. The District's investment, is not required to be categorized within the fair value hierarchy. This investment's value is calculated using the net asset value (NAV) per share.

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2021

Credit Risk

The District's investment policy requires that the District follow state statutes for investments. Colorado statutes specify the types of investments meeting defined rating and risk criteria in which local governments may invest. These investments include obligations of the United States and certain U.S. Government agency entities, certain money market funds, guaranteed investment contracts, and local government investment pools.

Custodial and Concentration of Credit Risk

None of the District's investments are subject to custodial or concentration of credit risk.

Interest Rate Risk

Colorado revised statutes limit investment maturities to five years or less unless formally approved by the Board of Directors.

Colotrust

The local government investment pool, Colorado Local Government Liquid Asset Trust ("COLOTRUST") is rated AAAM by Standard & Poor's with a weighted average maturity of under 60 days. COLOTRUST is an investment trust/joint venture established for local government entities in Colorado to pool surplus funds. The State Securities Commissioner administers and enforces all State statutes governing the Trust. COLOTRUST records its investments at fair value and the District records its investment in COLOTRUST using the net asset value method. The trusts operate similarly to a money market fund with each share maintaining a value of \$1.00. The Trust offers shares in two portfolios, COLOTRUST PRIME and COLOTRUST PLUS+. Both investments consist of U.S. Treasury bills and notes and repurchase agreements collateralized by U.S. Treasury securities. COLOTRUST PLUS+ may also invest in certain obligations of U.S. government agencies, highest rated commercial paper and repurchase agreements collateralized by certain obligations of U.S. government agencies. Designated custodian banks provide safekeeping and depository services to the trusts. Substantially all securities owned by the trusts are held by the Federal Reserve Bank in the accounts maintained for the custodian banks. The custodians' internal records identify the investments owned by COLOTRUST. At December 31, 2021, the District had \$400,590 invested in COLOTRUST.

Note 3: Capital Assets

| <u>Governmental Type Activities:</u>         | <u>Balance</u><br><u>01-01-21</u> | <u>Additions</u>       | <u>Deletions</u> | <u>Balance</u><br><u>12-31-21</u> |
|--|-----------------------------------|------------------------|------------------|-----------------------------------|
| <u>Capital assets not being depreciated:</u> |                                   |                        |                  |                                   |
| Construction in Progress                     | \$493,879                         | \$1,277,147            | \$ -             | \$1,771,026                       |
| Total capital assets not being depreciated   | <u>493,879</u>                    | <u>1,277,147</u>       | <u>-</u>         | <u>1,771,026</u>                  |
| <br>Government type assets                   | <br><u>\$493,879</u>              | <br><u>\$1,277,147</u> | <br><u>\$ -</u>  | <br><u>\$1,771,026</u>            |

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2021

Upon completion and acceptance, all fixed assets will be conveyed by the District to other local governments. The District will not be responsible for maintenance.

Note 4: Long Term Debt

The following is an analysis of changes in long-term debt for the period ending December 31, 2021:

|  | Balance<br>12/31/2020 | Additions           | Deletions             | Balance<br>12/31/2021 | Current<br>Portion |
|--|-----------------------|---------------------|-----------------------|-----------------------|--------------------|
| <u>General Obligation Bonds</u>            |                       |                     |                       |                       |                    |
| Limited Tax (Convertible to Unlimited Tax) |                       |                     |                       |                       |                    |
| General Obligation Bonds Series 2020A(3)   | \$ 2,312,000          | \$ -                | \$ -                  | \$ 2,312,000          | \$ -               |
| Total                                      | 2,312,000             | -                   | -                     | 2,312,000             | -                  |
| <u>Other</u>                               |                       |                     |                       |                       |                    |
| Developer Advance - Operating              | 11,379                | 41,290              | -                     | 52,669                | -                  |
| Developer accrued interest - Operating     | 47                    | 2,029               | -                     | 2,076                 | -                  |
| Developer Advance - Capital                | 13,117                | 1,304,052           | (1,038,139)           | 279,030               | -                  |
| Developer accrued interest - Capital       | 48                    | 21,621              | -                     | 21,669                | -                  |
| Total                                      | 24,591                | 1,368,992           | (1,038,139)           | 355,444               | -                  |
|  | <u>\$ 2,336,591</u>   | <u>\$ 1,368,992</u> | <u>\$ (1,038,139)</u> | <u>\$ 2,667,444</u>   | <u>\$ -</u>        |

A description of the long-term obligations as of December 31, 2021, is as follows:

Limited Tax (Convertible to Unlimited Tax) General Obligation Bonds, Series 2020A(3)

On September 3, 2020, the District issued its \$2,312,000 of Limited Tax (Convertible to Unlimited Tax) General Obligation Bonds, Series 2020A(3) (the "Series 2020A(3) Bonds") for the purpose of funding the costs of public improvements for the District, funding the initial interest to accrue on the Series 2020A(3) Bonds, fully funding the Reserve Fund securing the bonds and paying the cost of issuing the Series 2020A(3) Bonds. The Series 2020A(3) Bonds mature on December 1, 2050 and carry a coupon rate of 5.25% per annum, payable June 1<sup>st</sup> and December 1<sup>st</sup> commencing on December 1, 2021.

The Series 2020A(3) Bonds are subject to a mandatory sinking fund redemption, on December 1 of each year, commencing on December 1, 2026. The Series 2020A(3) Bonds are subject to redemption prior to maturity, at the option of the District, as a whole or in integral multiples of \$1,000, in any order of maturity and in whole or partial maturities, on December 1, 2025 and on any date thereafter upon payment of par, accrued interest and a redemption premium equal to a percentage of the principal amount so redeemed, as follows:

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2021

3% of the amount redeemed prior to December 1, 2026  
2% of the amount redeemed prior to December 1, 2027  
1% of the amount redeemed prior to December 1, 2028  
Redemptions on and after December 1, 2028 are at par

The Series 2020A(3) Bonds are secured by the Required Mill Levy, the Capital Fees, if any, the portion of the Specific Ownership Tax which is collected as a result of the Required Mill Levy, and any other legally available moneys as determined by the District. The Series 2020A(3) Bonds are also secured by a Reserve Fund in the amount of \$218,030 and a Surplus Fund of up to \$231,200. The Surplus Fund can be released when the ratio of all the outstanding Series 2020A(3) Bonds to assessed valuation is 50% or less, the Reserve Fund is full and no amount of scheduled principal and interest on the Series 2020A(3) Bonds is unpaid. As of December 31, 2021, the Reserve Fund was funded in the amount of \$218,046 and the Surplus Fund did not have any funds.

The following is a summary of the annual long-term debt principal and interest requirements of the Series 2020A(3) Bonds.

|           | Principal           | Interest            | Total               |
|-----------|---------------------|---------------------|---------------------|
| 2022      | \$ -                | \$ 121,380          | \$ 121,380          |
| 2023      | -                   | 121,380             | 121,380             |
| 2024      | -                   | 121,380             | 121,380             |
| 2025      | -                   | 121,380             | 121,380             |
| 2026      | 2,000               | 121,380             | 123,380             |
| 2027-2031 | 61,000              | 602,334             | 663,334             |
| 2032-2036 | 199,000             | 572,826             | 771,826             |
| 2037-2041 | 386,000             | 502,322             | 888,322             |
| 2042-2046 | 659,000             | 374,116             | 1,033,116           |
| 2047-2050 | 1,005,000           | 153,824             | 1,158,824           |
|           | <u>\$ 2,312,000</u> | <u>\$ 2,812,322</u> | <u>\$ 5,124,322</u> |

Operation Funding Agreements

On February 24, 2020, the District and the HDC 6300 Lowell Boulevard, LLLP (the "Developer") entered into an Operation Funding Agreement for the purpose of funding the District's operations, maintenance and administrative expenses. Pursuant to the Operation Funding Agreement, the Developer agreed to advance funds necessary to fund, or directly pay, the District's operations, maintenance and administrative expenses for fiscal year 2020 on a periodic basis as needed, up to a stated shortfall amount of \$50,000. On November 2, 2020, the District entered into the First Amendment to Operation Agreement, which increased the shortfall amount to \$225,000 for fiscal years 2020 and 2021. The District agrees to repay the

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2021

amounts advanced, to the extent it has funds available from the imposition of its taxes, fees, rates, tolls, penalties and charges, and from any other revenue legally available, after the payment of its annual debt service obligations and annual operations, maintenance and administrative expenses, which repayment is subject to annual budget and appropriation. Simple interest shall accrue on each Developer Advance from the date of deposit into the District's account of from the date of direct payment by the Developer, until paid, at the rate of 8% per annum. The Operation Funding Agreement, as amended, shall not constitute a debt or indebtedness of the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial obligation, and the making of any reimbursement hereunder shall be at all times subject to annual appropriation by the District in its absolute discretion. Payment to reimburse the Developer shall be made on December 2 of each year and shall be applied first to accrued and unpaid interest and then to the principal amount due. The term of the Operation Funding Agreement, as amended, shall expire on December 31, 2021. Any obligation of the Developer to advance funds will expire upon advance to the District of amounts sufficient to pay expenses incurred in 2020 and 2021, not to exceed the Shortfall Amount. Any obligation of the District to reimburse the Developer shall expire on December 31, 2061. As of December 31, 2021, the principal amount of the reimbursement obligation under the Operation Funding Agreement was \$52,669 along with accrued interest in the amount of \$2,076.

Facilities Funding and Acquisition Agreement

On February 24, 2020, the District and the Developer entered into a Facilities Funding and Acquisition Agreement (the "FFA") with an effective date of February 4, 2020, which set forth the rights, obligations and procedures for the funding and acquisition of certain public improvements and for the District to reimburse the Developer for such costs. In this FFA the District acknowledges that the Developer has expended funds for the District's organizational expenses and the District is authorized to reimburse the Developer for such Organization Expenses subject to requirements in the FFA. Per the FFA, the Developer may also design, construct and complete certain improvements, in which case the District will acquire such Improvements in accordance with the FFA. In the event that the District proceeds with the design, construction and completion of any Improvements, the District shall request funding from the Developer, along with the construction related expenses up to the Shortfall Amount of \$2,500,000. The Developer shall advance funds necessary to fund the construction related expenses incurred by the District on a periodic basis as needed for fiscal years 2020 through 2025, up to the Shortfall Amount. The District agreed to reimburse the Developer for all Developer Advances and/or Verified Costs. Simple interest shall accrue on Organization Expenses and Construction Related Expenses at the rate of 8% per annum until paid. Payments by the District to the Developer shall credit first against accrued and unpaid interest and then to the principal amount due. No payment shall be required of the District unless and until the District issues bonds in an amount sufficient to reimburse the Developer for all or a portion of the Organization Expenses, Developer Advances and/or Verified Costs. The FFA shall not constitute a debt or indebtedness of the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2021

obligation, and the making of any reimbursement hereunder shall be at all times subject to annual appropriation by the District in its absolute discretion. In the event the District has not paid or reimbursed the Developer for any Organization Expense, Construction Related Expenses and/or Verified Costs by December 31, 2060, any amount of principal and accrued interest outstanding on such date shall be deemed to be forever discharged and satisfied in full. As of December 31, 2021, the principal amount of the reimbursement obligation under the FFA was \$279,030 along with accrued interest in the amount of \$21,669.

On September 16, 2020, the Board of the District accepted \$493,879 in costs certified by the District's engineer under the FFA and proceeds from the issuance of the 2020A(3) Bonds were used to repay this amount to the Developer under this agreement.

On January 11, 2021, the Board of the District accepted \$1,277,147 in costs certified by the District's engineer under the FFA and proceeds from the issuance of the 2020A(3) Bonds were used to repay a portion of this amount to the Developer under this agreement.

Debt Authorization

As of December 31, 2021, the District had \$80,688,000 of voted but unissued debt for providing public improvements and \$5,988,000 of additional debt capacity under its current Service Plan limit. In the future, the District may issue a portion or all of the remaining authorized but unissued general obligation debt for purposes of providing public improvements to support development as it occurs within the District's service area. The District has not budgeted to issue any debt during 2022.

Note 5: Related Party

All of the Board of Directors are employees, owners or are otherwise associated with the Developer and may have conflicts of interest in dealing with the District. Management believes that all potential conflicts, if any, have been disclosed to the Board.

Note 6: Tax, Spending and Debt Limitations

Article X, Section 20 of the Colorado Constitution, commonly known as the Taxpayer Bill of Rights ("TABOR"), contains tax, spending, revenue and debt limitations which apply to the State of Colorado and all local governments.

Spending and revenue limits are determined based on the prior year's Fiscal Year Spending adjusted for allowable increases based upon inflation and local growth. Fiscal Year Spending is generally defined as expenditures plus reserve increases with certain exceptions. Revenue in excess of the Fiscal Year Spending limit must be refunded unless the voters approve retention of such revenue.

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2021

TABOR requires local governments to establish Emergency Reserves. These reserves must be at least 3% of Fiscal Year Spending (excluding bonded debt service). Local governments are not allowed to use the emergency reserves to compensate for economic conditions, revenue shortfalls, or salary or benefit increases.

The District's management believes it is in compliance with the provisions of TABOR. However, TABOR is complex and subject to interpretation. Many of the provisions, including the interpretation of how to calculate Fiscal Year Spending limits will require judicial interpretation.

On November 5, 2019, a majority of the District's electors authorized the District to collect and spend or retain in a reserve all currently levied taxes and fees of the District without regard to any limitations under Article X, Section 20 of the Colorado Constitution

Note 7: Risk Management

Except as provided in the Colorado Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., the District may be exposed to various risks of loss related to torts, theft of, damage to, or destruction of assets; errors or omissions; injuries to agents; and natural disasters. The District has elected to participate in the Colorado Special Districts Property and Liability Pool ("Pool") which is an organization created by intergovernmental agreement to provide common liability and casualty insurance coverage to its members at a cost that is considered economically appropriate. Settled claims have not exceeded this commercial coverage in any of the past three fiscal years.

The District pays annual premiums to the Pool for auto, public officials' liability, and property and general liability coverage. In the event aggregated losses incurred by the Pool exceed its amounts recoverable from reinsurance contracts and its accumulated reserves, the District may be called upon to make additional contributions to the Pool on the basis proportionate to other members. Any excess funds which the Pool determines are not needed for purposes of the Pool may be returned to the members pursuant to a distribution formula.

Note 8: Reconciliation of Government-Wide Financial Statements and Fund Financial Statements

The Governmental Funds Balance Sheet/Statement of Net Position includes an adjustments column. The adjustments have the following elements:

- 1) Capital improvements used in government activities are not financial resources and, therefore are not reported in the funds; and
- 2) long-term liabilities such as bonds payable, developer advances and accrued bond interest payable are not due and payable in the current period and, therefore, are not in the funds.



BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2021

The Governmental Funds Statement of Revenues, Expenditures, and Changes in Fund Balances/Statement of Activities includes an adjustments column. The adjustments have the following elements:

- 1) Governmental funds report capital outlays as expenditures, however, in the statement of activities, the costs of those assets are held as construction in process pending transfer to other governmental entities or depreciated over their useful lives;
- 2) governmental funds report interest expense on the modified accrual basis; however, interest expense is reported on the full accrual method on the Statement of Activities;
- 3) governmental funds report developer advances and/or bond proceeds as revenue; and
- 4) governmental funds report long-term debt payments as expenditures, however, in the statement of activities, the payment of long-term debt is recorded as a decrease of long-term liabilities.

DRAFT 6-8-2022

SUPPLEMENTAL INFORMATION

DRAFT 6-8-2022

# BERKLEY SHORES METROPOLITAN DISTRICT

## SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL - DEBT SERVICE FUND

For the Year Ended December 31, 2021

|  | Original and<br><u>Final Budget</u> | <u>Actual</u>            | Variance<br>Favorable<br>(Unfavorable) |
|--|-------------------------------------|--------------------------|--|
| REVENUES   |                                     |                          |  |
| Property taxes                                       | \$ 6,859                            | \$ 5,769                 | \$ (1,090)                             |
| Specific Ownership Taxes                             | 412                                 | 1,010                    | 598                                    |
| Interest income                                      | <u>\$ -</u>                         | <u>\$ 270</u>            | <u>\$ 270</u>                          |
| Total Revenues                                       | <u>7,271</u>                        | <u>7,049</u>             | <u>(222)</u>                           |
| EXPENDITURES   |                                     |                          |  |
| Bond interest expense                                | 121,380                             | 121,380                  | -                                      |
| Paying agent/trustee fees                            | 5,500                               | 4,082                    | 1,418                                  |
| Miscellaneous expense                                | 250                                 | -                        | 250                                    |
| Contingency  | <u>10,000</u>                       | <u>-</u>                 | <u>10,000</u>                          |
| Total Expenditures                                   | <u>137,130</u>                      | <u>125,462</u>           | <u>11,668</u>                          |
| EXCESS (DEFICIENCY) OF REVENUES<br>OVER EXPENDITURES | (129,859)                           | (118,413)                | 11,446                                 |
| OTHER FINANCING SOURCES (USES)                       |                                     |                          |  |
| Transfers in (out)                                   | <u>-</u>                            | <u>4,031</u>             | <u>4,031</u>                           |
| Total Other Financing Sources (Uses)                 | <u>-</u>                            | <u>4,031</u>             | <u>4,031</u>                           |
| NET CHANGE IN FUND BALANCE                           | (129,859)                           | (114,382)                | 15,477                                 |
| FUND BALANCE:  |                                     |                          |  |
| BEGINNING OF YEAR                                    | <u>521,480</u>                      | <u>521,751</u>           | <u>271</u>                             |
| END OF YEAR  | <u><u>\$ 391,621</u></u>            | <u><u>\$ 407,369</u></u> | <u><u>\$ 15,748</u></u>                |

The notes to the financial statements are an integral part of these statements.

# BERKLEY SHORES METROPOLITAN DISTRICT

## SCHEDULE OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL - CAPITAL PROJECTS FUND

For the Year Ended December 31, 2021

|  | Original<br><u>Budget</u> | Final<br><u>Budget</u> | <u>Actual</u> | Variance<br>Favorable<br>(Unfavorable) |
|--|---------------------------|------------------------|---------------|--|
| <b>REVENUES</b>  |                           |                        |               |  |
| Interest income  | \$ -                      | \$ -                   | \$ 43         | \$ 43                                  |
| Total Revenues   | -                         | -                      | 43            | 43                                     |
| <b>EXPENDITURES</b>  |                           |                        |               |  |
| Accounting   | -                         | 8,000                  | 7,291         | 709                                    |
| Legal  | 12,000                    | 6,000                  | 5,714         | 286                                    |
| Management fees  | 8,000                     | 5,000                  | 4,526         | 474                                    |
| Miscellaneous expenses                                       | -                         | 100                    | 24            | 76                                     |
| Engineering  | 5,400                     | 5,000                  | 4,725         | 275                                    |
| Capital outlay   | -                         | 60,900                 | 1,277,147     | (1,216,247)                            |
| Repayment of developer advances                              | -                         | 1,040,000              | 1,038,139     | 1,861                                  |
| Total Expenditures   | 25,400                    | 1,125,000              | 2,337,566     | (1,212,566)                            |
| <b>EXCESS (DEFICIENCY) OF REVENUES<br/>OVER EXPENDITURES</b> |                           |                        |               |  |
|  | (25,400)                  | (1,125,000)            | (2,337,523)   | (1,212,523)                            |
| <b>OTHER FINANCING SOURCES (USES)</b>                        |                           |                        |               |  |
| Developer advances   | -                         | 94,000                 | 1,305,118     | 1,211,118                              |
| Transfers in (out)   | -                         | -                      | 1,332         | 1,332                                  |
| Total Other Financing Sources (Uses)                         | -                         | 94,000                 | 1,306,450     | 1,212,450                              |
| <b>NET CHANGE IN FUND BALANCE</b>                            | (25,400)                  | (1,031,000)            | (1,031,073)   | (73)                                   |
| <b>FUND BALANCE:</b>   |                           |                        |               |  |
| BEGINNING OF YEAR  | 4,031,869                 | 1,031,073              | 1,031,073     | -                                      |
| END OF YEAR  | \$ 4,006,469              | \$ 73                  | \$ -          | \$ (73)                                |

The notes to the financial statements are an integral part of these statements.

## SECOND AMENDMENT TO OPERATION FUNDING AGREEMENT

This **SECOND AMENDMENT TO OPERATION FUNDING AGREEMENT** (“**Second Amendment**”) is made and entered into effective this 31<sup>st</sup> day of December 2021 by and between **BERKLEY SHORES METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”) and **HDC 6300 LOWELL BOULEVARD, LLLP**, a Colorado limited liability limited partnership (the “**Developer**”) (individually, each a “**Party**” and collectively the “**Parties**”).

### RECITALS

A. The District and the Developer entered into that certain Operation Funding Agreement, dated February 24, 2020 and effective as of February 4, 2020, as amended by that First Amendment to Operation Funding Agreement dated November 2, 2020, (collectively, the “**Agreement**”), whereby the Developer agreed to advance funds to the District for operations and maintenance expenses.

B. Pursuant to the Agreement, the obligation of the Developer to fund the Shortfall Amount is limited to an amount not to exceed \$225,000.

C. Pursuant to the Agreement, the obligation of the Developer to fund the Shortfall Amount expires on December 31, 2021.

D. The District anticipates that it will not have sufficient revenues to make payment of its operations and maintenance expenses through fiscal year 2022.

E. The District and the Developer desire to amend the provisions of the Agreement, pertaining to the term of the Agreement and Shortfall Amount.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, the Parties agree as follows:

### COVENANTS AND AGREEMENTS

1. All terms which are not defined herein shall have the same meaning as set forth in the Agreement.

2. Amendment to Section 1 of the Agreement. Section 1 of the Agreement is hereby deleted in its entirety, and substituted in lieu thereof shall be the following:

“1. Acknowledgement of Anticipated Shortfalls. The District anticipates a shortfall in revenues available for operations and maintenance expenses to be incurred for fiscal years 2020, 2021, and 2022 in an aggregate amount of Two Hundred and Eighty-Five Thousand Dollars (\$285,000.00) (the “Shortfall Amount”).”

3. Amendment to Section 8 of the Agreement. Section 8 of the Agreement is hereby deleted in its entirety, and substituted in lieu thereof shall be the following:

“8. Term/Repose. Any obligation of Developer to advance funds will expire upon amounts sufficient to pay expenses incurred in 2020 through 2022. Any obligation of District to reimburse Developer shall expire on December 31, 2022. In the event the District has not reimbursed the Developer for any Developer Advance(s) made pursuant to this Agreement on or before December 31, 2062, any amount of principal and accrued interest outstanding on such date shall be deemed to be forever discharged and satisfied in full.”

4. All references in the Agreement, to the phrase “fiscal year 2020” shall be deleted in their entirety and substituted in lieu thereof shall be the phrase: “fiscal years 2020 through 2022”.


5. Except as expressly set forth in this Amendment, all provisions of the Agreement remain unchanged and in full force and effect, valid and binding on the parties thereto.

**SIGNATURE PAGE FOLLOWS**

**SIGNATURE PAGE TO SECOND AMENDMENT TO OPERATION FUNDING  
AGREEMENT**

IN WITNESS WHEREOF, the Parties have executed this Second Amendment as of the day and year first set forth above.

**BERKLEY SHORES METROPOLITAN  
DISTRICT**, a quasi-municipal corporation and  
political subdivision of the State of Colorado

By:   
President

Attest:

*Natalie Satt*  
Secretary

**HDC 6300 LOWELL BOULEVARD, LLLP**, a  
Colorado limited liability limited partnership

By:   
Manager

Attest:

*Natalie Satt*  
Title: Secretary

|                                |  |
|--------------------------------|--|
| <b>TITLE</b>                   | Berkley Shores 2nd Amendment to OFA      |
| <b>FILE NAME</b>               | 2021-12-31 Second...ment (DRAFT).docx    |
| <b>DOCUMENT ID</b>             | 83fdc7a50b89a80fe3f4b59e97639cd08ace8498 |
| <b>AUDIT TRAIL DATE FORMAT</b> | MM / DD / YYYY                           |
| <b>STATUS</b>                  | ● Completed                              |

## Document History



SENT

**12 / 17 / 2021**

21:33:08 UTC

Sent for signature to Paul Malone (pmalone@highlanddevelopmentco.com) and Natalie Satt (nsatt@highlanddevelopmentco.com) from dsolin@sdmsi.com  
IP: 50.78.200.153



VIEWED

**12 / 17 / 2021**

21:33:58 UTC

Viewed by Natalie Satt (nsatt@highlanddevelopmentco.com)  
IP: 216.180.82.250



SIGNED

**12 / 17 / 2021**

21:35:02 UTC

Signed by Natalie Satt (nsatt@highlanddevelopmentco.com)  
IP: 216.180.82.250



VIEWED

**12 / 17 / 2021**

21:43:51 UTC

Viewed by Paul Malone (pmalone@highlanddevelopmentco.com)  
IP: 174.198.142.16



SIGNED

**12 / 17 / 2021**

21:44:30 UTC

Signed by Paul Malone (pmalone@highlanddevelopmentco.com)  
IP: 174.198.142.16



COMPLETED

**12 / 17 / 2021**

21:44:30 UTC

The document has been completed.





August 5, 2022

*Via Email*

Board of Directors  
Berkley Shores Metropolitan District  
c/o Special District Mgmt. Services  
141 Union Blvd., Ste. 150  
Lakewood, CO 80228

*Denver Office*

**Jeffrey B. Smith**

Direct 303.991.2066

jsmith@altitude.law

Re: *Altitude Community Law P.C. Legal Services Proposal for Berkley Shores Metropolitan District*

Dear Members of the Board:

Thank you for your interest in the legal services we can provide for your metro district. Enclosed are materials describing our experience, philosophy, services and fees. We offer a variety of fee programs, including flat fees and retainers, to suit the needs of individual metro districts. To determine what fee program may best suit Berkley Shores Metropolitan District, please give me a call after you have had a chance to review the enclosed material.

**How we will work with you.** Our experience enables us to partner with your metro district and your team to provide tailored, creative solutions that best meet the metro district's unique needs. As the trusted leader in community association law in Colorado, we have over 200 years combined experience and have successfully represented more than 2,000 associations. As many of the legal issues and practices of associations overlap with metro districts, we will apply the same expertise to your metro district. We make every effort to understand your issues and constraints and will alert you when we see an opportunity or potential problem that is beyond the metro district's immediate need, while keeping your budget in mind.

**Value-added benefits of partnering with Altitude Community Law P.C.** We are committed to providing our clients with up-to-date information, education and tools to help you govern your district proactively and positively. We offer education programs designed exclusively for board and committee members. While primarily for community associations, many of the same practice pointers apply to district board members. The 2022 education schedule is available on our website, [www.altitude.law/education](http://www.altitude.law/education). From our website you also may register for our blog, webinars and e-newsletter, to keep up-to-date on current issues that may impact your association.

Page 2

Board of Directors

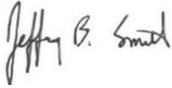
Berkley Shores Metropolitan District

August 5, 2022

**Next steps.** If you desire to hire our firm, please complete and return the 2022 Legal Services and Fee Summary Agreement (starts on page 3). To take advantage of one of our retainer programs, check the appropriate retainer box on page 7.

**Primary Attorney.** If you decide to move forward with Altitude Community Law P.C., I will be your assigned Primary Attorney. As your primary attorney, my goal is to make sure your relationship with Altitude is as successful as possible. Feel free to contact me with questions or comments after you've had a chance to review the enclosed materials. We would be happy to attend a board meeting to meet you, listen to your concerns and discuss how we can assist your association.

Sincerely,

A handwritten signature in black ink that reads "Jeffrey B. Smith". The signature is written in a cursive, slightly slanted style.

Jeffrey B. Smith  
**Altitude Community Law P.C.**

JBS/mmg  
Enc.  
7552259



## **2022 NOTICE OF LEGAL SERVICES AND FEE SUMMARY**

The following is a summary of fees and charges for legal services being offered by Altitude Community Law for 2022. For more details, contact your Primary Attorney or email us today at [hoalaw@altitude.law](mailto:hoalaw@altitude.law).

Our retainer programs reduce your district's legal expenditures and simplify the budgeting process by establishing a fixed monthly fee. This fee purchases the essential legal services your district requires, making us available to you as needed. We offer three retainer packages to better fit your needs.

### **RETAINER SERVICES AND BENEFITS**

For a monthly fee of \$200, retainer clients receive the following legal services and benefits without further charges:

**Phone Calls.** We will engage in unlimited telephone consultations with a designated board member or district manager regarding legal and other questions and status of ongoing work we are performing for you, exclusive of litigation, foreclosure, covenant enforcement, and document amendments. Written consultations/communications such as emails, written correspondence, and calls with multiple board members at the same time will be billed at our reduced hourly rates, as will our time to review governing documents, correspondence, etc., if necessary to answer a question.

**Reduced Hourly Rates.** For legal services billed hourly beyond what is included in the retainer, we will provide those services at \$20 per hour less than our non-retainer rates for attorneys and \$10 per hour less than our non-retainer rates for paralegals. No rate change for legal assistants.

**In-Office Consultation.** We will meet with a designated board member and/or the district's manager in our office for 30 minutes on any new matter. If the meeting extends beyond the 30 minutes, you will be billed at our reduced hourly rates.

**Attendance at Board Meeting.** At your request, we will attend one board meeting per twelve-month period for up to one hour. As a retainer client, we will prioritize attending the board meeting of your choosing. If our attendance exceeds one hour, you will be billed at our reduced hourly rates.

**Audit Response Letter.** We will prepare a letter to your financial auditor in connection with your annual audit indicating pending or threatened litigation. We will also review your annual financial audit upon completion.

**Periodic Report.** We will prepare and file your periodic report with the Secretary of State if you have designated us as your registered agent.

DORA Renewal: We will prepare and file your renewal report with DORA if requested.

#### RETAINER PLUS SERVICES AND BENEFITS

For a monthly fee of \$250, we will provide the following legal services and benefits without further charges:

In addition to the services provided to Retainer clients, Retainer Plus clients will receive the following additional services:

Email Consultations. We will engage in 30 (thirty) minutes of email consultations every month with a designated board member and the district's manager regarding legal and other questions and the status of ongoing work that we are performing on your behalf, exclusive of litigation, foreclosure, covenant enforcement, and document amendment matters. Additional written consultations and communications will be billed at our reduced hourly rates. If it is necessary to review governing documents, correspondence, etc. to answer a question, you will be billed at our reduced hourly rates.

SB100 Policy Update. We will provide one free SB100 Policy update for your district.

Credit Card Payments. For Retainer Plus clients, we will accept homeowner payments via credit card.

#### PREMIUM RETAINER SERVICES AND BENEFITS

For a monthly fee of \$500, we will provide the following legal services and benefits without further charges:

In addition to the services provided to Retainer and Retainer Plus clients, Premium Retainer clients will receive the following additional services:

Email Exchanges. We will communicate with your designated board member and the district's manager via email up to 60 (sixty) additional minutes every month which includes minor research.

Attendance at one additional board meeting per year. At your request, we will attend a total of two board meetings per twelve-month period for up to one hour each. If our attendance exceeds one hour, you will be billed at our reduced hourly rates.

Other needed revisions to Policies required by new legislation reduced by \$100.

### RETAINER SERVICES GENERALLY

Clients on retainer will remain on their chosen level of retainer until we are notified otherwise in writing.

### FIXED FEE SERVICES

Altitude Community Law offers fixed fee services. The district will pay Altitude Community Law (the Firm) for performance of the services as outlined in a proposal for services, plus costs. The district understands that it is not entering into an hourly fee agreement for that specified service, except as otherwise set forth. This means the Firm will devote such time to the matter as is necessary, but the Firm's fee will not be increased or decreased based upon the number of hours spent.

### NON-RETAINER SERVICES AND BILLING TERMS

If you desire representation on a non-retainer basis, you will be billed hourly for all work performed unless a fixed fee (such as collection matters or amendment of documents) has been agreed to in advance. Our hourly rates for 2022 non-retainer clients are \$105 - \$165 for legal assistants/paralegals, \$310 - \$360 for attorneys. Non-retainer clients are billed hourly for all phone calls.

### TERMINATION OF REPRESENTATION

You may terminate our representation at any time by notifying us in writing and we may resign from representation by notifying you in writing. In either case, you understand that court or administrative rules may require us to obtain a judicial or administrative order to permit our withdrawal. We agree that upon receipt of your termination notice, we will take such action as is necessary to withdraw from representing you, including requesting any necessary judicial or administrative order for withdrawal. However, whether you terminate our representation, we cease performing further work and/or withdraw from representing you, as allowed under the Colorado Rules of Professional Conduct or for your failure to comply with the terms of this Agreement, you understand and agree that you continue to be responsible to us for the payment of all fees and expenses due and owing and incurred in withdrawing from representing you, including any fees and expenses we incur to obtain, and/or during the time we are seeking to obtain, any necessary judicial or administrative order to approve our withdrawal.

If you so request, we will send to you your files as soon as a particular matter is concluded. If you do not request your files, the firm will keep the files for a minimum of ten (10) years, after which it may retain, destroy or otherwise dispose of them.

### PRIVACY POLICY

Attorneys, like other professionals who provide certain financial services, are now required by federal and state laws to inform their clients of their policies regarding privacy of client information. Attorneys have been and continue to be bound by professional standards of confidentiality that are even more stringent than those required by this new law. Thus, we have always protected the privacy of your confidential information.

In the course of providing legal services, we sometimes receive significant nonpublic personal information from our clients. As a client of Altitude Community Law, you should know that all such information we receive from you is held in confidence. We do not disclose such information to anyone outside the firm except when required or authorized by applicable law or the applicable rules of professional conduct governing lawyers, or when authorized by you in writing.

We retain records relating to professional services that we provide so that we are better able to assist you with your professional needs and, in some cases, to comply with professional guidelines. In order to guard your nonpublic personal information, we maintain, physical, electronic and procedural safeguards that comply with our professional standards.

If you have any questions or would like more information about our privacy policies and practices, please let us know.

#### GENERAL TERMS FOR ALL CLIENTS

We represent the district as a corporate entity. We will take our direction for work as instructed by the manager or the board. We do not represent any individual board members or homeowners.

Clients are required to reimburse us for cost advances and other out-of-pocket expenses. Reimbursement is made at actual cost for outside charges such as court recording fees, filing fees, service of process charges, computerized legal research, expert witness fees, title searches, deposition reporting and transcription fees, outside photocopying, etc. Typically, we do not charge for internal photocopies, faxes, postage and long-distance telephone calls unless these charges are extraordinary. We provide monthly statements for services and expense incurred. Unless other arrangements are made and agreed upon in writing, all charges are due and payable upon your receipt of the statement. A finance charge of 12% per annum may be imposed upon any amount not paid within 30 days of becoming due. Fees may be modified upon 30 days prior written notice. If it becomes necessary to file suit to recover unpaid attorney fees, the prevailing party shall be entitled to receive its attorney fees.

In the event we have not been provided with, or our files do not contain, all of the recorded documents of the district, we retain the right to obtain any such recorded documents to supplement our file without district approval and at the district's cost. The district's cost will include, but not be limited to, hourly charges for procuring the documents and copying costs. In order to provide you with the most efficient and effective service we will, at all times, unless otherwise directed, work through your manager if appropriate.

Should you have any questions, please do not hesitate to call any of our attorneys. We are happy to answer any of your questions or meet with you at no charge to discuss our services and fees in greater detail.

RESPONSE REQUIRED

If you desire to engage our services, please indicate below which type of service you prefer by checking the appropriate box, execute the acceptance and return it to us via mail, e-mail or fax.

Legal Services: (select one)

- ☐ Retainer Services
- ☐ Retainer Plus Services
- ☐ Premium Retainer Services
- ☒ Non-Retainer

Collection Services:

Please see attached Fee Structure

Billing Preference: (select one)

- ☐ Paper and Mailed
- ☒ Electronic and Emailed

Email address: pripko@sdmsi.com

(please note, only one email address per management company will be used)

Agreed to and accepted this 6 day of August, 2022.

Berkley Shores Metropolitan District

Print District Name

By:   
President/Manager



## **EXHIBIT A TO LEGAL SERVICES AND FEE SUMMARY AGREEMENT FOR 2022 LEGAL COLLECTION SERVICES**

### Fee Structure

This is a flat fee agreement for collection services. The District will pay Altitude Community Law (the Firm) for performance of the services described below, plus costs. The District understands that it is not entering into an hourly fee agreement for collection services, except as otherwise set forth below. This means the Firm will devote such time to the representation as is necessary, but the Firm's fee will not be increased or decreased based upon the number of hours spent.

The District has the right to terminate the representation at any time and for any reason, and the Firm may terminate the representation in accordance with Rule 1.16 of the Colorado Rules of Professional Conduct. In the event that the District terminates the representation without wrongful conduct by the Firm that would cause the Firm to forfeit any fee, or the Firm justifiably withdraws in accordance with Rule 1.16 from representing the District, the District shall pay, and the Firm shall be entitled to, the fee or part of the fee earned by the Firm as described in paragraph 1 above, up to the time of termination. If the representation is terminated between the completion of increments (if any), the District shall pay a fee based on our standard hourly rate set forth in our standard fee agreement. However, such fees shall not exceed the amount that would have been earned had the representation continued until the completion of the increment, and in any event all fees shall be reasonable. Once the work is performed, the Fee will be deemed earned and is due upon receipt of an invoice.

#### **Case Intake, Review and Assessment - No charge**

We do not charge you to review new collection cases and make recommendations. However, if we receive open collection files from another attorney, there will be a \$25 set-up and review fee per file. This fee will be waived if you are a retainer client.

At the rates set here in, upon receiving a new turnover, we will perform the following work for due diligence and to put the District in the best possible collection position: Assessment Lien Package (if a lien has not already been recorded), Demand Letter, Public Trustee Search, and Bankruptcy Search. Next steps after this work depends on the homeowner's response, balance due, history, information acquired, and other factors.

#### **Demand Letter - \$155**

Preparation of a demand letter includes reviewing the ledger or equivalent record to ascertain the amounts owed including interest, late charges, fines and charge backs, if relevant, and review prior notice given to owner to meet statutory requirements; drafting and mailing the demand letter to the homeowner; follow-up, including telephone calls with the management company and homeowner, negotiation of an acceptable payment plan; follow up letter (as needed) to confirm payment arrangements. All correspondence other than the initial demand and payment plan letter is \$50 per letter (e.g., follow up demand letter, breach of payment plan letter).



Super Lien Demand Letter - \$110

Preparation of a demand letter post foreclosure includes reviewing ledger to ascertain amounts owed; verifying party to whom demand should be sent; drafting and mailing demand letter: or if request is received from a lender for the super lien amount, drafting a response. All discussions with the owner or lender after the letter are billed hourly.

Assessment Lien Package - \$110

This charge includes preparing both the lien and the lien release. It also includes verification of ownership with either the assessor's office or title company.

Lawsuit: - \$350 plus costs

This charge includes preparing the summons and complaint, filing these papers with the court, appearing at the return date and obtaining default judgment. It also includes all negotiations and telephone conferences with the owners prior to an answer being filed with the court.

Lawsuit: Trial - Hourly rates apply

All preparation for trial and appearances in court are billed on an hourly basis. If the district prevails at trial, it can recover its attorney fees and costs from the delinquent owner.

Interrogatories - \$80

We prepare and file a motion with the court to request the court to order an owner to answer a series of questions from us about the owner's assets. We will use the answer to help satisfy any judgment obtained by the district. We will also arrange for service of the order on the client and monitor and evaluate answers received from the owner.

Contempt Citation - \$105

If an owner fails to answer the interrogatories as ordered by the court, we will prepare and file all the necessary paperwork to require the owner to appear before the judge to explain why the questions were not answered. Our fee also includes our appearance at court, subsequent appearance if the owner fails to appear initially and review and evaluation of the answers once received from the owner.

Garnishments - \$105 (each)

We will identify entities (usually banks, employers or tenants) which owe or have money of the owner and prepare documentation to be filed with the court to order the entity to release all or a portion of the money they hold for or are obligated to pay the owner to the district. We will arrange for service of the necessary documentation and will monitor for responses.

Payment Plans - \$75-175 (each)

We will charge a fee depending upon the length of the payment plan to prepare the necessary documentation, monitor and process payments and close the file. Unless we are instructed otherwise, we may agree to payment plans of up to 24 months with any homeowner. We request that interest and late fees not be added to the ledger during payment plans, as long as the homeowner pays as agreed. Monthly payments amounts are calculated based on no additional interest or late fees being incurred during the payment plan.

#### Motions - \$100-125

Occasionally, certain motions may be necessary in a case in order to get the court to issue a ruling without further legal action. These will be prepared, filed, monitored and argued before the court, if necessary.

#### Outbound Phone Calls - \$55

Once we obtain a phone number for an owner, we will make up to 3 outbound calls to an owner to secure payment. All other calls with an owner will be at no charge.

#### Payoff Calculations - \$100

It is important for your management company or treasurer to confirm all payoff amounts with us prior to issuing status letters or advising owners of balances so that all legal costs and fees can be included. We will also insure that all fees necessary to close or dismiss a file are included. Rush charges do apply.

#### Monitoring Lender Foreclosure - \$195 (one-time charge)

It is important to monitor lender foreclosure through the sale and redemption period. We obtain periodic ownership and encumbrance reports, if needed, and routinely verify the status of the foreclosure action. We advise you of the district's rights and options throughout the process. Once a sale is completed, we advise the district of the new owner and the district's rights.

#### Monitoring Bankruptcy - \$180 Chapter 7; \$300 Chapter 13 (one-time charge)

We prepare and file a Proof of Claim, if necessary, monitoring the bankruptcy through discharge. Our services include reviewing the plan (if Chapter 13) to make sure it includes provisions for payment of pre- and post-petition assessments, and checking with the trustee and debtor's attorney to determine if property has been abandoned. If it becomes necessary to file any motion with the court, we charge fixed fees as follows:

Motion to Dismiss: \$395

Motion for Relief from Stay: \$595

Objection to Plan: \$195

All preparation for and appearances in court are charged on an hourly basis.

#### Assessment Increase Notice - \$200

We prepare notice to the bankruptcy court of any increase in the ongoing debt owed to the district upon receipt of notice from you, including filing a proof of claim and letter to the bankruptcy attorney or debtor.

#### Public Trustee/Bankruptcy Search - \$30 (each)

Verifying whether a property is in foreclosure or subject to a bankruptcy before filing a lawsuit can save the district hundreds of dollars. So, we will search both the public trustee and bankruptcy records and then advise the district if different action is necessary.

#### Receiverships (County Court) - \$295 initial, then hourly. Court costs are approximately \$250

We will prepare pleadings and appear in court to obtain appointment of a receiver to collect rents where the property is abandoned or being rented by the owner. Once appointed, we supervise disbursement of the monies collected by the receiver at an hourly rate.

Lien/Judicial Foreclosures (District Court) - Hourly rates apply

We recommend that foreclosure be considered as a viable collection remedy in all problem cases. Our fee is based on the complexity of your circumstances and should reflect the value you will receive from the monetary result of the foreclosure.

Lien Sales - \$500

We list all liens that are potentially available for sale on our website at <https://Altitude.Law/general-topics/liens-for-sale/> at no cost. In the event a lien is sold we collect our fee from the purchaser of the lien. In order to handle quickly, within the legal time limits, we reserve the right to sell liens, without prior approval if the purchase price is equal to or more than the balance due.

Status Report - \$75/month (if not accessed electronically)

We provide online access to each district's collection status report. For more information please contact us. If your district chooses to have us prepare your status report, there will be a monthly fee.

Asset/Person Locations - \$25-100

From time to time we must locate debtors and/or their assets in order to secure payment for you. We will use various databases for which there is a cost to us, to secure possible leads. This information is then reviewed and analyzed to develop the best strategy for quickly and efficiently securing payments.



## **SERVING HOMEOWNERS ASSOCIATIONS**

Altitude Community Law P.C. is the premier law firm which serves legal needs of community associations. More than 2000 associations throughout Colorado have chosen us to guide them through the formation, transition and operation of their organizations. Our association clients include condominium, townhome and detached single family associations across the state. We also provide debt recovery and enforcement services to districts.

Communities ranging in size from two units to more than 90,000 units have enjoyed the personal attention we provide, along with the depth and breadth of knowledge that only years of experience can yield. More than any law firm, we focus on homeowners associations and covenant controlled communities, and also provide collections and enforcement services for districts. We have prepared in excess of 500 sets of rules and architectural control guidelines and assisted over 500 associations in amending or restating their legal documents.

With several offices throughout Colorado, we are able to service our clients in a timely, efficient, and responsive manner.

### **OUR TEAM**

Altitude Community Law was founded in 1988. Our attorneys work as a team to help you in the formation of a new community association, in running your existing association, or resolving disputes involving your association. Adding to the firm's 200 plus years of combined experience are attorneys Elina B. Gilbert, Melissa M. Garcia, David A. Firmin, David A. Closson, William H. Short, Debra J. Oppenheimer, Kiki N. Dillie, Jeffrey B. Smith, Maris S. Davies, Kate M. Leason, Amanda K. Ashley, Sheridan N. Classick, Jeremy B. Fletcher, and Angela N. Hopkins.

### **CLIENT SERVICE - OUR NUMBER ONE PRIORITY**

Each member of our firm is committed to providing you with the best legal representation in our field at competitive rates that fit your budget. We also understand that each client has different needs and expectations, and good client servicing is in the eyes of the client, not in the eyes of the firm.

That's why we're committed to getting to know the board

members of your association so that we can understand and meet your needs. By returning your calls promptly, communicating with you regularly, and offering various educational workshops annually, we are always looking for ways to better serve you and to exceed your expectations in a law firm.

By working with you, we can help you accomplish your goals on behalf of your association, and we can make your role as a board member easier by providing you with the tools you need to do your job effectively.

**PREVENTION -  
THE BEST LEGAL  
APPROACH**

The first and best legal solution is preventing disputes and other legal problems. With a strong emphasis on prevention, we draw from our experience to help you lay a proper foundation for the future and avoid costly and destructive pitfalls.

And, while we emphasize prevention, we are also fully prepared to fight for your cause if the need arises. We can represent you to resolve disputes through mediation, arbitration or litigation.

**COMMITMENT  
TO  
EDUCATION**

Education of both community managers and board members has been the backbone of the firm since its inception. At Altitude, we believe that education is the best way to avoid problems in communities and we continually strive to provide the best and most accessible education to not only our clients, but to any directors or managers that want to better understand the industry. Altitude Community Education (ACE) provides numerous lunch forums, webinars, classes, and other educational opportunities to ensure your community's success. For more information please refer to our Education Tab on the Altitude website.

**COUNSEL FOR  
ASSOCIATIONS  
AT ALL STAGES**

We advise associations at all stages of growth; from pre transition to the mature association. Many areas of law converge to govern community associations. We can help you address issues at all stages of a homeowner association's development. In addition to our experience, we have been an advocate for community associations at the Capitol. Our attorneys serve on the Legislative Action Committee for CAI and are aggressively involved in monitoring and testifying in the legislature concerning bills affecting community associations.

**TRANSITION OF  
CONTROL**

One of the most pivotal times for a community association is during its transition from developer to homeowner control. The developer controls a common interest community during its formation. As lots or units are sold, transition from developer to homeowner control begins, with owners bearing the responsibility for the association's operation. Ideally this is a process rather than an isolated event. Over time, owners gradually become involved in the governance of the association. Altitude Community Law has assisted hundreds of associations with this process making for a smooth and problem-free transition.

**THE MATURE  
COMMUNITY  
ASSOCIATION**

Mature associations function best when they provide services to owners (as set forth in the governing legal documents) and responsibly enforce their governing documents and anticipate changing needs.

**REVIEWING,  
AMENDING AND  
INTERPRETING  
DOCUMENTS**

By periodically reviewing, amending or revising your association's articles of incorporation, bylaws, covenants, and rules, Altitude Community Law can help you build a strong, legally-sound foundation for your community. We can assist you by understanding your goals and redrafting, writing or amending rules, architectural control guidelines and covenants that address your association's needs within the framework of local, state and federal laws. We can also aid you in the proper interpretation and clarification of your governing documents.

**COVENANT  
ENFORCEMENT**

Two principles apply when addressing enforcement of covenants and rules. Covenants and rules must be carefully written to be enforceable and must be enforced consistently to retain their strength. The same principles apply when dealing with architectural control or design enforcement.

At Altitude Community Law, we can assist you in these important areas through use of our alternate dispute resolution services, or if need be, through our litigation services.

**CREATIVE  
PROBLEM  
SOLVING**

We've handled a wide variety of covenant enforcement issues and achieved many successes for our association clients. From painting and landscaping, to pets and parking, we have experience with virtually every imaginable covenant violation. While our goal is to resolve disputes outside of court, when litigation is necessary, we're strong advocates for associations. Not only do we have years of courtroom experience, but we also have years of industry

experience-insight that enables us to utilize creative solutions, as well as anticipate the challenges of a covenant violation lawsuit.

## **DEBT RECOVERY**

Financial well-being hinges on timely collection of association assessments. In addition to traditional collections methods such as demand letters, liens, and personal lawsuits, we've developed successful alternatives to use when traditional methods fail, including the use of receiverships and foreclosures. In the last two years we've collected approximately \$9 million in delinquent assessments and fees for our clients. No other firm can claim this degree of success.

Every collection matter in our office is handled by an attorney, not the paralegal-driven model that many law firms use. This difference provides for better representation, higher quality work and better results for our clients.

We are also the first firm to provide clients with online status reports of their collection accounts. The information is real-time account history accessed through a secure online system.

## **INSURANCE AUDIT**

At every stage of an association's maturity, it is important that the association have adequate insurance not only for the structures and improvements, but also for the board of directors. We can review your current policies for adequate coverage and to determine if your coverage complies with the requirements in your governing documents.

An association that isn't properly insured for general liability and property coverage, director and officer coverage, fidelity insurance, and gap coverage may be susceptible to lawsuits filed by owners. Our insurance audit can assist your association not only by determining any weaknesses in your coverage, but by recommending a more comprehensive insurance plan that will meet your needs and budget.

## **DISPUTE RESOLUTION/ LITIGATION**

We emphasize prevention of legal problems through thoughtful and thorough advice and counsel given prior to taking action or entering into transactions. When a legal problem does arise, we will assist you in finding the most practical and cost-effective solution. Our trial attorneys are not only experienced, but also have a long track record of winning in the courtroom. Our goal is to resolve disputes

outside of court whenever possible, and all Altitude Community Law attorneys have had formal training in mediation and negotiation.

But when a resolution cannot be found, we bring our extensive litigation experience to bear on behalf of our clients. We assess with you the benefits of litigation and weigh them against the costs and risks.

A wide variety of problems and needs come up in the course of governing and operating a homeowners association. Often the solution is not obvious. We enjoy taking both a creative and proactive approach and working with you to find legal solutions that allow you to do what your association wants to do. Altitude Community Law has gained a reputation for using ground-breaking methods and solving old problems in refreshing new ways.

Pertinent examples of such creative problem solving include:

- Negotiated and closed the first bond financing in the country by a homeowners association of 15 million dollars for various capital improvements.
- Negotiated and drafted a favorable annexation agreement that provided for substantial payment to the association.
- Identified and implemented procedures to collect working capital contribution from developer for use by association in a build-out community.
- Amended legal documents for a condominium community to create and sell a unit out of the common elements, with the proceeds going to the Association.
- Consolidated two associations into one, eliminating duplicate costs and overhead.

## **FINANCIAL CONSIDERATIONS**

From the beginning of our relationship with you, we welcome an open dialogue about the subject of fees and costs. We know how essential legal services are to your successful operation. We also know you must work within an established budget.



**HOW WE  
CHARGE FOR  
OUR  
SERVICES**

We have made every effort to package our services in a meaningful way that reflects their value to you. We strongly urge all associations to elect to be on one of our popular retainer programs. The retainer programs are set at levels to be a maximum benefit to your community. They further simplify the budgeting process by establishing a fixed monthly fee for certain services.

Additionally, whether you are on one of our retainer programs or not, fees for specific work are frequently quoted on a flat or fixed fee basis. We will work with you to select from these convenient options, or to create an alternative arrangement tailored to suit your needs.



#### Shareholder in Charge of Finance



**David A. Firmin :: Shareholder**

**Education:** University of Denver (B.A., 1991); University of Denver (J.D., 1998).

**Member:** Colorado Bar Association; Southwestern Colorado Bar Association; Community Associations Institute.

**Practice Areas:** Condominium and Homeowners' Association Law.

#### Shareholder in Charge of Practice



**Elina B. Gilbert :: Shareholder**

**Education:** University of Michigan, Ann Arbor, Michigan (B.A., 1993); University of Detroit Mercy School of Law (J.D., Cum Laude, 1997).

**Member:** American Bar Association; Michigan Bar Association; Community Associations Institute; College of Community Association Lawyers.

**Practice Areas:** Condominium and Homeowners' Association Law.

#### Debt Recovery



**Kiki N. Dillie :: Shareholder - Debt Recovery Department Head**

**Education:** University of Colorado (B.A., 2002); University of Colorado School of Law (J.D., 2008).

**Member:** Colorado Bar Association; Colorado Creditor Bar Association; Community Associations Institute.

**Practice Areas:** Collections.



**Amanda K. Ashley :: Partner**

**Education:** Central Methodist University (B.A., 2000); Marquette University Law School (J.D., 2004).

**Member:** Colorado Bar Association; Adams County Bar Association; Southwest Colorado Bar Association; Community Associations Institute; Wisconsin Non Resident Lawyer Division; Wisconsin Law Foundation Fellow

**Practice Areas:** Collections.



**Sheridan N. Classick :: Attorney**

**Education:** Metropolitan State University of Denver (B.A., 2015); Gonzaga School of Law (J.D., 2018).

**Member:** Colorado Bar Association; Denver Bar Association; Community Associations Institute.

**Practice Areas:** Collections.

## Litigation/Foreclosure/Covenant Enforcement



### **Jeffrey B. Smith :: Shareholder - Litigation Department Head**

**Education:** Providence College (B.A., 2005); University of Denver College of Law (J.D., 2008).

**Member:** Colorado Bar Association; Denver Bar Association; Community Associations Institute; Colorado Defense Lawyers Association.

**Practice Areas:** Covenant and Rule Enforcement Litigation; Insurance Defense; Civil Litigation; Contract Disputes; Fair Housing Law; Foreclosure.



### **William ("Bill") H. Short :: Partner**

**Education:** University of Vermont (B.A., 1979); Emory University School of Law (J.D., 1982).

**Member:** Colorado Bar Association; Denver Bar Association; Community Associations Institute. Colorado Defense Lawyers Association.

**Practice Areas:** Insurance Defense; D&O Liability; Construction Law; Civil Litigation; Contract Disputes; Fair Housing Law; Covenant and Rule Enforcement Litigation.



### **Debra J. Oppenheimer :: Partner**

**Education:** Metropolitan State College (B.S., 1986); University of Texas (J.D., 1989).

**Member:** Colorado Bar Association; El Paso Bar Association; Community Associations Institute.

**Practice Areas:** Covenant and Rule Enforcement Litigation; Insurance Defense; Civil Litigation; Contract Disputes; Fair Housing Law.



### **Kate M. Leason :: Attorney**

**Education:** University of Central Florida (B.A., 1987); University of South Florida (M.L.S., 2003); Barry University, Dwayne O'Andreas School of Law (J.D., 2008).

**Member:** Colorado Bar Association; Denver Bar Association; Community Associations Institute; American Association of Law Libraries.

**Practice Areas:** Foreclosure.



### **Jeremy B. Fletcher :: Attorney**

**Education:** Regis University (B.A., 2012); New England Law | Boston (J.D., 2017).

**Member:** Colorado Bar Association; Community Associations Institute.

**Practice Areas:** Covenant and Rule Enforcement Litigation

## Transactional



### **Melissa M. Garcia :: Shareholder - Business Development Department Head**

**Education:** University of Nevada, Reno (B.A., 1996); California Western School of Law (J.D., 1999).

**Member:** Community Associations Institute.

**Practice Areas:** Condominium and Homeowners' Association Law.



**David A. Closson :: Shareholder – Business Law Group Department Head**

**Education:** Colorado State University (B.A., 1995); University of Colorado (M.B.A., 2002); University of Colorado (J.D., 2002).

**Member:** Community Associations Institute.

**Practice Areas:** Business; Condominium and Homeowners' Association Law.



**Maris S. Davies :: Partner - Transactional Department Head**

**Education:** Ithaca College (B.S., 2001); University of Denver (J.D., 2009).

**Member:** Colorado Bar Association; Community Association Institute.

**Practice Areas:** Condominium and Homeowners' Association Law.



**Angela N. Hopkins :: Attorney**

**Education:** Metropolitan State University of Denver (B.A., 2015); University of Denver Sturm College of Law (J.D. 2015).

**Member:** Colorado Bar Association – Real Estate Law Section;

**Practice Areas:** Condominium and Homeowners Association Law.

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| <b>TITLE</b>                   | Special counsel fee agreement            |
| <b>FILE NAME</b>               | Legal Services Pr...552461xA12BD).pdf    |
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## Document History



SENT

**08 / 06 / 2022**

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(pmalone@highlanddevelopmentco.com) from pripko@sdmsi.com  
IP: 50.78.200.153



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**08 / 07 / 2022**

14:32:41 UTC

Viewed by Paul (pmalone@highlanddevelopmentco.com)  
IP: 174.198.144.75



SIGNED

**08 / 07 / 2022**

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COMPLETED

**08 / 07 / 2022**

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The document has been completed.