

# BERKLEY SHORES METROPOLITAN DISTRICT

141 Union Boulevard, Suite 150  
Lakewood, Colorado 80228-1898  
Tel: 303-987-0835 • 800-741-3254  
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## NOTICE OF SPECIAL MEETING AND AGENDA

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

DATE: November 1, 2021 (Monday)

TIME: 10:00 A.M.

LOCATION: 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.

### I. PUBLIC COMMENT

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.

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C. Consider approval of Minutes from June 7, 2021 Special Meeting (enclosure).

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### III. FINANCIAL MATTERS

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

Fund	Period Ending May 31, 2021	Period Ending June 30, 2021	Period Ending July 31, 2021	Period Ending 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 August Special Payment	Period Ending Sept. 30, 2021	Period Ending 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>

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- B. Review and accept the unaudited financial statements through the period ending September 30, 2021 and Schedule of Cash Position updated as of September 30, 2021 (enclosure).
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- C. Review and ratify approval of 2020 Audit and ratify authorization of execution of Representations Letter (audit – enclosed).
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- D. Consider engagement of Simmons & Wheeler, P.C. for preparation of 2021 Audit, in the amount of \$\_\_\_\_\_ (to be distributed).
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- E. Public Hearing on Proposed 2021 Budget Amendment:
1. Consider Approval of Resolution Approving Proposed 2021 Budget Amendment and Appropriate Sums of Money (if necessary).
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- F. Public Hearing on Proposed 2022 Budget:
1. Consider Approval of Resolution Approving Proposed 2022 Budget, Certification of Mill Levy, and Appropriate Sums of Money (enclosures – preliminary AV, draft 2022 Budget, and Resolution).
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- G. Discuss and consider acceptance of any new Cost Verifications Report from Ranger Engineering, LLC.
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- H. Consider approval of reimbursement to HDC 6300 Lowell Boulevard, LLLP under Facilities Funding and Acquisition Agreement of any amount of costs verified by Ranger Engineering, LLC. Authorize and approve requisition of funds pursuant to the 2020 Bonds, and authorize necessary action in conjunction therewith.
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#### IV. LEGAL MATTERS

A. Consider Adoption of Annual Resolution (enclosure):

1. Election of Officers.

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2. Regular Meeting Date/Location.

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3. Discuss §32-1-809, C.R.S., Transparency Notice reporting requirements and mode of eligible elector notification (2022 SDA Website).

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4. Consider 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.

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B. Consider Approval of Election Resolution (enclosure). Self-Nomination forms are due by February 25, 2022. Discuss the need for ballot issues and/or questions.

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C. 2021 Legislative Report (enclosure).

1. Website Compliance (enclosure).

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#### V. COVENANT ENFORCEMENT MATTERS

A. Executive session, pursuant to Section 24-6-402(4)(b), C.R.S., for the purpose of receiving legal advice on specific legal questions related to covenant enforcement.

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B. Consider Approval of Resolution Adopting an Amended Covenant Enforcement Policy (enclosure).

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C. Consider Approval of Resolution Adopting Amended Rules and Regulations of Berkley Shores (enclosure).

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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: **THERE ARE NO MORE REGULAR MEETINGS SCHEDULED FOR 2021.**

## 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 JUNE 7, 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, June 7, 2021, at 8:00 a.m. Due to concerns regarding the spread of the Coronavirus (COVID-19) and the benefits to the control of the spread of the virus by limiting in-person contact, this District Board meeting was held via conference call at 1-877-25-3814, Passcode: 5592663. The meeting was open to the public via conference call.

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Directors In Attendance Were:

Philip Clow  
Natalie Satt  
Michael Martines

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

Also In Attendance Were:

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

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

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#### **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.

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#### **PUBLIC COMMENTS**

There were no public comments at this time.

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## 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 Satt, seconded by Director Clow and, upon vote unanimously carried, the Agenda for the special meeting was approved, as presented.

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

**Designation of 24-Hour Posting Location:** Following discussion, upon motion duly made by Director Satt, seconded by Director Clow, and upon vote unanimously carried, the Board determined that notice of meetings of the District Board required pursuant to Section 24-6-402(2)(c), C.R.S., shall be posted within the boundaries of the District as least 24 hours prior to each meeting at the following location: on a post within the boundaries of the District.

**Minutes:** The Board reviewed the Minutes of the November 2, 2020 and January 11, 2021 Special Meetings.

Following discussion, upon motion duly made by Director Satt, seconded by Director Clow and, upon vote, unanimously carried, the Minutes of the November 2, 2020 and January 11, 2021 Special Meetings were approved, as presented.

**2021 SDA Conference:** Mr. Solin discussed the SDA Conference with the Board and noted the information concerning the details of the conference will be emailed to them once the information is available.

### **FINANCIAL MATTERS**

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

## RECORD OF PROCEEDINGS

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Fund	Period Ending Nov. 20, 2020	Period Ending Dec. 20, 2020	Period Ending Jan. 21, 2021	Period Ending Feb. 10, 2021
General	\$ 3,630.54	\$ 4,419.19	\$ 1,202.60	\$ 1,717.50
Debt	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Capital	\$ 3,904.80	\$ 5,367.60	\$ 1,710.19	\$ 7,196.10
<b>Total</b>	<b>\$ 7,535.34</b>	<b>\$ 9,786.79</b>	<b>\$ 2912.79</b>	<b>\$ 8,913.60</b>

Fund	Period Ending March 31, 2021	Period Ending April 30, 2021
General	\$ 1,672.89	\$ 766.70
Debt	\$ -0-	\$ -0-
Capital	\$ 1,876.45	\$ 905.10
<b>Total</b>	<b>\$ 3,549.34</b>	<b>\$ 1,671.80</b>

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

**Unaudited Financials and Cash Position Schedule:** Mr. Solin reviewed for the Board the unaudited financial statements of the District setting forth the cash deposits, investments, budget analysis, and accounts payable vouchers for the period ending March 31, 2021 and the schedule of cash position statement updated as of March 31, 2021.

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

**2020 Audit:** Mr. Solin discussed with the Board the status of the 2020 Audit.

Following discussion, upon motion duly made by Director Satt, seconded by Director Clow and, upon vote, unanimously carried, the Board authorized Simmons & Wheeler PC to file a request for an extension of time to file the 2020 Audit with the State Auditor's office.

**2022 Budget Preparation:** The Board discussed the preparation of the 2022 Budget.

Following discussion, upon motion duly made by Director Satt, seconded by Director Clow and, upon vote, unanimously carried, the Board appointed the District Accountant to prepare the 2022 Budget. The Board determined to hold

## RECORD OF PROCEEDINGS

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the public hearing to consider adoption of the 2022 Budget on November 1, 2021, at 10:00 a.m., at Highland Development Company, LLC, 2100 Downing St. Denver, CO 80205.

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

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

### **LEGAL MATTERS**

**Resolution Designating an Official Custodian for the Colorado Open Records Act:** The Board reviewed a Resolution Designating an Official Custodian for the Colorado Open Records Act.

Following discussion, upon motion duly made by Director Satt, seconded by Director Clow and, upon vote, unanimously carried, the Board adopted the Resolution Designating an Official Custodian for the Colorado Open Records Act.

**Rules Related to Requests for Inspection of Public Records Pursuant to Colorado Open Records Act:** The Board reviewed the Rules Related to Requests for Inspection of Public Records Pursuant to Colorado Open Records Act.

The Official Custodian adopted the Rules Related to Requests for Inspection of Public Records Pursuant to the Colorado Open Records Act, Sections 24-72-200.1 *et seq.*, C.R.S.

### **COVENANT ENFORCEMENT MATTERS**

**Updates on Covenants:** Attorney Ivey reported to the Board that she is reviewing the Covenants for possible revisions that may be necessary related to recent court actions relative to other Colorado Districts.

### **CONSTRUCTION MATTERS**

**Development:** The Board entered into discussion regarding the status of the development. No action was necessary by the Board.

### **OTHER BUSINESS**

**Transition of General Counsel:** Attorney Ivey provided an update to the Board on the transition of counsel. No action was taken by the Board.



## 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, seconded and, upon vote unanimously carried, the meeting was adjourned.

Respectfully submitted,

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

\_\_\_\_\_

**Berkley Shores Metropolitan District  
May-21**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Icenogle Seaver Pogue, P.C.	19854	4/30/2021	5/4/2021	\$ 629.40	Legal	3675
Icenogle Seaver Pogue, P.C.	19854	4/30/2021	5/4/2021	\$ 419.60	Legal	1675
McGeady Becher P.C.	1415B 03/2021	3/31/2021	5/19/2021	\$ -	Legal	1675
McGeady Becher P.C.	1415B 11/2020 bonds only	11/30/2020	5/18/2021	\$ 89.10	Legal	3675
McGeady Becher P.C.	1415B 11/2020 bonds only	11/30/2020	5/18/2021	\$ 59.40	Legal	1675
McGeady Becher P.C.	1415B 09/2020 Bonds Only	9/30/2020	5/18/2021	\$ 1,960.33	Legal	3675
McGeady Becher P.C.	1415B 09/2020 Bonds Only	9/30/2020	5/18/2021	\$ 1,306.88	Legal	1675
Special District Management Services	Apr-21	4/30/2021	5/19/2021	\$ 218.40	Management	3614
Special District Management Services	Apr-21	4/30/2021	5/19/2021	\$ 54.58	Miscellaneous	1685
Special District Management Services	Apr-21	4/30/2021	5/19/2021	\$ 504.00	Accounting	3612
Special District Management Services	Apr-21	4/30/2021	5/19/2021	\$ 66.50	Property Management	1710
Special District Management Services	Apr-21	4/30/2021	5/19/2021	\$ 336.00	Accounting	1612
Special District Management Services	Apr-21	4/30/2021	5/19/2021	\$ 145.60	Management	1614
				\$ 5,789.79		

**Berkley Shores Metropolitan District**  
**May-21**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	<b>\$ 2,388.56</b>		<b>\$ 3,401.23</b>	<b>\$ 5,789.79</b>
<b>Total Disbursements from Checking Acct</b>	<b>\$2,388.56</b>	<b>\$0.00</b>	<b>\$3,401.23</b>	<b>\$5,789.79</b>

**Berkley Shores Metropolitan District**  
**June-21**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Icenogle Seaver Pogue, P.C.	19997	5/31/2021	6/3/2021	\$ 439.20	Legal	3675
Icenogle Seaver Pogue, P.C.	19997	5/31/2021	6/3/2021	\$ 292.80	Legal	1675
McGeady Becher P.C.	1415B 04/2021	4/30/2021	4/30/2021	\$ -	Legal	1675
Special District Management Services	May-21	5/31/2021	5/31/2021	\$ 638.40	Management	3614
Special District Management Services	May-21	5/31/2021	5/31/2021	\$ 48.16	Miscellaneous	1685
Special District Management Services	May-21	5/31/2021	5/31/2021	\$ 520.80	Accounting	3612
Special District Management Services	May-21	5/31/2021	5/31/2021	\$ 47.50	Property Management	1710
Special District Management Services	May-21	5/31/2021	5/31/2021	\$ 347.20	Accounting	1612
Special District Management Services	May-21	5/31/2021	5/31/2021	\$ 425.60	Management	1614
				\$ 2,759.66		

**Berkley Shores Metropolitan District  
June-21**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	<b>\$ 1,161.26</b>		<b>\$ 1,598.40</b>	<b>\$ 2,759.66</b>
<b>Total Disbursements from Checking Acct</b>	<b>\$1,161.26</b>	<b>\$0.00</b>	<b>\$1,598.40</b>	<b>\$2,759.66</b>

**Berkley Shores Metropolitan District  
July-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>
Crestview Water & Sanitation District	1430	5/28/2021	6/21/2021	\$ 50.05	Utilities	1762
Icenogle Seaver Pogue, P.C.	20132	6/30/2021	6/30/2021	\$ 604.20	Legal	3675
Icenogle Seaver Pogue, P.C.	20132	6/30/2021	6/30/2021	\$ 402.80	Legal	1675
Special District Management Services	Jun-21	6/30/2021	6/30/2021	\$ 365.10	Management	3614
Special District Management Services	Jun-21	6/30/2021	6/30/2021	\$ 41.16	Miscellaneous	1685
Special District Management Services	Jun-21	6/30/2021	6/30/2021	\$ 294.00	Accounting	3612
Special District Management Services	Jun-21	6/30/2021	6/30/2021	\$ 76.00	Property Management	1710
Special District Management Services	Jun-21	6/30/2021	6/30/2021	\$ 196.00	Accounting	1612
Special District Management Services	Jun-21	6/30/2021	6/30/2021	\$ 243.40	Management	1614
				\$2,272.71		

**Berkley Shores Metropolitan District**  
**July-21**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	<b>\$ 1,009.41</b>		<b>\$ 1,263.30</b>	<b>\$ 2,272.71</b>
<b>Total Disbursements from Checking Acct</b>	<b>\$1,009.41</b>	<b>\$0.00</b>	<b>\$1,263.30</b>	<b>\$2,272.71</b>

**Berkley Shores Metropolitan District**  
**August-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>
Icenogle Seaver Pogue, P.C.	20289	7/31/2021	7/31/2021	\$ 523.20	Legal	3675
Icenogle Seaver Pogue, P.C.	20289	7/31/2021	7/31/2021	\$ 348.80	Legal	1675
McGeady Becher P.C.	1415B 06/2021	6/30/2021	6/30/2021	\$ -	Legal	1675
Special District Management Services	Jul-21	7/31/2021	7/31/2021	\$ 159.60	Management	3614
Special District Management Services	Jul-21	7/31/2021	7/31/2021	\$ 75.76	Miscellaneous	1685
Special District Management Services	Jul-21	7/31/2021	7/31/2021	\$ 462.00	Accounting	3612
Special District Management Services	Jul-21	7/31/2021	7/31/2021	\$ 313.50	Property Management	1710
Special District Management Services	Jul-21	7/31/2021	7/31/2021	\$ 308.00	Accounting	1612
Special District Management Services	Jul-21	7/31/2021	7/31/2021	\$ 106.40	Management	1614
				\$ 2,297.26		



**Berkley Shores Metropolitan District**  
**August-21**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	\$ 2,297.26			\$ 2,297.26
<b>Total Disbursements from Checking Acct</b>	<b>\$2,297.26</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$2,297.26</b>

**Berkley Shores Metropolitan District**

**August-21**

**SPECIAL PAYMENT**

<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	6/23/2021	8/4/2021	\$ 1,656.07	Utilities	1762
Crestview Water & Sanitation District	1432	7/21/2021	8/21/2021	\$ 1,392.17	Utilities	1762
				\$ 3,048.24		

**Berkley Shores Metropolitan District**  
**August-21**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	<b>\$ 3,048.24</b>			<b>\$ 3,048.24</b>
<b>Total Disbursements from Checking Acct</b>	<b>\$3,048.24</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$3,048.24</b>

**Berkley Shores Metropolitan District  
September-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>
Crestview Water & Sanitation District	1433	8/22/2021	8/23/2021	\$1,379.39	Utilities	1762
Icenogle Seaver Pogue, P.C.	20446	8/31/2021	8/31/2021	\$ -	Legal	1675
McGeady Becher P.C.	1415B 07/2021	7/31/2021	7/31/2021	\$ -	Legal	1675
Special District Management Services	Aug-21	8/31/2021	8/31/2021	\$ 218.40	Management	3614
Special District Management Services	Aug-21	8/31/2021	8/31/2021	\$ 41.34	Miscellaneous	1685
Special District Management Services	Aug-21	8/31/2021	8/31/2021	\$ 756.00	Accounting	3612
Special District Management Services	Aug-21	8/31/2021	8/31/2021	\$ 28.50	Property Management	1710
Special District Management Services	Aug-21	8/31/2021	8/31/2021	\$ 504.00	Accounting	1612
Special District Management Services	Aug-21	8/31/2021	8/31/2021	\$ 145.60	Management	1614
UMB Bank N.A.	884658	8/9/2021	8/9/2021	\$4,000.00	Paying Agent/Trustee Fees	2668
				\$7,073.23		

**Berkley Shores Metropolitan District  
September-21**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	<b>\$ 3,073.23</b>	<b>\$ 4,000.00</b>		<b>\$ 7,073.23</b>
<b>Total Disbursements from Checking Acct</b>	<b>\$3,073.23</b>	<b>\$4,000.00</b>	<b>\$0.00</b>	<b>\$7,073.23</b>

**Berkley Shores Metropolitan District  
October-21**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Colorado Special District Property & Liability Pool	POL-0007284-2	9/24/2021	9/24/2021	\$ 450.00	Pre-Paid Insurance	1143
Crestview Water & Sanitation District	1432-09/21	9/23/2021	10/21/2021	\$ 2,291.73	Utilities	1762
Icenogle Seaver Pogue, P.C.	20641	9/30/2021	9/30/2021	\$ 571.00	Legal	1675
McGeady Becher P.C.	1415B 08/2021	8/31/2021	8/31/2021	\$ -	Legal	1675
Special District Management Services	Sep-21	9/30/2021	9/30/2021	\$ 336.60	Management	3614
Special District Management Services	Sep-21	9/30/2021	9/30/2021	\$ 40.49	Miscellaneous	1685
Special District Management Services	Sep-21	9/30/2021	9/30/2021	\$ 537.60	Accounting	3612
Special District Management Services	Sep-21	9/30/2021	9/30/2021	\$ 19.00	Property Management	1710
Special District Management Services	Sep-21	9/30/2021	9/30/2021	\$ 358.40	Accounting	1612
Special District Management Services	Sep-21	9/30/2021	9/30/2021	\$ 224.40	Management	1614
Waste Management of Colorado, Inc.	7316121-2514-6	10/1/2021	10/31/2021	\$ 21.30	Miscellaneous	1685
Waste Management of Colorado, Inc.	7251597-2514-4	9/1/2021	10/1/2021	\$ 21.45	Miscellaneous	1685
				\$ 4,871.97		

**Berkley Shores Metropolitan District  
October-21**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	<b>\$ 3,997.77</b>		<b>\$ 874.20</b>	<b>\$ 4,871.97</b>
<b>Total Disbursements from Checking Acct</b>	<b>\$3,997.77</b>	<b>\$0.00</b>	<b>\$874.20</b>	<b>\$4,871.97</b>

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Schedule of Cash Position**  
**September 30, 2021**

	<u>Rate</u>	<u>Operating</u>	<u>Debt Service</u>	<u>Capital Projects</u>	<u>Total</u>
<b>Checking:</b>					
First Bank		\$ (2,786.23)	\$ (4,000.00)	\$ (231.85)	\$ (7,018.08)
<b>Trustee:</b>					
UMB Bond Fund		-	243,205.33	-	243,205.33
UMB Reserve Fund		-	218,041.20	-	218,041.20
<b>Total Funds</b>		<u><u>\$ (2,786.23)</u></u>	<u><u>\$ 457,246.53</u></u>	<u><u>\$ (231.85)</u></u>	<u><u>\$ 454,228.45</u></u>

**2021 Mill Levy Information**

Certified General Fund Mill Levy	25.000
Certified Debt Service Fund Mill Levy	<u>35.000</u>
Total Certified Mill Levy	<u><u>60.000</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**

**September 30, 2021**

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**COMBINED BALANCE SHEET - ALL FUND TYPES AND ACCOUNT GROUPS**  
**September 30, 2021**

	<b>GENERAL</b>	<b>DEBT SERVICE</b>	<b>CAPITAL PROJECTS</b>	<b>LONG-TERM DEBT</b>	<b>TOTAL MEMO ONLY</b>
<b><u>Assets and Other Debits</u></b>					
<b>Assets</b>					
Cash in Bank - FirstBank	\$ (2,786)	\$ (4,000)	\$ (232)	\$ -	\$ (7,018)
UMB Bond Fund	-	243,205	-	-	243,205
UMB Reserve Fund	-	218,041	-	-	218,041
Cash with County Treasurer	4,121	5,769	-	-	9,890
Property Taxes Receivable	779	1,090	-	-	1,869
Total Current Assets	<u>2,114</u>	<u>464,106</u>	<u>(232)</u>	<u>-</u>	<u>465,987</u>
<b>Other Debits</b>					
Amount in Debt Service Fund	-	-	-	463,016	463,016
Amount to be Provided for Debt	-	-	-	1,919,421	1,919,421
Total Other Debits	<u>-</u>	<u>-</u>	<u>-</u>	<u>2,382,437</u>	<u>2,382,437</u>
<b>Total Assets</b>	<u>\$ 2,114</u>	<u>\$ 464,106</u>	<u>\$ (232)</u>	<u>\$ 2,382,437</u>	<u>\$ 3,342,304</u>
<b>Liabilities</b>					
2020A Bonds Payable	\$ -	\$ -	\$ -	\$ 2,312,000	\$ 2,312,000
Op Funding - Due Developer	-	-	-	29,918	29,918
Op Funding - Accrued Interest	-	-	-	1,270	1,270
Cap Funding - Due Developer	-	-	-	37,581	37,581
Cap Funding - Accrued Interest	-	-	-	1,669	1,669
Total Liabilities	<u>-</u>	<u>-</u>	<u>-</u>	<u>2,382,437</u>	<u>2,382,437</u>
<b>Deferred Inflows of Resources</b>					
Deferred Property taxes	779	1,090	-	-	1,869
Total Deferred Inflows of Resources	<u>779</u>	<u>1,090</u>	<u>-</u>	<u>-</u>	<u>1,869</u>
<b>Fund Balance</b>					
Fund Balance	0	521,751	1,031,073	-	1,552,824
Current Year Earnings	1,334	(58,735)	(1,031,305)	-	(1,088,705)
Total Fund Balances	<u>1,335</u>	<u>463,016</u>	<u>(232)</u>	<u>-</u>	<u>957,998</u>
<b>Total Liabilities, Deferred Inflows of Resources and Fund Balance</b>	<u>\$ 2,114</u>	<u>\$ 464,106</u>	<u>\$ (232)</u>	<u>\$ 2,382,437</u>	<u>\$ 3,342,304</u>

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Statement of Revenues, Expenditures and**  
**Change in Fund Balance - Budget and Actual**  
**For the 9 Months Ending**  
**September 30, 2021**  
**General Fund**

<b>Account Description</b>	<b>Period Actual</b>	<b>YTD Actual</b>	<b>Budget</b>	<b>Favorable (Unfavorable) Variance</b>	<b>% of Budget</b>
<b>Revenues</b>					
Developer Advance	\$ 8,760	\$ 16,371	175,000	\$ (158,629)	9.4%
Property Tax Revenue	4,121	4,121	4,900	(779)	84.1%
Specific Ownership Taxes	-	-	294	(294)	0.0%
<b>Total Revenues</b>	<b>12,881</b>	<b>20,492</b>	<b>180,194</b>	<b>(159,702)</b>	<b>11.4%</b>
<b>Expenditures</b>					
Accounting	1,008	3,158	15,000	11,842	21.1%
Management	495	1,686	17,500	15,814	9.6%
Audit	-	-	5,000	5,000	0.0%
Insurance/SDA Dues	-	3,068	8,000	4,932	38.4%
Utilities	4,478	4,478	25,000	20,522	17.9%
Legal	692	4,839	15,000	10,161	32.3%
Miscellaneous	411	1,111	2,000	889	55.5%
Treasurer's Fees	-	-	74	74	0.0%
Property Management	418	817	14,400	13,583	0.06
Snow Removal	-	-	13,000	13,000	0.0%
Landscape Maintenance	-	-	20,000	20,000	0.0%
Irrigation Repair	-	-	1,500	1,500	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	-	-	12,500	12,500	0.0%
Emergency Reserve	-	-	5,406	5,406	0.0%
<b>Total Expenditures</b>	<b>7,502</b>	<b>19,157</b>	<b>176,880</b>	<b>157,723</b>	<b>10.8%</b>
Excess (Deficiency) of Revenues Over Expenditures	5,378	1,334	3,314	(1,980)	
Beginning Fund Balance	(4,044)	0	4,500	(4,500)	
<b>Ending Fund Balance</b>	<b>\$ 1,335</b>	<b>\$ 1,335</b>	<b>\$ 7,814</b>	<b>\$ (6,479)</b>	

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Statement of Revenues, Expenditures and**  
**Change in Fund Balance - Budget and Actual**  
**For the 9 Months Ending**  
**September 30, 2021**  
**Debt Service Fund**

<b>Account Description</b>	<b>Period Actual</b>	<b>YTD Actual</b>	<b>Budget</b>	<b>Favorable (Unfavorable) Variance</b>	<b>% of Budget</b>
<b>Revenues</b>					
Property Tax Revenue	\$ -	\$ 5,769	\$ 6,859	\$ (1,090)	84.1%
Specific Ownership Tax	-	-	412	(412)	0.0%
Interest Income	66	237	-	237	-
<b>Total Revenues</b>	<u>66</u>	<u>6,006</u>	<u>7,271</u>	<u>(1,265)</u>	<u>82.6%</u>
<b>Expenditures</b>					
Bond Interest	60,690	60,690	121,380	60,690	50.0%
Paying Agent/Trustee Fees	26	4,082	5,500	1,418	74.2%
Miscellaneous	-	-	250	250	0.0%
Contingency	-	-	10,000	10,000	0.0%
<b>Total Expenditures</b>	<u>60,716</u>	<u>64,772</u>	<u>137,130</u>	<u>72,358</u>	<u>47.2%</u>
Excess (Deficiency) of Revenues Over Expenditures	(60,650)	(58,766)	(129,859)	71,093	
<b>Transfers and Other Sources (Uses)</b>					
Transfer from Capital Projects	-	31	-	31	
<b>Total Transfers</b>	<u>-</u>	<u>31</u>	<u>-</u>	<u>31</u>	
Change in Fund Balance	(60,650)	(58,735)	(129,859)	71,124	
Beginning Fund Balance	523,666	521,751	521,480	271	
<b>Ending Fund Balance</b>	<u>\$ 463,016</u>	<u>\$ 463,016</u>	<u>\$ 391,621</u>	<u>\$ 71,395</u>	

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Statement of Revenues, Expenditures and**  
**Change in Fund Balance - Budget and Actual**  
**For the 9 Months Ending,**  
**September 30, 2021**  
**Capital Projects Fund**

<u>Account Description</u>	<u>Period Actual</u>	<u>YTD Actual</u>	<u>Budget</u>	<u>Under/(Over) Budget</u>	<u>% of Budget</u>
<b>Revenues</b>					
Developer Advance	\$ 9,978	\$ 24,463	\$ -	\$ 24,463	-
Interest Income	-	43	-	43	-
<b>Total Revenues</b>	<u>10,021</u>	<u>24,506</u>	<u>-</u>	<u>24,506</u>	<u>-</u>
<b>Expenditures</b>					
Accounting	1,529	4,738	-	(4,738)	-
Management	989	2,530	8,000	5,470	31.6%
Legal	2,734	5,625	12,000	6,375	46.9%
Miscellaneous	-	24	-	(24)	-
Engineering	-	4,725	5,400	675	87.5%
<b>Total Expenditures</b>	<u>5,251</u>	<u>17,641</u>	<u>25,400</u>	<u>7,759</u>	<u>69.5%</u>
Excess (Deficiency) of Revenues Over Expenditures	4,770	6,865	(25,400)	32,265	
<b>Transfers and Other Sources (Uses)</b>					
Transfer to Debt Service Fund	-	(31)	-	(31)	
Reimburse Developer Advances	-	(1,038,139)	-	(1,038,139)	
<b>Total Transfers and Other Sources (Uses)</b>	<u>-</u>	<u>(1,038,170)</u>	<u>-</u>	<u>(1,038,170)</u>	
Change in Fund Balance	4,770	(1,031,305)	(25,400)	(1,005,905)	
Beginning Fund Balance	(5,001)	1,031,073	4,031,869	(3,000,796)	
<b>Ending Fund Balance</b>	<u>\$ (232)</u>	<u>\$ (232)</u>	<u>\$ 4,006,469</u>	<u>\$ (4,006,701)</u>	

BERKLEY SHORES METROPOLITAN DISTRICT

Financial Statements

Year Ended December 31, 2020

with

Independent Auditors' Report

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Board of Directors  
Berkley Shores Metropolitan District  
Adams County, Colorado

### Independent Auditors' Report

We have audited the accompanying financial statements of the governmental activities and each major fund of the Berkley Shores Metropolitan District, as of and for the year ended December 31, 2020, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

#### ***Management's Responsibility for the Financial Statements***

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

#### ***Auditor's Responsibility***

Our responsibility is to express opinions on these financial statements based on our audit. We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the District's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting principles used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

#### ***Opinions***

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and each major fund of the Berkley Shores Metropolitan District as of December 31, 2020, and the respective changes in financial position and the respective budgetary comparison for the General Fund for the year then ended in accordance with accounting principles generally accepted in the United States of America.



### ***Other-Matters***

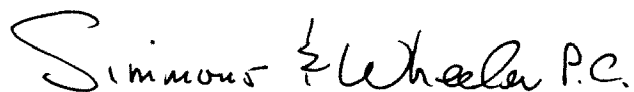
#### ***Required Supplementary Information***

Management has omitted the management's discussion and analysis that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

#### ***Other Information***

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise Berkley Shores Metropolitan District's basic financial statements. The supplementary information as listed in the table of contents is presented for purposes of additional analysis and is not a required part of the basic financial statements.

The supplementary information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

A handwritten signature in black ink that reads "Simmons & Wheeler P.C." in a cursive, flowing script.

Englewood, CO  
September 30, 2021

# BERKLEY SHORES METROPOLITAN DISTRICT

## BALANCE SHEET/STATEMENT OF NET POSITION GOVERNMENTAL FUNDS December 31, 2020

	<u>General</u>	<u>Debt Service</u>	<u>Capital Projects</u>	<u>Total</u>	<u>Adjustments</u>	Statement of <u>Net Position</u>
<b>ASSETS</b>						
Cash	\$ 679	\$ -	\$ -	\$ 679	\$ -	\$ 679
Cash - restricted	-	521,751	1,038,151	1,559,902	-	1,559,902
Developer Advance Receivable	2,168	-	-	2,168	(2,168)	-
Property taxes receivable	4,900	6,859	-	11,759	-	11,759
Prepaid expenses	2,775	-	-	2,775	-	2,775
Capital assets not being depreciated	-	-	-	-	493,879	493,879
Total Assets	<u>\$ 10,522</u>	<u>\$ 528,610</u>	<u>\$1,038,151</u>	<u>\$ 1,577,283</u>	<u>491,711</u>	<u>2,068,994</u>
<b>LIABILITIES</b>						
Accounts payable	\$ 5,622	\$ -	\$ 7,078	\$ 12,700	-	12,700
Accrued interest on bonds	-	-	-	-	10,115	10,115
Long-term liabilities:						
Due in more than one year	-	-	-	-	2,336,591	2,336,591
Total Liabilities	<u>5,622</u>	<u>-</u>	<u>7,078</u>	<u>12,700</u>	<u>2,346,706</u>	<u>2,359,406</u>
<b>DEFERRED INFLOWS OF RESOURCES</b>						
Deferred property taxes	<u>4,900</u>	<u>6,859</u>	<u>-</u>	<u>11,759</u>	<u>-</u>	<u>11,759</u>
Total Deferred Inflows of Resources	<u>4,900</u>	<u>6,859</u>	<u>-</u>	<u>11,759</u>	<u>-</u>	<u>11,759</u>
<b>FUND BALANCES/NET POSITION</b>						
Fund Balances:						
Nonspendable:						
Prepays	2,775	-	-	2,775	(2,775)	-
Restricted:						
Emergencies	5,406	-	-	5,406	(5,406)	-
Debt service	-	521,751	-	521,751	(521,751)	-
Capital projects	-	-	1,031,073	1,031,073	(1,031,073)	-
Unassigned	<u>(8,181)</u>	<u>-</u>	<u>-</u>	<u>(8,181)</u>	<u>8,181</u>	<u>-</u>
Total Fund Balances	<u>-</u>	<u>521,751</u>	<u>1,031,073</u>	<u>1,552,824</u>	<u>(1,552,824)</u>	<u>-</u>
Total Liabilities, Deferred Inflows of of Resource and Fund Balances	<u>\$ 10,522</u>	<u>\$ 528,610</u>	<u>\$1,038,151</u>	<u>\$ 1,577,283</u>		
<b>Net Position:</b>						
Restricted for:						
Emergencies					5,406	5,406
Debt service					511,636	511,636
Capital projects					1,031,073	1,031,073
Unrestricted					<u>(1,850,286)</u>	<u>(1,850,286)</u>
Total Net Position					<u>\$ (302,171)</u>	<u>\$ (302,171)</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, 2020

	<u>General</u>	<u>Debt Service</u>	<u>Capital Projects</u>	<u>Total</u>	<u>Adjustments</u>	<u>Statement of Activities</u>
<b>EXPENDITURES</b>						
General expenses:						
Accounting	\$ 2,825	\$ -	\$ 4,231	\$ 7,056	\$ -	\$ 7,056
Audit	42	-	-	42	-	42
Insurance	84	-	-	84	-	84
Legal	6,842	-	10,262	17,104	-	17,104
Management fees	2,215	-	3,077	5,292	-	5,292
Miscellaneous expenses	969	-	-	969	-	969
Property management	570	-	-	570	-	570
Capital outlay:						
Engineering	-	-	2,625	2,625	-	2,625
Capital outlay	-	-	493,879	493,879	(493,879)	-
Repayment of developer advances	-	-	493,879	493,879	(493,879)	-
Debt service:						
Bond interest expense	-	29,671	-	29,671	10,115	39,786
Paying agent/trustee fees	-	6,092	-	6,092	-	6,092
Bond issuance costs	-	223,476	-	223,476	-	223,476
Developer advance interest	-	-	-	-	95	95
Total Expenditures	<u>13,547</u>	<u>259,239</u>	<u>1,007,953</u>	<u>1,280,739</u>	<u>(977,548)</u>	<u>303,191</u>
<b>GENERAL REVENUES</b>						
Interest income	<u>-</u>	<u>1,020</u>	<u>-</u>	<u>1,020</u>	<u>-</u>	<u>1,020</u>
Total General Revenues	<u>-</u>	<u>1,020</u>	<u>-</u>	<u>1,020</u>	<u>-</u>	<u>1,020</u>
<b>EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES</b>						
	(13,547)	(258,219)	(1,007,953)	(1,279,719)	977,548	(302,171)
<b>OTHER FINANCING SOURCES (USES)</b>						
Bond proceeds	-	2,312,000	-	2,312,000	(2,312,000)	-
Developer advances	13,547	-	506,996	520,543	(520,543)	-
Transfers in (out)	<u>-</u>	<u>(1,532,030)</u>	<u>1,532,030</u>	<u>-</u>	<u>-</u>	<u>-</u>
Total Other Financing Sources (Uses)	<u>13,547</u>	<u>779,970</u>	<u>2,039,026</u>	<u>2,832,543</u>	<u>(2,832,543)</u>	<u>-</u>
NET CHANGES IN FUND BALANCES	-	521,751	1,031,073	1,552,824	(1,552,824)	
CHANGE IN NET POSITION					(302,171)	(302,171)
<b>FUND BALANCES/NET POSITION:</b>						
BEGINNING OF YEAR	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
END 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>

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, 2020

	Original <u>Budget</u>	Original and <u>Final Budget</u>	<u>Actual</u>	Variance Favorable (Unfavorable)
REVENUES				
Interest Income	\$ -	\$ -	\$ -	\$ -
Total Revenues	-	-	-	-
EXPENDITURES				
Accounting	8,000	8,000	2,825	5,175
Audit	1,000	1,000	42	958
Election	1,000	1,000	-	1,000
Insurance	3,500	3,500	84	3,416
Legal	15,000	15,000	6,842	8,158
Management fees	15,000	15,000	2,215	12,785
Miscellaneous expenses	3,000	3,000	969	2,031
Property management	-	-	570	(570)
Bike Share Agreement(s)	-	-	-	-
Treasurer's fees	-	-	-	-
Contingency	2,000	2,000	-	2,000
Emergency reserve	1,500	1,500	-	1,500
Total Expenditures	50,000	50,000	13,547	36,453
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(50,000)	(50,000)	(13,547)	36,453
OTHER FINANCING SOURCES (USES)				
Developer advances	50,000	50,000	13,547	(36,453)
Total Other Financing Sources (Uses)	50,000	50,000	13,547	(36,453)
NET CHANGE IN FUND BALANCE	-	-	-	-
FUND BALANCE:				
BEGINNING OF YEAR	-	-	-	-
END OF YEAR	\$ -	\$ -	\$ -	\$ -

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

# BERKLEY SHORES METROPOLITAN DISTRICT

## Notes to Financial Statements December 31, 2020

### 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, 2020

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, 2020

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 August 11, 2020, the District amended its total appropriations in the Debt Service Fund from \$0 to \$3,000,000 and in the Capital Projects Fund from \$0 to \$3,000,000 primarily due to the issuance of the Series 2020A(3) Bonds. (See Note 4)

#### 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, 2020, 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, 2020

#### 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, 2020, 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 2020.



## BERKLEY SHORES METROPOLITAN DISTRICT

### Notes to Financial Statements December 31, 2020

#### 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 \$2,775 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 5,406 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 \$521,751 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, 2020

The restricted fund balance in the Capital Projects Fund in the amount of \$1,031,073 is restricted for the payment of the costs for capital improvements within the District.

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, 2020

Note 2: Cash

As of December 31, 2020, cash and investments are classified in the accompanying financial statements as follows:

Statement of net position:

Cash	\$ 679
Cash - Restricted	<u>1,559,902</u>
Total	<u>\$ 1,560,581</u>

Cash and investments as of December 31, 2020 consist of the following:

Deposits with financial institutions	\$ 679
Investments - COLOTRUST	<u>1,559,902</u>
	<u>\$ 1,560,581</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, 2020, 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, 2020

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, 2020, the District had \$1,559,902 invested in COLOTRUST.

Note 3: Capital Assets

<u>Governmental Type Activities:</u>	<u>Balance</u> <u>01-01-20</u>	<u>Additions</u>	<u>Deletions</u>	<u>Balance</u> <u>12-31-20</u>
<u>Capital assets not being depreciated:</u>				
Construction in Progress	\$ -	\$ 493,879	\$ -	\$ 493,879
Total capital assets not being depreciated	<u>-</u>	<u>493,879</u>	<u>-</u>	<u>493,879</u>
 Government type assets	 <u>\$ -</u>	 <u>\$ 493,879</u>	 <u>\$ -</u>	 <u>\$ 493,879</u>

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2020

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, 2020:

	Balance 12/31/2019	Additions	Deletions	Balance 12/31/2020	Current 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	-	11,379	-
Developer accrued interest - Operating	-	47	-	47	-
Developer Advance - Capital	-	506,996	(493,879)	13,117	-
Developer accrued interest - Capital	-	48	-	48	-
Total	-	518,470	(493,879)	24,591	-
	<u>\$ -</u>	<u>\$ 2,830,470</u>	<u>\$ (493,879)</u>	<u>\$ 2,336,591</u>	<u>\$ -</u>

A description of the long-term obligations as of December 31, 2020, 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  
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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, 2020, the Reserve Fund was funded in the amount of \$218,140 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
2021	\$ -	\$ 121,380	\$ 121,380
2022	-	121,380	121,380
2023	-	121,380	121,380
2024	-	121,380	121,380
2025	-	121,380	121,380
2026-2030	43,000	604,592	647,592
2031-2035	164,000	581,436	745,436
2036-2040	347,000	520,538	867,538
2041-2045	593,000	405,250	998,250
2046-2050	<u>1,165,000</u>	<u>214,986</u>	<u>1,379,986</u>
	<u>\$2,312,000</u>	<u>\$2,933,702</u>	<u>\$5,245,702</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. The District agrees to repay the amounts advanced, to the extent it has funds available from the imposition of its

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2020

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 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 shall expire on December 31, 2020. Any obligation of the Developer to advance funds will expire upon advance to the District of amounts sufficient to pay expenses incurred in 2020, not to exceed the Shortfall Amount. Any obligation of the District to reimburse the Developer shall expire on December 31, 2060. As of December 31, 2020, the principal amount of the reimbursement obligation under the Operation Funding Agreement was \$11,379 along with accrued interest in the amount of \$47.

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 the 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 obligation, and the making of any reimbursement hereunder shall be at all times subject to

BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
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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, 2020, the principal amount of the reimbursement obligation under the FFA was \$13,117 along with accrued interest in the amount of \$48.

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.

Debt Authorization

As of December 31, 2020, 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 2021.

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.

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.



BERKLEY SHORES METROPOLITAN DISTRICT  
Notes to Financial Statements  
December 31, 2020

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: Interfund Transfers

The transfer of \$1,532,030 from the Debt Service Fund to the Capital Projects Fund was to transfer proceeds from the Series 2020A(3) Bonds that was for Capital Improvements.

Note 8: 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 9: 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, 2020

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.

## SUPPLEMENTAL INFORMATION

# 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, 2020

	Original <u>Budget</u>	Final <u>Budget</u>	<u>Actual</u>	Variance Favorable (Unfavorable)
REVENUES				
Interest income	\$ -	\$ -	\$ 1,020	\$ 1,020
Total Revenues	-	-	1,020	1,020
EXPENDITURES				
Bond interest expense	-	-	29,671	(29,671)
Paying agent/trustee fees	-	-	6,092	(6,092)
Bond issuance costs	-	-	223,476	(223,476)
Total Expenditures	-	-	259,239	(259,239)
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	-	-	(258,219)	(258,219)
OTHER FINANCING SOURCES (USES)				
Bond proceeds	-	3,000,000	2,312,000	(688,000)
Transfers in (out)	-	(3,000,000)	(1,532,030)	1,467,970
Total Other Financing Sources (Uses)	-	-	779,970	779,970
NET CHANGE IN FUND BALANCE	-	-	521,751	521,751
FUND BALANCE:				
BEGINNING OF YEAR	-	-	-	-
END OF YEAR	\$ -	\$ -	\$ 521,751	\$ 521,751

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, 2020

	Original <u>Budget</u>	Final <u>Budget</u>	<u>Actual</u>	Variance Favorable (Unfavorable)
REVENUES				
Interest income	\$ -	\$ -	\$ -	\$ -
Total Revenues	-	-	-	-
EXPENDITURES				
Accounting		-	4,231	(4,231)
Legal		-	10,262	(10,262)
Management fees		-	3,077	(3,077)
Engineering		-	2,625	(2,625)
Capital outlay	-	3,000,000	493,879	2,506,121
Repayment of developer advances	-	-	493,879	(493,879)
Total Expenditures	-	3,000,000	1,007,953	1,992,047
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	-	(3,000,000)	(1,007,953)	1,992,047
OTHER FINANCING SOURCES (USES)				
Developer advances	-	-	506,996	506,996
Transfers in (out)	-	3,000,000	1,532,030	(1,467,970)
Total Other Financing Sources (Uses)	-	3,000,000	2,039,026	(960,974)
NET CHANGE IN FUND BALANCE	-	-	1,031,073	1,031,073
FUND BALANCE:				
BEGINNING OF YEAR	-	-	-	-
END OF YEAR	\$ -	\$ -	\$ 1,031,073	\$ 1,031,073

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

Ken Musso  
ASSESSOR



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August 25, 2021

BERKLEY SHORES METROPOLITAN DISTRICT  
SPECIAL DISTRICT MANAGEMENT SERVICES INC  
141 UNION BLVD STE 150  
LAKEWOOD CO 80228-1898

**AUG 30 2021**

To Whom it May Concern:

Enclosed is the 2021 preliminary valuation. This valuation along with all other statutory requirements is on the enclosed form. A final certification of value will be sent out on or before December 10, 2021.

This value is subject to change by the County Board of Equalization, Board of Assessment Appeals and the State Board of Equalization as provided by law.

2021 UPDATE: House Bill 21-1312, increase the exemption threshold on personal property accounts from \$7,900 to \$50,000. This means all personal property accounts that have a value of \$7,901 or more, and below \$50,000 that were previously taxable are now exempt. The state will be reimbursing the lost revenue to all taxing entities. The last line of this Certification of Valuation has not been filled in for the preliminary Certification, but the amount will be provided on the December re-Certification.

Sincerely,

Ken Musso  
Adams County Assessor  
KM/rmb

# CERTIFICATION OF VALUATION BY ADAMS COUNTY ASSESSOR

Name of Jurisdiction: 481 - BERKLEY SHORES METROPOLITAN DISTRICT

IN ADAMS COUNTY ON 8/24/2021

New Entity: No

## USE FOR STATUTORY PROPERTY TAX REVENUE LIMIT CALCULATIONS (5.5% LIMIT) ONLY

IN ACCORDANCE WITH 39-5-121(2)(a) AND 39-5-128(1), C.R.S. AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES THE TOTAL VALUATION FOR ASSESSMENT FOR THE TAXABLE YEAR 2021 IN ADAMS COUNTY, COLORADO

1. PREVIOUS YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	\$195,980
2. CURRENT YEAR'S GROSS TOTAL TAXABLE ASSESSED VALUATION: *	\$591,440
3. LESS TIF DISTRICT INCREMENT, IF ANY:	\$0
4. CURRENT YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	\$591,440
5. NEW CONSTRUCTION: **	\$0
6. INCREASED PRODUCTION OF PRODUCING MINES: #	\$0
7. ANNEXATIONS/INCLUSIONS:	\$0
8. PREVIOUSLY EXEMPT FEDERAL PROPERTY: #	\$0
9. NEW PRIMARY OIL OR GAS PRODUCTION FROM ANY PRODUCING OIL AND GAS LEASEHOLD OR LAND (29-1-301(1)(b) C.R.S.): ##	\$0
10. TAXES COLLECTED LAST YEAR ON OMITTED PROPERTY AS OF AUG. 1 (29-1-301(1))(a) C.R.S.):	\$0.00
11. TAXES ABATED AND REFUNDED AS OF AUG. 1 (29-1-301(1)(a) C.R.S.) and (39-10-114(1)(a)(I)(B) C.R.S.):	\$136.80

\* This value reflects personal property exemptions IF enacted by the jurisdiction as authorized by Art. X, Sec.20(8)(b), Colo.

\*\* New construction is defined as: Taxable real property structures and the personal property connected with the structure.

# Jurisdiction must submit respective certifications (Forms DLG 52 AND 52A) to the Division of Local Government in order for the values to be treated as growth in the limit calculation.

## Jurisdiction must apply (Forms DLG 52B) to the Division of Local Government before the value can be treated as growth in the limit calculation.

## USE FOR 'TABOR' LOCAL GROWTH CALCULATIONS ONLY

IN ACCORDANCE WITH THE PROVISION OF ARTICLE X, SECTION 20, COLO CONST, AND 39-5-121(2)(b), C.R.S. THE ASSESSOR CERTIFIES THE TOTAL ACTUAL VALUATION FOR THE TAXABLE YEAR 2021 IN ADAMS COUNTY, COLORADO ON AUGUST 25, 2021

1. CURRENT YEAR'S TOTAL ACTUAL VALUE OF ALL REAL PROPERTY: @	\$2,038,530
ADDITIONS TO TAXABLE REAL PROPERTY:	
2. CONSTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS: !	\$0
3. ANNEXATIONS/INCLUSIONS:	\$0
4. INCREASED MINING PRODUCTION: %	\$0
5. PREVIOUSLY EXEMPT PROPERTY:	\$0
6. OIL OR GAS PRODUCTION FROM A NEW WELL:	\$0
7. TAXABLE REAL PROPERTY OMITTED FROM THE PREVIOUS YEAR'S TAX WARRANT:	\$0

(If land and/or a structure is picked up as omitted property for multiple years, only the most current year's actual value can be reported as omitted property.)

DELETIONS FROM TAXABLE REAL PROPERTY:

8. DESTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS:	\$0
9. DISCONNECTIONS/EXCLUSION:	\$0
10. PREVIOUSLY TAXABLE PROPERTY:	\$0

@ This includes the actual value of all taxable real property plus the actual value of religious, private schools, and charitable real property.

! Construction is defined as newly constructed taxable real property structures.

% Includes production from new mines and increases in production of existing producing mines.

IN ACCORDANCE WITH 39-5-128(1), C.R.S. AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES TO SCHOOL DISTRICTS: 1. TOTAL ACTUAL VALUE OF ALL TAXABLE PROPERTY:----->

\$0

NOTE: All levies must be Certified to the Board of County Commissioners NO LATER THAN DECEMBER 15, 2021

Data Date: 8/24/2021

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Assessed Value, Property Tax and Mill Levy Information**

	2020		2021		2022	
	Actual		Adopted Budget		Preliminary Budget	
<b>Assessed Valuation</b>	\$	110,030	\$	195,980	\$	591,440
<b>Mill Levy</b>						
General Fund		-		25.000		25.000
Debt Service Fund		-		35.000		35.000
Temporary Mill Levy Reduction		-		-		-
Refunds and Abatements		-		-		0.230
<b>Total Mill Levy</b>		-		60.000		60.230
<b>Property Taxes</b>						
General Fund	\$	-	\$	4,900	\$	14,786
Debt Service Fund		-		6,859		20,700
Temporary Mill Levy Reduction		-		-		-
Refunds and Abatements		-		-		136.00
<b>Actual/Budgeted Property Taxes</b>	\$	-	\$	11,759	\$	35,622



# BERKLEY SHORES METROPOLITAN DISTRICT

## GENERAL FUND 2022 Preliminary Budget with 2020 Actual, 2021 Adopted Budget, and 2021 Estimated

	2020 Actual	01/21-09/21 YTD Actual	2021 Adopted Budget	2021 Estimated	2022 Preliminary Budget
<b>BEGINNING FUND BALANCE</b>	\$ -	\$ 0	\$ 4,500	\$ 0	\$ 4,608
<b>REVENUE</b>					
Property Tax Revenue	-	4,121	4,900	4,900	14,786
Specific Ownership Taxes	-	-	294	350	887
Developer Advance	13,547	16,371	175,000	97,500	175,000
		-	-	-	-
<b>Total Revenue</b>	13,547	20,492	180,194	102,750	190,673
<b>Total Funds Available</b>	13,547	20,492	184,694	102,750	195,282
<b>EXPENDITURES</b>					
Accounting	2,825	3,158	15,000	6,000	15,000
Audit	42	-	5,000	5,000	5,500
Insurance/SDA Dues	84	3,068	8,000	3,068	5,500
Legal	6,842	4,839	15,000	15,000	18,000
Election	-	-	-	-	3,000
Management	2,215	1,686	17,500	6,000	20,000
Miscellaneous	969	1,111	2,000	2,000	2,000
Treasurer's Fees	-	-	74	74	222
Property Management	570	817	14,400	8,000	14,400
Billing	-	-	6,000	2,000	6,000
Landscape Maintenance	-	-	20,000	20,000	20,000
Landscape Improvements	-	-	-	-	-
Irrigation Repair	-	-	1,500	1,500	2,000
Snow Removal	-	-	13,000	13,000	13,000
Detention Pond Maintenance	-	-	5,000	-	5,000
Operations & Maintenance Res.	-	-	5,000	-	5,000
Repairs & Maintenance	-	-	4,000	4,000	4,000
Fence Repairs	-	-	2,500	2,500	2,500
Utilities	-	4,478	25,000	10,000	20,000
Contingency	-	-	12,500	-	10,000
<b>Total Expenditures</b>	13,547	19,157	171,474	98,142	171,122
<b>Transfers and Other Uses</b>					
Emergency Reserve	-	-	5,406	-	5,720
<b>Total Transfers and Other Uses</b>	-	-	5,406	-	5,720
<b>Total Expenditures Requiring Appropriation</b>	13,547	19,157	176,880	98,142	176,842
<b>ENDING FUND BALANCE</b>	\$ 0	\$ 1,335	\$ 7,815	\$ 4,608	\$ 18,440

# BERKLEY SHORES METROPOLITAN DISTRICT

## DEBT SERVICE FUND 2022 Preliminary Budget with 2020 Actual, 2021 Adopted Budget, and 2021 Estimated

	2020 Actual	01/21-09/21 YTD Actual	2021 Adopted Budget	2021 Estimated	2022 Preliminary Budget
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BEGINNING FUND BALANCE	\$	-	\$	521,751	\$	521,480	\$	521,751	\$	401,780
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### REVENUE

Property Tax Revenue	-	5,769	6,859	6,859	20,700
Specific Ownership Tax	-	-	412	412	1,242
Bond Proceeds	2,312,000	-	-	-	-
Interest Income	1,019	237	-	300	200

<b>Total Revenue</b>	2,313,019	6,006	7,271	7,571	22,142
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<b>Total Funds Available</b>	2,313,019	527,757	528,751	529,322	423,922
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### EXPENDITURES

Bond Principal	-	-	-	-	-
Bond Interest	29,671	60,690	121,380	121,380	121,380
Paying Agent/Trustee Fees	6,092	4,082	5,500	5,500	5,500
Miscellaneous	-	-	250	250	250
Treasurer's Fees	-	-	-	412	1,242
Bond Issuance Costs	177,236	-	-	-	-
Underwriter Discount	46,240	-	-	-	-
Contingency	-	-	10,000	-	10,000

<b>Total Expenditures</b>	259,238	64,772	137,130	127,542	138,372
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### Transfers and Other Sources (Uses)

Developer Advance Repayment	-	-	-	-	-
Transfer to Capital Projects	1,532,030	-	-	-	-

### Total Expenditures Requiring Appropriation

1,791,268	64,772	137,130	127,542	138,372
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ENDING FUND BALANCE	\$	521,751	\$	462,985	\$	391,621	\$	401,780	\$	285,550
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# BERKLEY SHORES METROPOLITAN DISTRICT

## CAPITAL PROJECTS FUND

### 2022 Preliminary Budget

with 2020 Actual, 2021 Adopted Budget, and 2021 Estimated

	2020 YTD Actual	01/21-09/21 YTD Actual	2021 Adopted Budget	2021 Estimated	2022 Preliminary Budget
BEGINNING FUND BALANCE	\$ -	\$ 1,031,073	\$ 4,031,869	\$ 1,031,073	\$ 2,100
<b>REVENUE</b>					
Developer Advance	506,997	24,463	-	35,000	35,300
Interest Income	-	-	-	-	-
<b>Total Revenue</b>	506,997	24,463	-	35,000	35,300
<b>Total Funds Available</b>	506,997	1,055,536	4,031,869	1,066,073	37,400
<b>EXPENDITURES</b>					
Accounting	4,231	4,738	-	7,500	12,000
Legal	10,262	5,625	12,000	12,000	12,000
Management	3,077	2,530	8,000	8,000	8,000
Miscellaneous	-	24	-	-	-
Engineering	2,625	4,725	5,400	5,400	5,400
Capital Outlay	493,879	-	-	-	-
Repayment of Developer Advance	493,879				
<b>Total Expenditures</b>	1,007,953	17,641	25,400	32,900	37,400
<b>Transfers and Other Uses</b>					
Transfer from Debt Service	1,532,030				
<b>Total Expenditures Requiring Appropriation</b>	1,007,953	17,641	25,400	32,900	37,400
<b>ENDING FUND BALANCE</b>	\$ 1,031,073	\$ 1,037,895	\$ 4,006,469	\$ 2,100	\$ -

STATE OF COLORADO  
COUNTY OF ADAMS  
BERKLEY SHORES METROPOLITAN DISTRICT  
2022 BUDGET RESOLUTION

The Board of Directors of the Berkley Shores Metropolitan District, Adams County, Colorado held a special meeting on 1<sup>st</sup> day of November, 2021 at the hour of 10:00 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 members of the Board of Directors were present:

President:	_____
Secretary:	_____
Treasurer:	_____
Assistant Secretary:	_____
Assistant Secretary:	_____

Also present were: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

David Solin reported that proper notice was made to allow the Board of Directors of the Berkley Shores Metropolitan District to conduct a public hearing on the 2022 budget and, prior to the meeting, each of the directors had been notified of the date, time and place of this meeting and the purpose for which it was called. It was further reported that this meeting is a special meeting of the Board of Directors of the District and that a notice of special meeting was posted on a post within the boundaries of the District no less than twenty-four hours prior to the holding of the meeting, and to the best of his knowledge, remains posted to the date of this meeting.

Thereupon, Director \_\_\_\_\_ introduced and moved the adoption of the following Resolution:

### RESOLUTION

A RESOLUTION SUMMARIZING EXPENDITURES AND REVENUES FOR EACH FUND AND ADOPTING A BUDGET, APPROPRIATING SUMS OF MONEY TO EACH FUND IN THE AMOUNTS AND FOR THE PURPOSES SET FORTH HEREIN AND LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2022 TO HELP DEFRAY THE COSTS OF GOVERNMENT FOR THE BERKLEY SHORES METROPOLITAN DISTRICT, ADAMS COUNTY, COLORADO, FOR THE CALENDAR YEAR BEGINNING ON THE FIRST DAY OF JANUARY 2022 AND ENDING ON THE LAST DAY OF DECEMBER 2022.

WHEREAS, the Board of Directors (the “Board”) of the Berkley Shores Metropolitan District (the “District”) has authorized its treasurer and accountant to prepare and submit a proposed budget to said governing body at the proper time; and

WHEREAS, the proposed budget was submitted to the Board for its review and consideration on or before October 15, 2021; and

WHEREAS, the proposed budget is more than fifty thousand dollars (\$50,000.00), due and proper notice was published on Thursday, October 28, 2021 in the Northglenn-Thornton Sentinel, indicating (i) the date and time of the hearing at which the adoption of the proposed budget will be considered; (ii) that the proposed budget is available for inspection by the public at a designated place; (iii) that any interested elector of the District may file any objections to the proposed budget at any time prior to the final adoption of the budget by the District; and (iv) if applicable, the amount of the District’s increased property tax revenues resulting from a request to the Division of Local Government pursuant to §29-1-302(1), C.R.S.; and an original publisher’s Affidavit of Publication is attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS, the proposed budget was open for inspection by the public at the designated place; and

WHEREAS, a public hearing was held on Monday, November 1, 2021 and interested electors were given the opportunity to file or register any objections to said proposed budget and any such objections were considered by the Board; and

WHEREAS, the budget being adopted by the Board has been prepared based on the best information available to the Board regarding the effects of § 29-1-301, C.R.S., and Article X, § 20 of the Colorado Constitution; and

WHEREAS, whatever increases may have been made in the expenditures, like increases were added to the revenues so that the budget remains in balance, as required by law; and

WHEREAS, pursuant to § 29-1-113(1), C.R.S., the Board shall cause a certified copy of the budget, including the budget message and any resolutions adopting the budget, appropriating moneys and fixing the rate of any mill levy, to be filed with the Division of Local Government within thirty (30) days following the beginning of the fiscal year of the budget adopted; and

WHEREAS, pursuant to § 32-1-1201, C.R.S., the Board shall determine in each year the amount of money necessary to be raised by taxation, taking into consideration those items required by law, and shall certify the rate so fixed to the board of county commissioners of each county within the District or having a portion of its territory within the District.

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

Section 1. Summary of 2022 Revenues and 2022 Expenditures. That the estimated revenues and expenditures for each fund for fiscal year 2022, as more specifically set forth in the budget attached hereto as Exhibit B and incorporated herein by this reference, are accepted and approved.

Section 2. Adoption of Budget. That the budget as submitted, and if amended, then as amended, and attached hereto as Exhibit B and is approved and adopted as the budget of the District for fiscal year 2022. In the event of recertification of values by the Adams County Assessor's Office after the date of adoption hereof, staff is hereby directed to modify and/or adjust the budget and certification to reflect the recertification without the need for additional Board authorization.

Section 3. Appropriations. That the amounts set forth as expenditures and balances remaining, as specifically allocated in the budget attached, are hereby appropriated from the revenue of each fund, to each fund, for the purposes stated and no other.

Section 4. Budget Certification. That the budget shall be certified by David Solin, Secretary of the District, and made a part of the public records of the District and a certified copy of the approved and adopted budget shall be filed with the Division of Local Government.

Section 5. 2022 Levy of General Property Taxes. That the attached budget indicates that the amount of money from general property taxes necessary to balance the budget for the General Fund for operating expenses is \$176,842 and that the 2021 valuation for assessment, as certified by the Adams County Assessor, is \$2,038,530. That for the purposes of meeting all general operating expenses of the District during the 2022 budget year, there is hereby levied a tax of \_\_\_\_\_ mills upon each dollar of the total valuation of assessment of all taxable property within the District for the year 2022.

Section 6. 2022 Levy of Debt Retirement Expenses. That the attached budget indicates that the amount of money from general property taxes necessary to balance the budget for the Debt Service Fund for debt retirement expense is \$138,372 and that the 2021 valuation for assessment, as certified by the Adams County Assessor, is \$2,038,530. That for the purposes of meeting all debt retirement expenses of the District during the 2022 budget year, there is hereby

levied a tax of \_\_\_\_\_ mills upon each dollar of the total valuation of assessment of all taxable property within the District for the year 2022.

Section 7. 2022 Levy of Capital Projects Fund. That the attached budget indicates that the amount of money from developer advances necessary to balance the budget for the Capital Projects Fund for debt retirement expense is \$37,400 and that the 2021 valuation for assessment, as certified by the Adams County Assessor, is \$2,038,530. That for the purposes of meeting all capital projects fund of the District during the 2022 budget year, there is hereby levied a tax of \_\_\_\_\_ mills upon each dollar of the total valuation of assessment of all taxable property within the District for the year 2022.

Section 8. 2022 Refunds/Abatements. That the attached budget indicates that the amount of money from refunds/abatements necessary to balance the budget is \$0 and that the 2021 valuation for assessment, as certified by the Adams County Assessor, is \$2,038,530. That for the purposes of the District during the 2022 budget year, there is hereby levied a refund/abatement of 0 mills upon each dollar of the total valuation of assessment of all taxable property within the District for the year 2022.

Section 9. 2022 Temporary General Property Tax Credit/Temporary Mill Levy Rate Reduction. That the foregoing budget indicates that the amount of money from a temporary general property tax credit/temporary mill levy rate reduction necessary to balance the budget is <\$0> and that the 2021 valuation for assessment, as certified by the Adams County Assessor, is \$2,038,530. That for the purposes of the District during the 2022 budget year, there is hereby levied a temporary general property tax credit/temporary mill levy rate reduction of 0 mills upon each dollar of the total valuation of assessment of all taxable property within the District for the year 2022.

Section 10. Certification to County Commissioners. That the Secretary of the District is hereby authorized and directed to immediately certify to the Board of County Commissioners of Adams County, the mill levy for the District hereinabove determined and set. That said certification shall be in substantially the following form attached hereto as Exhibit C and incorporated herein by this reference.

**[The remainder of this page is intentionally left blank.]**

The foregoing Resolution was seconded by Director \_\_\_\_\_.

RESOLUTION APPROVED AND ADOPTED THIS 1ST DAY OF NOVEMBER 2021.

BERKLEY SHORES METROPOLITAN DISTRICT

By:	_____
	Paul Malone
Its:	_____
	President

ATTEST:

By:	_____
	Natalie Satt
Its:	_____
	Secretary



STATE OF COLORADO  
COUNTY OF ADAMS  
BERKLEY SHORES METROPOLITAN DISTRICT

I, Natalie Satt, hereby certify that I am a director and the duly elected and qualified Secretary of the Berkley Shores Metropolitan District, and that the foregoing constitutes a true and correct copy of the record of proceedings of the Board of Directors of the District, adopted at a special meeting of the Board of Directors of the Berkley Shores Metropolitan District held on Monday, November 1, 2021, 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, as recorded in the official record of the proceedings of the District, insofar as said proceedings relate to the budget hearing for fiscal year 2022; that said proceedings were duly had and taken; that the meeting was duly held; and that the persons were present at the meeting as therein shown.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of the District this 1st day of November 2021.

---

Natalie Satt, Secretary

[SEAL]

**EXHIBIT A**

Affidavit of Publication  
Notice as to Proposed 2022 Budget

## **EXHIBIT B**

Budget Document  
Budget Message

## **EXHIBIT C**

### Certification of Tax Levy

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the Berkley Shores Metropolitan District of Adams County, Colorado on this 1st day November 2021.

---

Natalie Satt, Secretary

S E A L

**ANNUAL RESOLUTION OF  
THE BOARD OF DIRECTORS OF THE  
BERKLEY SHORES METROPOLITAN DISTRICT**

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=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> 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**, the Berkley Shores Metropolitan District (the “District”) was organized as a special district pursuant to an Order of the District Court in and for the County of Adams, Colorado, dated January 27, 2020 and is located within Adams County (the “County”); and

**WHEREAS**, the Board of Directors of the District (collectively referred to as the “Board” or individually as “Director(s)”) has a duty to perform certain obligations in order to assure the efficient operation of the District; and

**WHEREAS**, § 32-1-306, C.R.S. requires the District to file a current, accurate map of its boundaries with the County Assessor, County Clerk and Recorder and the Division of Local Government (the “Division”) on or before January 1 of each year; and

**WHEREAS**, §§ 24-10-109 and 24-32-116, C.R.S. require that the District provide its name, its principal address and/or mailing address, the name of its agent and the agent’s mailing address to the Department of Local Affairs (the “Department”) and keep such information updated regularly; and

**WHEREAS**, § 32-1-809, C.R.S. requires that the Board provide notice, containing certain information about the District, to the eligible electors of the District no more than sixty (60) days prior to and not later than January 15; and

**WHEREAS**, § 32-1-104(2), C.R.S. requires that the District, on or before January 15, file a copy of the notice required by § 32-1-809, C.R.S. with the Board of County Commissioners, the County Assessor, the County Treasurer, the County Clerk and Recorder in each county in which the District is located, the governing body of any municipality in which the District is located and the Division; and

**WHEREAS**, the Local Government Budget Law of Colorado, §§ 29-1-101 *et seq.*, C.R.S., requires the Board to hold a public hearing on proposed budgets and amendments thereto, to adopt budgets and to file copies of the budgets and amendments thereto; and

**WHEREAS**, § 29-1-205(1), C.R.S. requires the District to file a current list of all contracts in effect with other political subdivisions within thirty (30) days of receiving a request therefor from the Division; and

**WHEREAS**, in accordance with the Public Securities Information Reporting Act, §§ 11-58-101 *et seq.*, C.R.S., issuers of nonrated public securities shall make public within sixty (60) days following the end of each of such issuer's fiscal year, an annual information report or reports with respect to any of such issuer's nonrated public securities which are outstanding as of the end of each such fiscal year; and

**WHEREAS**, in accordance with § 29-1-604(1), C.R.S., if expenditures and revenues of the District are not in excess of \$100,000, the District may file an application for exemption from audit with the State Auditor; or in accordance with § 29-1-604(2)(b), C.R.S., if expenditures and revenues of the District for any fiscal year are at least \$100,000, but not more than \$750,000, the District may file an application for exemption from audit with the State Auditor; or in accordance with § 29-1-603, C.R.S., the Board shall cause to be made an annual audit of the financial statements of the District for each fiscal year; and

**WHEREAS**, the Revised Uniform Unclaimed Property Act, §§ 38-13-101 *et seq.*, C.R.S., requires that governmental subdivisions, if applicable, file an annual report listing unclaimed property with the State Treasurer by November 1 of each year; and

**WHEREAS**, pursuant to § 32-1-103(15), C.R.S., the legal notices of the District must be published one time, in one newspaper of general circulation in the District, and if there is not one such newspaper of general circulation, then in one newspaper in each county in which the District is located and in which the District also has fifty (50) or more eligible electors; and

**WHEREAS**, pursuant to § 24-6-402(2)(c)(I), C.R.S., the Board shall annually designate at the first regular meeting of the calendar year a posting place within the boundaries of the District for posting of notices; and

**WHEREAS**, pursuant to §§ 32-1-903(2) and 24-6-402(2)(c)(I) & (III), C.R.S., in addition to any other means of full and timely notice, the Board shall be deemed to have given full and timely notice of a public meeting if the Board posts the notice on a public website of the District or in the designated public place within District boundaries, no less than twenty-four (24) hours prior to the meeting; and

**WHEREAS**, § 32-1-903(1), C.R.S. requires that the Board shall meet regularly at a time and location to be designated by the Board and such location may be physical, telephonic, electronic, other virtual place, or combination of such means where a meeting can be attended; provided that meetings that are held solely at physical locations must be held at physical locations that are within the boundaries of the District or within the boundaries of any county in which the District is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty miles from the District boundaries, unless the proposed change of location for a meeting appears on the Board agenda of a meeting and a resolution is adopted stating the reason for which meetings of the Board are to be held in a physical location other than under the provisions of § 32-1-903(1.5), C.R.S. and further stating the date, time and physical location of such meeting; and

**WHEREAS**, pursuant to § 32-1-904, C.R.S., the office of the District shall be at some fixed place to be determined by the Board; and

**WHEREAS**, pursuant to § 32-1-901(1), C.R.S., each Director, within thirty (30) days after his or her election or appointment to fill a vacancy, shall take an oath or affirmation in accordance with § 24-12-101, C.R.S., and the oath must be filed with the County Clerk and Recorder, and in accordance with § 32-1-901(1), C.R.S. with the Clerk of the Court and with the Division; and

**WHEREAS**, in accordance with § 32-1-901(2), C.R.S., at the time of filing said oath, there shall also be filed for each Director a bond; and

**WHEREAS**, in accordance with § 24-14-102(2), C.R.S., the District may, in lieu of the required bond, purchase crime insurance to protect the District from any dishonesty, theft, or fraud; and

**WHEREAS**, pursuant to § 32-1-902(1), C.R.S., the Board shall elect one of its members as chairman of the Board and president of the District, one of its members as a treasurer of the Board and District, and a secretary who may be a member of the Board, or the secretary and treasurer may be one individual, who in such case is a member of the Board; and

**WHEREAS**, Directors may receive compensation for their services subject to the limitations imposed by § 32-1-902(3)(a), C.R.S.; and

**WHEREAS**, Directors are governed by § 32-1-902(3)(b), C.R.S., which requires any Director to disqualify himself or herself from voting on an issue in which he or she has a conflict of interest, unless the Director has properly disclosed such conflict in compliance with § 18-8-308, C.R.S.; and

**WHEREAS**, Directors are governed by § 32-1-902(4), C.R.S., which requires any Director who owns undeveloped land that constitutes at least twenty percent (20%) of the territory included in the District to properly disclose such fact in compliance with § 18-8-308, C.R.S. before each meeting of the Board, and such disclosure must be entered into the minutes of such meeting; and

**WHEREAS**, pursuant to § 32-1-1001(1)(o), C.R.S. the Board has the power to authorize the use of electronic records and electronic signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures in accordance with the Uniform Electronic Transaction Act, §§ 24-71.3-101 *et seq.*, C.R.S.; and

**WHEREAS**, pursuant to § 24-72-204.5, C.R.S., should the District operate or maintain an electronic mail communications system, the Board must adopt a written policy on any monitoring of electronic mail communications and the circumstances under which it will be conducted; and

**WHEREAS**, §§ 32-1-1604 and 32-1-1101.5(1), C.R.S. require the District to issue notice of the authorization or incurrence of general obligation indebtedness to the Board of County Commissioners of each county in which the District is located or the governing body of the municipality that has adopted a resolution of approval of the District and to record such notice



with the Clerk and Recorder in each county in which the District is located within thirty (30) days of incurring or authorizing such indebtedness; and

**WHEREAS**, § 32-1-1101.5(1), C.R.S. requires the District to certify the results of ballot issue elections to incur general obligation indebtedness to the Board of County Commissioners of each county in which the District is located or to the governing body of a municipality that has adopted a resolution of approval of the District within forty-five (45) days after the election, or at least thirty (30) days before issuing any general obligation debt if not previously certified, and requires the District to file a copy of such certificate with the Division of Securities within that timeframe; and

**WHEREAS**, in accordance with §§ 32-1-1101.5(1.5), C.R.S., the Board of County Commissioners or the governing body of a municipality that has adopted a resolution of approval of the District may require the District to file an application for the quinquennial finding of reasonable diligence; and

**WHEREAS**, in accordance with §§ 32-1-207(3)(c), C.R.S., and unless otherwise waived or requested by an earlier date, commencing in 2023 for the 2022 calendar year, any special district created after July 1, 2000, must electronically file an annual report for the preceding calendar year by October 1<sup>st</sup> with the governing body that approved the service plan or, if the jurisdiction has changed due to the annexation into a municipality, the current governing body with jurisdiction over the District, the Division, the State Auditor, and the County Clerk and Recorder, and make the same available on the website of the District; and

**WHEREAS**, in accordance with the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S., the Board is granted the authority to obtain insurance; and

**WHEREAS**, the Colorado Open Meetings Law at § 24-6-402(2)(d.5)(II)(A), C.R.S. specifies that discussions that occur in an executive session of a local public body shall be electronically recorded; and

**WHEREAS**, pursuant to §§ 24-6-402(2)(d.5)(II)(E), C.R.S., such electronic recording of executive sessions shall be retained for at least ninety (90) days after the date of the executive session; and

**WHEREAS**, in accordance with the Public Deposit Protection Act, §§ 11-10.5-101 *et seq.*, C.R.S., the Board shall designate an official custodian with plenary authority to deposit public funds in any bank which has been designated by the Colorado Banking Board as an eligible public depository; and

**WHEREAS**, in accordance with § 32-1-104.8, C.R.S., the District must record a public disclosure document and a map of the boundaries of the District with the Clerk and Recorder of each county in which the District is located at any time thereafter that an order or decree confirming the inclusion of real property into the District is recorded; and

**WHEREAS**, elections may be held pursuant to the Special District Act, Article 1 of Title 32, C.R.S.; the Uniform Election Code of 1992, Articles 1 to 13 of Title 1, C.R.S.; and the Colorado Local Government Election Code, Article 13.5 of Title 1, C.R.S., 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**, §§ 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 may be exercised by a “Designated Election Official” designated by the Board.

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

1. The Board directs the District’s engineer to prepare an accurate map in accordance with the standards specified by the Division or directs management to prepare a letter asserting there have been no changes in the boundaries of the District, as applicable, for filing with the County Assessor, County Clerk and Recorder and the Division as required by § 32-1-306, C.R.S on or before January 1.
2. The Board directs management to notify the Department of the District’s name, principal address and/or mailing address, agent’s name and agent’s mailing address in accordance with §§ 24-10-109 and 24-32-116, C.R.S.
3. The Board directs management to: (1) provide notice, containing certain information about the District, to the eligible electors of the District, not earlier than November 16 and not later than January 15, in one or more of the ways set forth in § 32-1-809(2), C.R.S; and (2) in accordance with § 32-1-104(2), C.R.S., file a copy of the notice with the Board of County Commissioners, County Assessor, County Treasurer, County Clerk and Recorder’s Office in each county in which the District is located, the governing body of any municipality in which the District is located and with the Division. The Board further directs that a copy of the notice shall be made available for public inspection at the principal business office of the District.
4. The Board directs the accountant/treasurer for the District to submit a proposed budget to the Board by October 15; to schedule a public hearing on the proposed budget; to prepare a final budget, including any resolutions adopting the budget, appropriating moneys and fixing the rate of any mill levy; to prepare budget resolutions, including certification of mill levies and amendments to the budget if necessary; to certify the mill levies on or before December 15; and to file the approved budgets and amendments thereto with the proper governmental entities not later than thirty (30) days after the beginning of the fiscal year of the budget adopted, in accordance with the Local Government Budget Law of Colorado.
5. The Board directs management to prepare and file a current list of all contracts in effect with other political subdivisions with the Division within thirty (30) days of receiving a request therefor from the Division, if applicable.

6. The Board directs legal counsel and/or the accountant to prepare and file the annual public securities report for nonrated public securities issued by the District with the Department within sixty (60) days following the end of the District's fiscal year, if applicable.
7. The Board directs the accountant to file either an application for exemption from audit with the State Auditor within three (3) months after the close of the District's fiscal year, or that an audit of the financial statements is prepared and submitted to the Board within six (6) months after the close of the District's fiscal year. Further, the Board directs that the audit report be filed with the State Auditor within thirty (30) days after the Board's receipt of the audit report from the auditor.
8. The Board directs legal counsel to prepare the Unclaimed Property Act report and forward to the State Treasurer by November 1, if applicable.
9. The Board designates the *Northglenn/Thornton Sentinel/Westminster Window* as a newspaper of general circulation within the boundaries of the District or in the vicinity of the District if none is circulated within the District, and directs that all legal notices shall be published in accordance with applicable statutes in the *Northglenn/Thornton Sentinel/Westminster Window*.
10. The Board designates the URL Domain [REDACTED], as the District's official website and posting place for notices of meetings pursuant to § 24-6-402(2)(c), C.R.S. Further, in compliance with § 24-6-402(2)(III), C.R.S., the Board designates on a post within the boundaries of the District, as the public place within the boundaries of the District at which it may post notices of meetings if it is unable to post a notice on the District's official website.
11. Emergency meetings may be called without notice, if notice is not practicable, by the president of the Board or any two (2) Directors in the event of an emergency that requires the immediate action of the Board in order to protect the public health, safety and welfare of the property owners and residents of the District. If possible, notice of such emergency meeting may be given to the Directors of the Board by telephone or whatever other means are reasonable to meet the circumstances of the emergency, and shall be provided to the public via any practicable means available, *if any*, including, but not limited to, posting notice of such emergency meeting on the District's website, if any. At such emergency meeting, any action within the power of the Board that is necessary for the immediate protection of the public health, safety and welfare may be taken; provided however, that any action taken at an emergency meeting shall be ratified at the first to occur: (a) the next regular meeting of the Board, or (b) the next special meeting of the Board.
12. The Board determines to hold regular meetings on June 6, 2022 and November 7, 2022, at 10:00 A.M. at Highland Development Offices, 2100 Downing Street,

**Denver Colorado.** Any additional means of public participation, if any, will be designated on the meeting agenda.

13. Pursuant to § 32-1-904, C.R.S., the Board determined that the office of the District shall be at **Special District Management Services, 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228.**
14. The Board directs legal counsel to prepare, administer and file an oath or affirmation in accordance with §§ 32-1-901 and 24-12-101, C.R.S. In addition to the oath or affirmation, the Board directs legal counsel to procure either crime insurance in accordance with § 24-14-102(2), C.R.S. or a bond for each Director as required by § 32-1-901, C.R.S. in the total amount of \$10,000, and to file copies of the crime insurance or bond with the Clerk of the Court and the Division.
15. The Board hereby elects the following officers for the District:

<b>President/Chairman:</b>	<b>Paul Malone</b>
<b>Treasurer:</b>	<b>Philip Clow</b>
<b>Secretary:</b>	<b>Natalie Satt</b>
<b>Assistant Secretary:</b>	<b>Michael Martines</b>
<b>Assistant Secretary:</b>	<b>Victoria Almagno</b>
16. The Board directs that each Director may receive compensation for services as Directors in accordance with §§ 32-1-902(3)(a)(I) & (II), C.R.S.
17. The Board has determined that when so directed by one or more Directors legal counsel will file conflict-of-interest disclosures provided by Directors with the Secretary of State seventy-two (72) hours prior to each meeting of the Board. In addition, written disclosures provided by Directors required to be filed with the governing body in accordance with § 18-8-308, C.R.S. shall be deemed filed with the Directors of the District when filed with the Secretary of State.
18. The Board authorizes the use of electronic records and electronic signatures in 2022 and ratifies their use of electronic records and signatures in 2021. Use of electronic records and electronic signatures, when conducting transactions and in relation to the administration of the affairs of the District, will be performed and governed in accordance with the Uniform Electronic Transactions Act, §§ 24-71.3-101 *et seq.*, C.R.S.
19. The Board does not operate or maintain an electronic mail communication system devoted to the District but recognizes that its Directors and consultants may utilize electronic mail to conduct matters on behalf of the District and that such communications may be a public record under the Colorado Open Records Act and may be subject to public inspection under § 24-72-203, C.R.S.

20. The Board directs legal counsel to issue notice of indebtedness to the Board of County Commissioners or to the governing body of the municipality that has adopted a resolution of approval of the District, as applicable, and to record such notice with the County Clerk and Recorder in each county in which the District is located within thirty (30) days of incurring or authorizing any indebtedness in accordance with §§ 32-1-1604 and 32-1-1101.5(1), C.R.S. The Board also directs legal counsel to certify the results of any ballot issue election to incur general obligation indebtedness to the Board of County Commissioners of each county in which the District is located, to the governing body of a municipality that has adopted a resolution of approval of the District, as applicable, and the Division of Securities within forty-five (45) days after such election, or at least thirty (30) days before the District's issuance of any general obligation debt if not previously certified, in accordance with § 32-1-1101.5(1), C.R.S.
21. The Board directs legal counsel to prepare and file, if requested, the quinquennial finding of reasonable diligence with the Board of County Commissioners or to the governing body of a municipality that has adopted a resolution of approval of the District, as applicable, in accordance with §§ 32-1-1101.5(1.5), C.R.S.
22. The Board directs management to prepare and file an annual report as required under the Service Plan for the District. The Board acknowledges that additional reporting requirements commence in 2023 for the 2022 calendar year under § 32-1-207(3)(c), C.R.S.
23. The District is currently a member of the Special District Association ("SDA") and insured through the Colorado Special Districts Property and Liability Pool. The Board directs the District's accountant to pay the annual SDA membership dues and insurance premiums in a timely manner and complete all necessary conditions of the third-party insurance agent, as applicable. The Board will review all insurance policies and coverage in effect to determine appropriate insurance coverage is maintained, at least biannually.
24. The Board directs the custodian of all electronic recordings of executive sessions to retain all electronic recordings of executive sessions for purposes of the Colorado Open Meetings Law for ninety (90) days after the date of the executive session. The Board further directs the custodian to systematically delete all recordings of executive sessions made for purposes of the Colorado Open Meetings Law at its earliest convenience after the ninetieth (90<sup>th</sup>) day after the date of the executive session.
25. The Board hereby designates the District's accountant as its official custodian over public deposits in accordance with §§ 11-10.5-101 *et seq.*, C.R.S.
26. The Board directs legal counsel to prepare the special district public disclosure statement in accordance with § 32-1-104.8, C.R.S. and record the statement with

the County Clerk and Recorder at any such time as a decree or order of inclusion of real property into the District's boundaries is recorded.

27. Karen Steggs, of Special District Management Services, Inc., is hereby appointed as the "Designated Election Official" of the Board for any elections to be held during 2022 and any subsequent year unless another Designated Election Official is appointed by resolution. The Board hereby grants all powers and authority for the proper conduct of the election to the Designated Election Official, including, but not limited to, appointing election judges, appointing a canvass board, cancelling the election, if applicable, and certifying election results.
28. The Board hereby authorizes legal counsel, the District manager, and District accountant to use the District's name and a brief description of the work performed for the District for marketing purposes, including identifying the District in presentations, proposals, and publications, provided that no confidential information about the District is revealed.

**[The remainder of this page is intentionally left blank.]**

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

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

BERKLEY SHORES METROPOLITAN DISTRICT

\_\_\_\_\_  
Paul Malone, President

ATTEST:

\_\_\_\_\_  
Natalie Satt, Secretary

## **CERTIFICATION**

I, Natalie Satt, Secretary of the Board of the Berkley Shores Metropolitan District, do hereby certify that the annexed and foregoing Resolution is a true copy from the records of the proceedings of the Board of said District, on file with Icenogle Seaver Pogue, P.C., general counsel to the District.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the District, at the County of Adams, Colorado, this 1st day of November 2021.

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Natalie Satt, Secretary

[SEAL]



**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=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> 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 Karen Steggs, 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 [SELECT ONE OF THE FOLLOWING] (1) publication as defined in § 1-13.5-501(2), C.R.S.; (2) including the notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card, or other notice of election, or other informational mailing sent by the District to the eligible electors of the District; (3) posting the information on the official website of the District.

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



## MEMORANDUM

**TO:** Board of Directors, Managers, and other District Representatives

**FROM:** Icenogle Seaver Pogue, P.C.

**DATE:** July 30, 2021

**RE:** Summary of 2021 Legislation

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## INTRODUCTION

The First Regular Session of the Seventy-Third General Assembly of the State of Colorado (the “General Assembly”) convened on January 13, 2021 and adjourned on June 8, 2021. This memorandum generally summarizes certain bills enacted into law in 2021 that may impact special districts, either directly or indirectly. The Colorado Revised Statutes (“C.R.S.”) should be consulted for the complete statutory requirements of the legislation discussed herein.

## SPECIAL DISTRICTS

### Special District Transparency

**SB 21-262**

Senate Bill 21-262 aims to promote transparency for special districts by making changes to the Colorado Local Government Election Code, Sections 1-13.5-101 *et seq.*, C.R.S.; the Special District Act, Sections 32-1-101 *et seq.*, C.R.S.; and statutes governing disclosures required in connection with the conveyance of residential real property.

Currently, the Colorado Local Government Election Code requires a designated election official (“DEO”) publish a call for nominations for a regular election in a newspaper of general circulation within the special district. For any metropolitan district organized after January 1, 2000, Senate Bill 21-262 requires that notices of the call for nominations must be made by emailing each active registered elector of the district as specified in the voter registration list that is provided by the county clerk and recorder as of the date that is 150 days prior to the election. Where the active registered elector does not have such an email address, the notice must be made by mailing, at the lowest cost option, to each address at which one or more active registered electors of the district resides as specified in the voter registration list. In addition, the bill requires that the DEO shall

also provide notice of the call for nominations by any one of the following means: (i) publication in a newspaper of general circulation within the district; (ii) including the notice of the call for nominations as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other notice of election, or other informational mailing sent by the district to its eligible electors; (iii) posting the notice on the district's website; or (iv) for a district with fewer than 1,000 eligible electors located wholly within a county with less than 30,000 people, posting the notice in at least three physical locations within the territorial boundaries of the district and, in addition, posting a notice in the county clerk and recorder's office; provided that such notices must remain posted until the day after the call for nominations closes.

For other local governments (including metropolitan districts organized before January 1, 2000), Senate Bill 21-262 provides that a call for nominations must be published *and* be made public using any one of the following methods: (i) mailing notice of the call for nominations, at the lowest cost option, to each address at which one or more active registered electors of the local government resides; or any of the means listed in items (ii), (iii), or (iv) of the paragraph above.

Senate Bill 21-262 also adds a requirement that any metropolitan district organized after January 1, 2000 establish, maintain, and unless otherwise specified, annually update an official website in a form that is readily accessible to the public. The bill sets forth a list of information the website is required to contain as well as deadlines for updating the same on an annual basis. Districts organized after January 1, 2000, but before January 1, 2022, are required to establish and maintain a website by January 1, 2023. Districts organized after January 1, 2022 must establish and maintain a website within 1 year from the date an order and decree organizing the district has been issued.

Senate Bill 21-262 requires any special district organized after July 1, 2000 to file an annual report for the preceding calendar year and sets forth the specific information required to be included therein. Unless waived or otherwise requested by an earlier date by the board of county commissioners or the governing body of a municipality in which a special district is located, beginning in 2023 for the 2022 reporting year, annual reports shall be filed no later than October 1<sup>st</sup>.

Section 32-1-1004, C.R.S. grants metropolitan districts the power of eminent domain and dominant eminent domain. Senate Bill 21-262 limits this grant of power by providing that a metropolitan district shall not exercise its power of dominant eminent domain within a municipality or unincorporated area of a county, other than within the boundaries of the jurisdiction that approved its service plan, without a written resolution approving the exercise of dominant eminent domain.

Senate Bill 21-262 also enacts a new Section 38-35.7-110, C.R.S. requiring that on and after January 1, 2022, a seller of real property in a metropolitan district that includes a "newly constructed residence"<sup>1</sup> shall provide to the purchaser, concurrently with or prior to the execution of a contract, certain additional disclosures with respect to the metropolitan district in which the property is located.

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<sup>1</sup> A "newly constructed residence" means a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families that (a) has not been previously sold to its intended occupant as a place of residence; and (b) is located within the territorial boundaries of a metropolitan district. *See* C.R.S. § 39-1-102.



Senate Bill 21-262 will take effect on September 7, 2021 provided no referendum is filed.<sup>2</sup>

### **Special District Meeting Requirements**

**HB 21-1278**

House Bill 21-1278 expressly clarifies that a meeting of the board of a special district may be held at a physical location, telephonically, electronically, virtually, or any combination of such means. Meeting notices for meetings held telephonically, electronically, or by other virtual means must include the method or procedure (i.e., conference number or link) by which members of the public can attend. Meetings that are held solely in person must still be held within the boundaries of the district, within the boundaries of the county where the district is located, in whole or in part, or in any county provided the physical meeting location does not exceed 20 miles from the district's boundaries, unless certain waiver criteria are met. House Bill 21-1278 confirms that any meeting held prior to the effective date of the bill by telephonic, electronic, or other virtual means is validated, ratified, confirmed, and may not be challenged. This bill took immediate effect on July 7, 2021 when signed by Governor Polis.

### **Local Regulation of Firearms**

**SB 21-256**

Senate Bill 21-256 authorizes a local government, including a special district, to enact a resolution, rule, or other regulation ("rule") that prohibits a concealed handgun permit holder from carrying a concealed handgun in a building or specific area under the direct control or management of the district, including a building or facility that is managed pursuant to an agreement between the district and a contractor. Any rule may only impose a civil penalty for violation and require the person to leave the premises. For first offenses, the rule may not impose a fine in excess of \$50. There shall be a notice sign posted at the public entrance to the buildings or specific areas where carrying a concealed handgun is prohibited. Senate Bill 21-256 took immediate effect on June 19, 2021 when signed by Governor Polis.

## **ELECTIONS**

### **Modification to Local Government Election Code**

**SB 21-160**

Senate Bill 21-160 revises several statutory citations to clarify that the Colorado Local Government Election Code ("Code") is the portion of the election code applicable to special district elections. Substantive changes to the Code included in the bill are as follows:

Senate Bill 21-160 modifies the Code to provide that, in computing for any act *or event* before a local government election, the first day is *excluded* and the last day is *included*. The bill makes certain clarifications with respect to self-nomination and acceptance forms ("SNAFs") and the DEO's verification and processing of SNAFs once submitted, including means for curing an insufficiency in the same. Senate Bill 21-160 also clarifies the Code to provide that the DEO shall

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<sup>2</sup> The new laws described herein with an effective date of September 7, 2021 are subject to challenge by referendum until such date. If a referendum petition is filed against a new law, the law will not take effect unless approved by the people at the general election to be held in November 2022.

mail ballots to each active registered elector *and* any person who is an “eligible elector,” as defined in the Special District Act,<sup>3</sup> or under any other applicable law.

In addition to the foregoing, Senate Bill 21-160 adds a new Section 32-1-902.7, C.R.S. to the Special District Act to provide for the creation of director districts within a special district. Pursuant to Section 32-1-902.7, the board of a special district may adopt a resolution to divide the district into director districts, wherein a 5-director district will be divided into 5 director districts and a 7-director district will be divided into 7 director districts. Each director district must have, as nearly as possible, the same number of eligible electors and shall be as contiguous and compact as possible. The board shall also designate whether the directors representing the director districts must be elected at large or by the eligible electors within each director district. If, after a reasonable time, the board determines that it is in the best interest of the district to revert to a single district format, the board may eliminate the director districts and thereafter operate as a single district by adopting a resolution to that effect. Senate Bill 21-160 will take effect on September 7, 2021, provided no referendum is filed.

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## **Elections and Voting**

**SB 21-250**

Senate Bill 21-250 is a sizeable voter registration and elections bill with limited applicability to special district recall elections. First, the bill removes the requirement that the form of recall petition be filed with the court and clarifies that a request to appoint a DEO for a recall of a special district director be filed with the district court in the county in which the special district was organized. If the court appoints a county clerk and recorder as the DEO, the recall election must be conducted in accordance with Article 12 of Title 1, C.R.S., except that certain provisions of the Special District Act in part 9 of Article 1, Title 32, C.R.S. still apply.<sup>4</sup> Second, for special district recall elections conducted pursuant to Section 1-12-117, C.R.S., the bill requires the DEO by certain deadlines to verify successor candidate SNAFs and notify any successor candidate who files a deficient SNAF. As it applies to special districts, Senate Bill 21-250 took immediate effect on June 21, 2021 when signed by Governor Polis.

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## **Ballot Access for Voters with Disabilities**

**SB 21-188**

Current law allows a voter with a disability to use an electronic voting device to produce a paper record to vote in any mail ballot election. Senate Bill 21-188 allows a voter to either print the ballot for return by mail or return the ballot by electronic transmission if the voter makes certain affirmations. The Secretary of State is tasked with establishing the electronic transmission system through which a voter with a disability may request and return a ballot. Senate Bill 21-188 takes effect on September 7, 2021, provided no referendum is filed.

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## **Voter Transparency in Ballot Measures**

**HB 21-1321**

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<sup>3</sup> “Eligible elector” means a person who is registered to vote and who is a resident of the special district or who, or whose spouse or civil union partner, owns taxable real or personal property situated within the boundaries of the special district, whether they reside in the special district or not. C.R.S. § 32-1-103(5)(a).

<sup>4</sup> Sections 32-1-906, 32-1-907, 32-1-909(4) to (6), 32-1-910(2)(c), 32-1-911(3)(b), (3)(c), and (4), and 32-1-912, C.R.S. still apply.

This bill enacts the Ballot Measure Fiscal Transparency Act of 2021 which requires that certain language appear at the beginning of initiated measures that would decrease state and local tax revenues through a tax change. The bill similarly requires additional language appear after the language required by Colo. Const. Art. X, Section 20 (“TABOR”) for measures that increase tax revenue for any district through a tax change. This bill does not affect special district elections due to the limited application of Title 1, Article 40, C.R.S. The bill also requires additional information be included in the ballot information booklet if a measure modifies state tax laws and would increase or decrease individual income tax revenue or state sales tax revenue. House Bill 21-1321 took immediate effect on July 7, 2021.

## **TAXATION**

### **Local Authority for Business Personal Property Taxation Exemption**

**SB 21-130**

As a means of providing COVID-19 relief to Colorado businesses, Senate Bill 21-130 allows counties, municipalities, and special districts to exempt up to 100% of business personal property from the levy and collection of property taxation for the 2021 property tax year. This bill took immediate effect on April 29, 2021.

### **Delinquent Interest Payments Property Tax**

**SB 21-279**

Senate Bill 21-279 allows a board of county commissioners or a city council of a city and county, upon approval of the county treasurer, to temporarily reduce, waive, or suspend delinquent interest payments for property tax payments for any period of time between June 16, 2021 and September 30, 2021. The board of county commissioners or city council must notify at least three executives or board officers in local taxing jurisdictions (including special districts) of the intent to do so, and if a local taxing jurisdiction would be unable to meet its bond payment obligations after the proposed reduction, waiver, or suspension, the local taxing jurisdiction shall notify the board of county commissioners or city council within three business days of receiving notice. If such notice is provided, Senate Bill 21-279 requires the county treasurer to advance property tax payments to the local taxing jurisdiction to assist in its payment of bonded indebtedness and monthly operation costs if certain conditions are met. This authority to reduce, waive, or suspend delinquent interest payments is repealed effective December 31, 2021. Senate Bill 21-279 took immediate effect on June 28, 2021.

### **State Severance Tax Trust Fund Allocation**

**SB 21-281**

Senate Bill 21-281 requires that a metropolitan district created on or after July 1, 2021 annually pay the state an amount equal to the total of all severance tax ad valorem credits claimed under Section 39-29-105(2)(b), C.R.S., for the property taxes that are imposed by the metropolitan district. Half of this revenue will be credited towards the state severance tax fund while the other half will be credited to the local government severance tax fund. The portions of Senate Bill 21-281 affecting special districts took immediate effect when signed by Governor Polis on June 18, 2021.

The law currently provides that, beginning in tax year 2020, there is a moratorium on changing the valuation for assessment of any class of property. Senate Bill 21-293 repeals this moratorium and sets forth new subclasses of residential and nonresidential property in an attempt to preemptively address state ballot initiatives to decrease the assessment rates. In addition, the law currently provides that the change or adjustment of any ratio of valuation for assessment for residential real property shall not constitute grounds for an abatement (reduction) of taxes. The bill expands this law to apply to all real property, not just residential property.

### Nonresidential Property

Senate Bill 21-293 defines “nonresidential property” as all taxable real and personal property in the state other than residential real property, producing mines, or lands or leaseholds producing oil or gas. Senate Bill 21-293 classifies agricultural property, lodging property, and renewable energy production property as new subclasses of nonresidential property. Senate Bill 21-293 amends Section 39-1-104(1), C.R.S. to provide that the assessment rate for lodging property is 29% of the actual value thereof. For agricultural property and renewable energy production property, the assessment rate is 29% of the actual value of such property; provided, however, in tax years 2022 and 2023, the assessment rate is temporarily reduced from 29% to 26.4%. The assessment rate for all other nonresidential property is 29%.

### Residential Property

Senate Bill 21-293 classifies multi-family residential real property as a new subclass of residential real property. “Multi-family residential real property” means residential real property that is a duplex, triplex, or multi-structure of four or more units. If a ballot initiative to decrease the assessment rate were to fail or if no such initiative exists, the assessment rate for multi-family residential real property is temporarily reduced from 7.15% to 6.8% for property tax years 2022 and 2023, effective December 31, 2021. Alternatively, the multi-family residential real property assessment rate will remain at 7.15%. For residential property other than multi-family residential real property, the assessment rate is temporarily reduced from 7.15% to 6.95% for property tax years 2022 and 2023.

### Expanded Tax Deferral Program

Under current law, the state treasurer pays county treasurers for deferred taxes claimed by active servicemembers and senior citizens over the age of 65. Senate Bill 21-293 expands eligibility for tax deferral to all taxpayers. Beginning on January 1, 2023, a person who is not otherwise eligible for deferral pursuant to Title 39, Article 3.5 may elect to defer payment of the portion of the real property taxes that exceed the taxpayer’s “tax-growth cap.” The “tax-growth cap” means the amount equal to the average of a person’s real property taxes paid on the same homestead for the 2 property tax years preceding the year in which the deferral is claimed, increased by 4%. When utilizing the tax-growth cap deferral, the minimum amount of taxes that may be deferred at one time is \$100 and, collectively, the maximum amount of taxes that may be deferred for all years is \$10,000; provided, however, these limitations are in addition to limitations for other deferrals.

With the exception of amendments to Section 39-1-104.2(3)(q), C.R.S., Senate Bill 21-293 took effect June 23, 2021. Whether the amendments to Section 39-1-104.2(3)(q), C.R.S. set forth in Sections 3 and 4 of the bill take effect depends upon the results of the November 2021 statewide election and initiatives presented.

Related to Senate Bill 21-293 is Initiative 2021-2022 #27 (“Initiative #27”) proposed for inclusion on the November 2021 ballot pertaining to property tax assessment rate reduction. Initiative #27 is a measure to reduce the residential property tax assessment rate from 7.15% to 6.5% and the nonresidential assessment rate from 29% to 26.4% with authorization for the state to retain and spend up to \$25 million per year, from July 1, 2022 to July 1, 2027, for the purpose of off-setting lost revenue and funding state reimbursements to local governments credited to homestead exemptions. Assessment rates under Senate Bill 21-293 will differ depending on whether Initiative #27 is approved by state voters in the November 2021 general election. For an explanation of how Initiative #27 interplays with Senate Bill 21-293, please refer to the chart attached hereto as Exhibit A.

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**Insurance Premium Property Sales Severance Tax****HB 21-1312**

In addition to other amendments, House Bill 21-1312 clarifies this law to provide that the actual value of real property reflects the value of the fee simple estate. For personal property, the bill provides that the actual value is based on the property’s value in use. “Value in use” has not been defined, but the bill requires the Property Tax Administrator to prepare and make public appraisal procedures and instructions for the annual appraisal of personal property that will include a definition of “value in use.”

House Bill 21-1312 also increases available exemptions for business personal property to \$50,000 for property tax years commencing on January 1, 2021 and January 1, 2022 and adjusted biennially thereafter. In 2021, county treasurers will calculate and report to the Property Tax Administrator the total property tax revenue lost by all local government entities (including special districts) within the county based upon the exempt business personal property with a total value of more than \$7,900 and less than or equal to \$50,000. In 2022 and each year thereafter, each county treasurer will calculate such lost revenues based on exempt business personal property amount estimates. The state treasurer will distribute the reimbursements to local government entities as if the revenues had been regularly paid as a property tax. If not all counties receive reimbursement warrants for the lost property tax revenue amounts specified, the state treasurer must notify the Property Tax Administrator of the same, and the exemption amount will decrease to the alternate exemption amount (continually adjusted biennially). The Property Tax and State Sales Tax sections of House Bill 21-1312 take effect on July 1, 2021.

**OPERATIONS**

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**Replace the Term Illegal Alien****HB 21-1075**

Current law prohibits special districts from entering into public contracts for services with contractors who knowingly employ or contract with “illegal aliens.” Similarly, public contracts for

services must include certain provisions regarding employment eligibility and verification so as not to employ or contract with illegal aliens. House Bill 21-1075 replaces the term “illegal alien” with the phrase “worker without authorization.” District contracts should be adjusted accordingly beginning September 7, 2021, until the repeal of this prohibition under Senate Bill 21-199 (discussed below), which becomes effective July 1, 2022. This bill takes effect on September 7, 2021, provided no referendum petition is filed.

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**Removing Barriers to Certain Public Opportunities****SB 21-199**

As discussed above, current law prohibits state agencies and political subdivisions from entering into public contracts for services with contractors who knowingly employ or contract with illegal aliens. Senate Bill 21-199 repeals this prohibition effective July 1, 2022. Relatedly, this bill also provides that on and after July 1, 2022, proof of residence is no longer required for a person to be eligible for any “local public benefits” distributed by local governments (including special districts), which benefits include any contract or loan provided by or funded with appropriations by local governments. The operative portions of this bill will take effect on July 1, 2022.

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**Nonsubstantive E-mails and Open Meetings Law****HB 21-1025**

Colorado’s Open Meetings Law, Sections 24-6-401 *et seq.*, C.R.S. (“COML”), provides that if elected officials use e-mail to discuss pending legislation or other public business, then that e-mail exchange constitutes a meeting that is subject to COML’s open meeting requirements. House Bill 21-1025 amends COML to clarify that e-mail communication between elected officials that does not relate to the “merits or substance” of pending legislation or other public business is *not* a “meeting” subject to COML’s open meeting requirements and clarifies that the following types of e-mail exchanges do not constitute a meeting under COML: (i) exchanges regarding scheduling and availability; (ii) emails sent by an elected official for the purposes of forwarding information; (iii) emails responding to an inquiry from an individual who is not a member of the state or local public body; or (iv) emails posing a question for later discussion by the public body. House Bill 21-1025 takes effect September 7, 2021, provided no referendum is filed. This bill only applies to electronic mail communication sent on or after the effective date.

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**Public Information Applicants for Public Employment****HB 21-1051**

House Bill 21-1051 pertains to applications for employment as a chief executive officer with state or local public bodies. Under current law, if three or fewer candidates for an executive position meet the minimum requirements for that position, all of those candidates must be treated as finalists, and their application materials are public records subject to inspection. House Bill 21-1051 repeals this requirement and sets forth that the state or local public body must name one or more candidates as finalists for the position.

House Bill 21-1051 also amends the Colorado Open Records Act, Sections 24-72-200.1 *et seq.*, C.R.S. (“CORA”), to provide that records submitted by or on behalf of an applicant or candidate for *any* employment position, including an applicant for an executive position who is not a finalist, shall not be subject to public inspection; provided, however, it does not prohibit inspection of records submitted on behalf of a finalist or applications of past or current employees without

another applicable exception. Notwithstanding the prohibition for disclosure of applicant or candidate records, the official custodian shall allow public inspection of the demographic data of a candidate who was interviewed by a state public body, local public body, or search committee for an executive position, but is not named a finalist. House Bill 21-1051 takes effect September 7, 2021, provided no referendum is filed.

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**Colorado Laws for Persons with Disabilities****HB 21-1110**

House Bill 21-1110 adds language to strengthen laws related to protections against discrimination on the basis of disability. An individual with a disability must not, on the basis of the individual's disability, be excluded from participation in or be denied the benefits of services, programs, or activities provided by a public entity (including special districts) or be subjected to discrimination by any such public entity. Discrimination includes the failure of a public entity to develop an accessibility plan on or before July 1, 2024 and comply with the accessibility standards for individuals with a disability established by the state's Office of Information Technology. This bill imposes a statutory fine of \$3,500 payable to plaintiffs for each violation of the foregoing. House Bill 21-1110 took immediate effect on June 30, 2021.

**REGULATION OF PROPERTY & HOMEOWNERS' ASSOCIATIONS**

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**Homeowners' Association Governance Funding Record Keeping****HB 21-1229**

House Bill 21-1229 provides that any section of a restrictive covenant, declaration, bylaws, or rules and regulations of a common interest community and any rule or policy of a special district that prohibits the use of nonvegetative turf grass in the backyard of a residential property is declared contrary to public policy and is therefore unenforceable. Current law also provides that any covenant, restriction, deed, or contract that prohibits or restricts the installation or use of a renewable energy generation device is unenforceable as contrary to public policy subject to certain reasonable regulations. House Bill 21-1229 clarifies the circumstances in which renewable energy generation devices may be restricted or prohibited.

House Bill 21-1229 modifies the Colorado Common Interest Ownership Act, Section 38-33.3-101 *et seq.*, C.R.S. ("CCIOA"), to add the following to the list of records that associations must maintain: (i) a list of the current amounts of all fees that are chargeable in connection with the purchase or sale of a unit; and (ii) all documents included in the association's annual disclosures pursuant to Section 38-33.3-209.4, C.R.S. The bill further provides that if an association fails to allow inspection or copying of records within 30 calendar days after receipt of a written request submitted by certified mail, return receipt requested, and payment of any fees, the association is liable in the amount of \$50 per day, commencing on the 11<sup>th</sup> day after receipt of request, up to a maximum of \$500 or the unit owner's actual damages sustained as a result of the refusal, whichever is greater. House Bill 21-1229 will take effect on September 7, 2021, provided no referendum petition is filed, and will only apply to conduct occurring on or after that date.

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**Homeowners' Association Regulation of Flags and Signs****HB 21-1310**

House Bill 21-1310 also amends CCIOA by requiring an association to permit the display of *any* flag or sign at *any* time, subject only to reasonable, content-neutral limitations such as number, size, or placement. However, commercial speech is not protected under this bill, and associations are expressly permitted to prohibit flags and signs bearing commercial messages. An association may adopt reasonable, content-neutral rules to regulate the number, location, and size of flags, flagpoles, and signs, but shall not prohibit the installation of a flag or flagpole. House Bill 21-1310 will take effect on September 7, 2021, provided no referendum petition is filed.

**EMPLOYMENT**

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**Workers' Compensation****HB 21-1050**

House Bill 21-1050 concerns that portion of the Workers' Compensation Act of Colorado codified in Article 42 (Benefits) and Article 43 (Procedure) of Title 8, C.R.S. ("WC Act") and makes the following modifications to the WC Act by making changes that affect: (i) the timely payment of disability benefits; (ii) obligations of employers and insurers to provide guardian ad litem and conservator services for legally incapacitated employees; (iii) benefit offsets related to the receipt of federal disability or retirement benefits; (iv) the reduction of disability benefits based on apportionment; (v) the selection of independent medical examiners; (vi) limits on temporary disability and permanent partial disability payments; (vii) the withdrawal of admissions of liability; (viii) the rights of claimants to receive mileage expense reimbursement; (ix) the authority of prehearing administrative law judges; (x) the reopening of permanent total disability awards; and (xi) petitions for review and appeals of orders denying or approving the payment of benefits or penalties. House Bill 21-1050 will take effect on September 7, 2021, provided no referendum petition is filed and will apply to actions pending, filed, and occurring on or after the effective date.

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**Gender Identity Expression Anti-Discrimination****HB 21-1108**

Individuals are statutorily protected against discrimination on the basis of disability, race, creed, color, sex, sexual orientation, religion, age, national origin, or ancestry, including in various areas such as employment, public accommodations, and labor for public works projects. House Bill 21-1108 adds "gender expression" and "gender identity" to these protected classes. The bill also expands the definition of "sexual orientation." House Bill 21-1108 will take effect on September 7, 2021, provided no referendum is filed.

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**Additional Liability under Respondeat Superior****HB 21-1188**

A recent Colorado Supreme Court case held that in a civil action when an employer admits liability for the tortious actions of its employee, the plaintiff cannot also assert direct negligence claims against the employer arising out of the same incident. House Bill 21-1188 reverses that holding and allows a plaintiff to bring such claims against an employer or against a principal that admits liability for the actions of its agent. Nothing in this bill permits a plaintiff to recover damages more



than once for the same injury. House Bill 21-1188 will take effect on September 7, 2021, provided no referendum is filed.

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**Overpayment of Workers' Compensation Benefits****HB 21-1207**

House Bill 21-1207 limits the definition of “overpayment” of workers’ compensation benefits under the WC Act to include only money received by a claimant that: (i) is a result of fraud; (ii) is the result of an error in miscalculation, omission, or clerical error asserted in a new admission of liability filed within 30 days of the erroneous admission of liability; (iii) is paid in error or inadvertently in excess of an admission or order that exists at the time the benefits are paid to a claimant; or (iv) results in duplicate benefits because of offsets that reduce disability or death benefits. “Duplicate benefits” includes any wages earned by a claimant in the same or other employment while the claimant is also receiving temporary disability benefits. House Bill 21-1207 was signed by Governor Polis on May 17, 2021 and takes effect on January 1, 2022.

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**MISCELLANEOUS**

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**Retaliation Against an Elected Official****SB 21-064**

Senate Bill 21-064 makes retaliation or retribution against an “Elected Official” a class 6 felony for any individual who “knowingly makes a credible threat” as retaliation or retribution against the Elected Official, or arising out of the status of the person as an Elected Official, which is directed against or committed upon an Elected Official. “Elected Official” means any person who is serving an elected position in the State of Colorado at any level of government, and protections under Senate Bill 21-064 extend to any family members of, persons in close relationship with, and persons residing with Elected Officials. “Credible threat” means a threat, physical action, or repeated conduct that would cause a reasonable person to be in fear for the person’s safety or the safety of his or her immediate family or of someone with whom the person has or has had a continuing relationship. The threat need not be directly expressed if the totality of the conduct would cause a reasonable person such fear. Senate Bill 21-064 took effect on July 1, 2021, applying only to offenses committed on or after the effective date.

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**811 Locate Exemption for County Road Maintenance****HB 21-1095**

House Bill 21-1095 concerns excavation notification requirements for underground facility locations in connection with county road maintenance. This bill provides that excavation that is routine or emergency maintenance of the right-of-way of a county-maintained gravel or dirt road, and is performed by county employees, does not require notification of Colorado 811 unless the excavation will: (i) disturb more than six inches in depth as it is conducted; (ii) lower the existing grade or elevation of the road or any adjacent shoulder; or (iii) lower the designed and constructed elevation of any adjacent ditch flowline. This bill also provides that markings of underground facilities shall be considered valid for no more than 30 calendar days following the due date of the locate request, removing prior exceptions extending the validity of markings for unpaved roads and maintenance by a government agency not exceeding six inches in depth. House Bill 21-1095 was signed by Governor Polis on May 21, 2021 and takes effect on June 1, 2022, provided no referendum is filed.

## EXHIBIT A

### Property Tax Assessment Rates – Senate Bill 21-293 & Initiative #27

Type of Property		Current Assessment Rate	Assessment rate – SB21-293	Assessment rate IF SB21-293 & Initiative 27 passes	Assessment rate IF SB21-293 does not pass but Initiative 27 does pass
Non-residential	Hotels, motels and B & Bs – 'lodging properties'	29%	29%	26.4%	26.4%
	Renewable Energy Production	29%	26.4% (for property tax years 2022 and 2023). Returns to 29% in 2023.	26.4% (for two years)	26.4%
	Agricultural Property	29%	26.4% (for property tax years 2022 and 2023). Returns to 29% in 2023.	26.4% (for two years)	26.4%
	Commercial, Vacant, Industry	29%	29%	29%	26.4%
	Oil & Gas	87.5%	87.5%	87.5%	87.5%
Residential	Multi-family housing (i.e. apartments)	7.15%	6.80% (for property tax years 2022 and 2023). Returns to 7.15% in 2023.	6.5%	6.5%
	All other residential property	7.15%	6.95% (for property tax years 2022 and 2023). Returns to 7.15% in 2023.	6.95% (for two years)	6.5%

Source: Colorado Counties, Inc., *Property Tax Classification and Assessment Rate – SB 21-291 & Initiative 27* (June 11, 2021).



## ICENOGL SEAVR POGUE

### MEMORANDUM

**TO:** Board of Directors, Managers, and other District Representatives

**FROM:** Icenogle Seaver Pogue, P.C.

**DATE:** October 14, 2021

**RE:** Senate Bill 21-262's Public Website Requirements for Metropolitan Districts

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### INTRODUCTION

During the 2021 legislative session, the Colorado General Assembly passed Senate Bill 21-262: Special District Transparency ("SB-262") which took effect on September 7, 2021 and modified certain reporting requirements imposed on metropolitan districts pursuant to the Special District Act, Sections 32-1-101 *et seq.*, C.R.S., among modifications to other statutes. One modification to the Special District Act enacted through SB-262 is a new requirement that all metropolitan districts organized after January 1, 2000 must, by certain deadlines, establish, maintain, and annually update an official public website setting forth specific information. C.R.S. § 32-1-104.5(3)(a). This memorandum describes the new website requirements enacted through SB-262, including exemptions from compliance.

### DISCUSSION

Section 32-1-104.5(3)(a) of the Special District Act, as amended by SB-262, provides: "...within one year of the date an order and decree has been issued by a district court for newly organized metropolitan district, or by January 1, 2023, for any metropolitan district that has received an order and decree from the district court in connection with its organization after January 1, 2000, but before January 1, 2022, the metropolitan district shall establish, maintain, and, unless otherwise specified, annually update an official website in a form that is readily accessible to the public..."

Stated more simply, metropolitan districts organized after January 1, 2000 and before January 1, 2022 must comply with the website requirements by January 1, 2023. Any metropolitan district organized on and after January 1, 2022 must comply with the website requirements within one (1) year from its date of organization.

#### I. Reporting Requirements

SB-262 requires that a metropolitan district's public website contain the following information:

1. The names, terms, and contact information for the current directors of the board the metropolitan district and of the manager of the metropolitan district, if applicable;
2. The current fiscal year budget of the metropolitan district and, within thirty (30) days of adoption by the board of the metropolitan district, any amendments to the budget;
3. The prior year's audited financial statements of the metropolitan district, if applicable, or an application for exemption from an audit prepared in accordance with the "Colorado Local Government Audit Law," part 6 of Article 1, Title 29, C.R.S., within thirty (30) days of the filing of the application with the state auditor;
4. The annual report of the metropolitan district in accordance with Section 32-1-207(3)(c), C.R.S.;<sup>1</sup>
5. By January 30 of each year, the date, time, and location of scheduled regular meetings of the metropolitan district's board for the current fiscal year;
6. If required by Section 1-13.5-501(1.5), C.R.S., by no later than seventy-five (75) days prior to a regular election for an election at which members of a board of directors for a metropolitan district will be considered, the call for nominations pursuant to Section 1-13.5-501(1), C.R.S.;<sup>2</sup>
7. Not more than thirty (30) days after an election, certified election results for an election conducted within the current fiscal year;
8. A current map depicting the boundaries of the metropolitan district as of January 1 of the current fiscal year; and
9. Any other information deemed appropriate by the board of directors of the metropolitan district.<sup>3</sup>

SB-262 permits metropolitan districts "serving the same community" to establish and maintain a consolidated website, provided the website clearly identifies each metropolitan district and provides the required information listed above for each metropolitan district. C.R.S. § 32-1-104.5(3)(b). "Serving the same community" is not explained in the bill, but it presumably includes metropolitan districts operating under a consolidated service plan and/or metropolitan districts serving the same development, whether or not operating under a consolidated service plan.

## **II. Exemptions from Compliance**

Metropolitan districts organized on or before January 1, 2000 are exempt from the website requirements added to the Special District Act through SB-262. C.R.S. § 32-1-104.5(3)(a)(compliance

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<sup>1</sup> SB-262 amended the annual report requirements in Section 32-1-207(3)(c), C.R.S. to include a list of specific information that must be submitted with a district's annual report beginning in 2023 for the 2022 report year. The annual report requirements are outside the scope of this memo, but we are happy to answer any questions you have regarding the new requirements.

<sup>2</sup> As enacted by SB 21-262, C.R.S. § 1-13.5-501(1.5) provides metropolitan districts organized prior to January 1, 2000 the option to post notice of calls for nomination on their public website, in addition to notice by publication. The statute cross-references C.R.S. § 1-13.5-501(1.7), which also provides metropolitan districts organized after January 1, 2000 the same option.

<sup>3</sup> This may include, for example, copies of a district's rules and regulations, policies for covenant enforcement, fee schedules, approved meeting minutes, etc.

is required for new metropolitan districts and districts organized “after January 1, 2000, but before January 1, 2022”). SB-262 provides for two additional exemptions.

First, any metropolitan district in inactive status pursuant to Section 32-1-104(3), C.R.S. is not required to establish, maintain, or update an official website during inactive status. However, a metropolitan district returning to active status must comply with the reporting requirements in Section I above within ninety (90) days of adopting a resolution returning to active status. C.R.S. § 32-1-104.5(3)(d)(I).

Second, any metropolitan district that “does not have the power to impose an ad valorem tax” is not required to establish, maintain, or update an official website. C.R.S. § 32-1-104.5(3)(d)(II). Here too, SB-262 is silent on what it means to have “the power to impose an ad valorem tax.” It is not clear, for example, whether a metropolitan district that has authorization in its service plan to levy an ad valorem tax, but does not have authorization from its electors pursuant to COLO. CONST. art. X § 20 (“TABOR”), is exempt from SB-262’s website requirements. Interpreting SB-262 practically would mean that such a metropolitan district would be exempt from the requirements given that TABOR authorization is required to constitutionally levy an ad valorem tax.<sup>4</sup> Nevertheless, the conservative approach would be to read SB-262 to mean that compliance is required of any metropolitan district that, at minimum, has the power to levy an ad valorem tax pursuant to its service plan.

### **III. Open Meetings Law**

Colorado’s Open Meetings Law, Section 24-6-402, C.R.S. (“COML”) currently allows for local public bodies, including metropolitan districts, to post notice of public meetings on a public website of a local public body. SB-262 amends the Special District Act to align with COML, providing that a notice of meeting containing the information set forth in COML at Section 24-6-402(c)(III), that is posted on a metropolitan district’s website no less than twenty-four (24) hours prior to such meeting, satisfies the requirements of COML. C.R.S. § 32-1-104.5(3)(c).

### **CONCLUSION**

Metropolitan districts organized after January 1, 2000 and before January 1, 2022 are required to comply with SB-262’s website requirements by January 1, 2023. Metropolitan districts organized on or after January 1, 2022 must comply with the website requirements within one year of organization. Metropolitan districts that were organized on or before January 1, 2000, that are in inactive status, or that do not have the power to levy an ad valorem tax are exempt from these requirements. While SB-262 does not impose specific sanctions for noncompliance, failure to comply would subject to a metropolitan district to civil liability under the Special District Act as it similarly would be for noncompliance with any other provision of the Special District Act. Accordingly, we recommend that you begin taking steps to ensure that a public website is timely established with the information required by SB-262. Once established, you may post notices of public meetings on the website to comply with COML’s meeting notice requirements, provided such notices contain all information required by COML.

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<sup>4</sup> TABOR requires that districts must have voter approval in advance for any new tax, tax rate increase, and extension of an expiring tax, among others. COLO. CONST. art. X § 20(4)(a).

**RESOLUTION OF THE  
BOARD OF DIRECTORS OF  
BERKLEY SHORES METROPOLITAN DISTRICT**

**A RESOLUTION ADOPTING AMENDED RULES AND REGULATIONS OF  
BERKLEY SHORES**

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 Tuesday, November 1, 2021 online meeting at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> and via telephone at 1-253-215-8782, Meeting ID: 546 911 9353, Password: 912873, at which a quorum was present, the following resolution was adopted:

**WHEREAS**, the Berkley Shores Metropolitan District (the "District") is a quasi-municipal corporation and political subdivision of the State of Colorado located in the County of Adams, Colorado; and

**WHEREAS**, the District operates pursuant to its Service Plan approved by the Board of County Commissioners of the County of Adams, Colorado on August 20, 2019, as the same may be amended and/or modified from time to time (the "Service Plan"); and

**WHEREAS**, pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power "to adopt, amend and enforce bylaws and rules and regulations not in conflict with the constitution and laws of this state for carrying on the business, objects, and affairs of the board and of the special district; and

**WHEREAS**, HDC 6300 Lowell Boulevard, LLLP, a Colorado limited liability partnership (the "Developer") has caused to be recorded the Declaration of Covenants, Conditions and Restrictions for Berkley Shores, recorded on September 16, 2020, at Reception No. 2020000092376 of the County of Adams, Colorado, real property records, as the same may be amended and/or modified from time to time (the "Covenants") applicable to the real property within the District (the "Property"); and

**WHEREAS**, pursuant to Section 32-1-1004(8), C.R.S., and pursuant to the District's Service Plan, a metropolitan district may provide covenant enforcement within the District if the declaration, rules and regulations, or any similar document containing the covenants to be enforced for the area within the metropolitan district name the metropolitan district as the enforcement and design review entity; and

**WHEREAS**, the Covenants provide that it is the intention of the Developer to empower the District to provide covenant enforcement services to the Property; and

**WHEREAS**, pursuant to the Covenants, the District may promulgate, adopt, enact, modify, amend, and repeal rules and regulations concerning and governing the Property and the enforcement of the Covenants; and

**WHEREAS**, pursuant to Resolution 2020-08-03 dated August 11, 2020, the Rules and Regulations of Berkley Shores were adopted; and

**WHEREAS**, pursuant to this Resolution, the District desires to adopted amended Rules and Regulations of Berkely Shores to provide for the orderly and efficient enforcement of the Covenants.

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

1. Adoption by the Board. The Board of Directors of the District hereby adopts the amended Rules and Regulations of Berkley Shores as described in Exhibit A, attached hereto and incorporated herein by this reference.
2. Superseding Effect. The amended Rules and Regulations of Berkley Shores supersede in full any other policies on the same subject matter.

**[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 1<sup>st</sup> DAY OF NOVEMBER 2021.**

**BERKLEY SHORES METROPOLITAN  
DISTRICT**

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Paul Malone, President

ATTEST:

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Natalie Satt, Secretary



EXHIBIT A

RULES AND REGULATIONS OF BERKLEY SHORES

RULES AND REGULATIONS  
OF  
BERKLEY SHORES

Amended 11-01-2021

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## **1. INTRODUCTION**

### **1.1 Basis for Rules and Regulations**

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

### **1.2 Definitions**

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

### **1.3 Contents of Rules**

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

### **1.4 Architectural Review Committee or Representative**

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

### **1.5 ARC Contact Information**

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

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

### **1.6 Effect of Declaration**

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

## **1.7 Effect of Governmental and Other Regulations**

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

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

## **1.8 Water and Sanitary Sewer Service**

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

## **1.9 Interference with Utilities**

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

**Utility Notification Center of Colorado**

**1-800-922-1987**

## **1.10 Goal of Rules**

Compliance with these Rules and the provisions of the Declaration will help preserve the inherent architectural and aesthetic quality of the Community. It is the responsibility of the ARC to ensure that all proposed Improvements meet or exceed the requirements of these Rules and to promote the highest quality design for the neighborhood. It is important that Improvements to property be made in harmony with and not detrimental to the rest of the Community. A spirit of cooperation with the ARC and neighbors will go far in creating an optimum environment, which will benefit all Owners. By following these Rules and obtaining prior written approval for Improvements to property from the ARC, Owners will be protecting their financial investment and will help insure that Improvements to Property are compatible with



standards established for the Community. If a question ever arises as to the correct interpretation of any terms, phrases or language contained in these Rules, the ARC's interpretation shall be final and binding.

## **2. PROCEDURES FOR ARC APPROVAL**

### **2.1 General**

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

### **2.2 Drawings or Plans**

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

- A.** The drawing or plan should be done to scale and shall depict the property lines of your Lot and the outside boundary lines of the home as located on the Lot. If you have a copy of an improvement survey of your Lot obtained when you purchased it, this survey would be an excellent base from which to start,
- B.** Existing Improvements, in addition to your home, should be shown on the drawing or plan and identified or labeled, Such existing Improvements include driveways, walks, decks, trees, shrubs, fences, etc. The proposed

Improvements should be shown on the plan and labeled. Either on the plan or on an attachment, there should be a brief description of the proposed Improvement, including the materials to be used and the colors. For example: replacement of front steps.

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

### **2.3 Submission of Drawings and Plans**

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

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

### **2.4 Action by ARC**

The ARC will meet as required to review plans submitted for approval. The ARC may require submission of additional information or material, and the request will be deemed denied until all required information and materials have been submitted. The ARC will act upon all requests in writing within forty-five (45) days after the complete

submission of plans, specifications, and other materials and information as requested by the ARC. If the ARC fails to review and approve in writing (which may be with conditions and/or requirements) or disapprove, a request for architectural approval within forty-five (45) days after the complete submission of the plans, specifications, materials and other information with respect thereto, such request is deemed denied by the ARC, except in the case of a request for architectural approval of renewal energy devices which are deemed approved if not denied or returned for modifications within sixty (60) days.

## **2.5 Revisions and Additions to Approved Plans**

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

## **2.6 Completion of Work**

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

## **2.7 Inspection of Work**

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

## **2.8 Notice of Non-Compliance**

If, as a result of inspections or otherwise, the ARC determines that any Improvement has been done without obtaining all required approvals (which may be with conditions and/or requirements), or was not done in substantial compliance with the approval that was granted, or has not been completed by the Completion Deadline, subject to any extensions of time granted pursuant to Section 2.6 hereof, then the ARC shall notify the District, and the District shall then notify the applicant in writing of the non-

compliance (the "Notice of Non-Compliance"). The Notice of Non-Compliance shall specify the particulars of the non-compliance, shall state that the applicant is required to remedy or remove the non-compliance within not more than forty-five (45) days, and that if the noncompliance is not remedied or removed, that the District may impose fines upon the applicant as provided in Section 2.9. Proof of delivery of the Notice of Non-Compliance shall be placed in the records of the Board. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who gave such notice. Alternatively, such proof may consist of a receipt for mailing by registered or certified mail or receipt by a reputable overnight courier (such as, for example, FedEx) or electronic evidence that such notice was received by the addressee's electronic device. The notice requirement shall be deemed satisfied if the applicant files a response. The applicant shall respond to the Notice of Non-Compliance within ten (10) days after it receives the notice, regardless of whether the applicant is challenging the finding of non-compliance. The applicant may request a hearing before the Board by including the request for a hearing in or with such Owner's response to the Notice of Non-Compliance. If a hearing is timely requested, the hearing shall be held before the Board. At the hearing, the applicant shall be afforded a reasonable opportunity to be heard. The Board may adopt rules for the conduct of such hearings that may include, without limitation, rules that govern the presentation of evidence and witnesses and the ability of an applicant to question adverse witnesses. The minutes of the hearing, shall contain a written statement of the results of the hearing.

## **2.9 Correction of Non-Compliance**

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

## **2.10 Amendment**

These Rules may at any time, from time to time, be added to, deleted from, repealed, amended, and modified, reenacted, or otherwise changed by the District, by majority

vote or written approval of the members of the Board, with the approval of the Person authorized to appoint the Board, as changing conditions and/or priorities dictate.

## **2.11 Questions**

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

## **3. SPECIFIC TYPES OF IMPROVEMENTS / SITE RESTRICTIONS**

### **3.1 General**

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

#### **3.1.1 Variances**

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

#### **3.1.2 No Unsightliness**

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

#### **3.1.3 Waivers; No Precedent**

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

### **3.1.4 Liability**

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

### **3.2 Accessory Buildings**

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

### **3.3 Additions and Expansions**

Addition to or expansion of any home is not permitted.

### **3.4 Address Numbers**

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

### **3.5 Air Conditioning Equipment**

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

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

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

### **3.6 Antennae/Satellite Dishes**

#### **3.6.1 General Provisions**

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

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

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

### **3.6.2 Installation of Antennae/Satellite Dishes**

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

### **3.7 Awnings**

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

### **3.8 Balconies and Decks**

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

### **3.9 Barbecue/Gas Grills**

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

### **3.10 Basketball Backboards**

Not permitted, whether portable or affixed.



### **3.11 Birdbaths**

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

See Section 3.52, Statues or Fountains.

### **3.12 Birdhouses and Bird Feeders**

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

### **3.13 Clothes Lines and Hangers**

Exterior clotheslines and hangers are not permitted.

### **3.14 Decks**

See Section 3.8, Balconies and Decks.

### **3.15 Dog Houses**

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

### **3.16 Doors**

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

- A. Storm Doors. Approval is required.
- B. Security Doors and Windows. All security or security-type doors and windows must be approved prior to installation.

### **3.17 Drainage**

The Declaration requires that there be no interference with the established drainage pattern over any property. The established drainage pattern means the drainage pattern

which exists at the time final grading of a Lot by the Declarant or a Builder is completed. It is very important to ensure that water drains away from the foundation of the house and that the flow patterns prevent water from flowing under or against the house foundation, walkways, sidewalks, and driveways into the street. Therefore, changes to landscaping are not permitted. The ARC may require a report from a drainage engineer as part of improvement plan approval, Landscaping and all drainage from downspouts off the house should conform to the established drainage pattern. Sump pump drainage should be vented a reasonable distance from the property line, on the Owner's property, to allow for absorption. Adverse effects to adjacent properties, including District lands, sidewalks and streets, will not be tolerated. Potted plants are permitted in containers not exceeding 18 inches in diameter.

### **3.18 Evaporative Coolers**

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

See Section 3.5, Air Conditioning Equipment.

### **3.19 Exterior Lighting**

See Section 3.29, Lights and Lighting.

### **3.20 Fences**

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

### **3.21 Fire Pits**

Fire pits are not permitted.

### **3.22 Firewood Storage**

Storage of firewood is not permitted.

### **3.23 Flags/Flagpoles**

The installation of flag poles shall be submitted to ARC review and approval. Flagpoles must be no higher than 20 feet from the ground when affixed to the ground and are limited to not more than 1 flagpole per residence. An Owner or resident may also display a flag on the inside of a window, on a balcony adjoining the home, or door of the home.

### **3.24 Gardens — Flower or Vegetable**

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

### **3.25 Grading and Grade Changes**

See Section 3.17, Drainage.

### **3.26 Hanging of Clothes**

See Section 3.13, Clothes Lines and Hangers.

### **3.27 Kennels**

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

### **3.28 Landscaping**

Changes to landscaping are not permitted, except that use of nonvegetative turf grass in the backyard of a residential property is permitted. However, replacement of dead or dying landscaping with like materials (or as close as possible) is permitted.

### **3.29 Lights and Lighting**

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

Approval is required to modify or add exterior lighting.

Approval is required to install motion detector spotlights, spotlights, floodlights or ballasted fixtures (sodium, mercury, multi-vapor, fluorescent, metal halide, etc.). Considerations will include, but may not be limited to, the visibility, style and location of the fixture.

- A.** Exterior lighting for security and/or other uses must be directed at the ground and house, whereby the light cone stays within the property boundaries and the light source does not cause glare to other properties (bullet type light fixtures are recommended).
- B.** Ground lighting along walks must be maintained in a working and sightly manner. Low- voltage or solar powered ground lighting fixtures which are typically affixed by stakes or similar posts are to be maintained in good aesthetic repair, be functional, not be a tripping or other physical hazard along pedestrian pathways, and remain generally vertical in their presentation.

- C. Holiday lighting and decorations do not require approval. It is required that they not be installed more than forty-five (45) days prior to the holiday. They shall be removed within thirty (30) days following the holiday.

### **3.30 Mailboxes**

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

### **3.31 Ornaments/Art - Landscape/Yard**

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

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

See Section 3.52, Statues or Fountains.

### **3.32 Painting**

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

### **3.33 Patios - Enclosed**

See Section 3.3, Additions and Expansions.

### **3.34 Paving**

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

### **3.35 Pipes**

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

### **3.36 Play Structures and Sports Equipment**

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

### **3.37 Playhouses**

Playhouse are not permitted.

### **3.38 Poles**

See Section 3.23, Flags/Flagpoles.

### **3.39 Ponds and Water Features**

Ponds and water features are not permitted.

### **3.40 Radio Antennae**

See Section 3.6, Antennae/Satellite Dishes.

### **3.41 Radon Mitigation Systems**

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

### **3.42 Roofing Materials**

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

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

### **3.43 Rooftop Equipment**

Approval is required. Equipment must be painted a color similar or generally accepted as complimentary to the roofing material of the house. All rooftop equipment shall be installed so as to minimize its visibility. See Section 3.51 Solar Energy Devices.

### **3.44 Satellite Dishes**

See Section 3.6, Antennae/Satellite Dishes.

### **3.45 Screen Doors**

Screen doors require approval. See Section 3.16, Doors.

### **3.46 Seasonal Decorations**

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

See Section 3.29, Lights and Lighting.

### **3.47 Security Devices.**

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

### **3.48 Shutters - Exterior**

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

### **3.49 Siding**

Approval is required.

### **3.50 Solar Energy Devices**

Approval is required in order to review aesthetic conditions. Photovoltaic (PV) Solar panels must lay flat on the roof, meet all applicable safety, building codes and electrical requirements, including solar panels for thermal systems (solar water heaters). The ARC is allowed to request changes as long as they don't significantly increase the cost by more than ten percent (10%) or decrease the efficiency of the proposed device and panels by more than ten percent (10%). Please also see Colorado statute, C.R.S. Section 38-30-168, which governs the review and the Owner's installation of such devices.

### **3.51 Statues or Fountains**

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

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

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

### **3.52 Storage Sheds**

See Section 3.2, Accessory Buildings.

### **3.53 Swamp Coolers**

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

### **3.54 Television Antennae**

See Section 3.6, Antennae/Satellite Dishes.

### **3.55 Tree Houses**

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

### **3.56 Vanes**

See Section 3.61, Weather Vanes and Directionals.

### **3.57 Vents**

See Section 3.43, Rooftop Equipment.

### **3.58 Walls**

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

### **3.59 Walls, Retaining**

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

### **3.60 Weather Vanes and Directionals**

Approval is required.

### **3.61 Wind Electric Generators**

Approval is required. In addition to ARC approval, windmills and any other type of fixture, which fall under the criteria of a wind generator, or are used to generate power

etc., must meet the requirement of the Colorado statute Section 540-2-124, C.R.S. and any applicable regulations of the Colorado Public Utilities Commission.

### **3.62 Windows Replacement**

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

### **3.63 Windows: Tinting, Security Bars, etc.**

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

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

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**RESOLUTION OF THE  
BOARD OF DIRECTORS OF  
BERKLEY SHORES METROPOLITAN DISTRICT**

A RESOLUTION ADOPTING AN AMENDED COVENANT ENFORCEMENT POLICY ESTABLISHING GUIDELINES FOR BERKLEY SHORES METROPOLITAN DISTRICT IN PROVIDING COVENANT ENFORCEMENT AND DESIGN REVIEW SERVICES

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 via <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> and via telephone at 1-253-215-8782, Meeting ID: 546 911 9353, Password: 912873, at which a quorum was present, the following resolution was adopted:

WHEREAS, pursuant to the Special District Act, Section 32-1-101 *et seq.*, C.R.S., and the Service Plan for Berkley Shores Metropolitan District, County of Adams, Colorado (“Service Plan”), Berkley Shores Metropolitan District (the “District”) has the authority to furnish covenant enforcement and design review services; and

WHEREAS, pursuant to that certain Declaration of Covenants, Conditions and Restrictions of Berkley Shores recorded in Clerk and Recorder’s Office for Adams County on September 16, 2020, at Reception No. 2020000092376 (“Declaration”), that certain Resolution No. 2020-08-03 Adopting the Rules and Regulations of Berkley Shores adopted by the District’s Board of Directors (“Board”) on August 11, 2020, and that certain Resolution No. 2020-08-04 Acknowledging and Adopting the Declaration of Covenants, Conditions and Restrictions of Berkley Shores adopted by the Board on August 11, 2020, and that certain Resolution No. 2020-08-05 Adopting the Policies and Procedures Governing the Enforcement of the Protective Covenants of Berkley Shores adopted by the Board on August 11, 2020 (collectively, the “Covenant Enforcement Policy”), the District is empowered and has agreed to provide covenant enforcement and design review services within the boundaries of the District; and

WHEREAS, any services provided by the District shall be undertaken in accordance with the procedures and conditions set forth in the Service Plan, the Special District Act, and other applicable laws; and

WHEREAS, the Special District Act provides at Section 32-1-1004(8)(c), C.R.S., that metropolitan districts providing covenant enforcement and design review services are not authorized to enforce any covenant that has been determined to be unenforceable as a matter of law; and

WHEREAS, the Special District Act also provides at Section 32-1-1001(1)(m), C.R.S., that metropolitan districts have the power to adopt, amend, and enforce bylaws and rules and regulations not in conflict with the state constitution; and

WHEREAS, the Board hereby desires to adopt a policy expressly stating that the District may only provide covenant enforcement and design review services to the extent that doing so does not infringe upon constitutional rights or otherwise violate the law; and

WHEREAS, the Board has determined that enacting such a policy is in the best interest of current and future residents and taxpayers of the District.

NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE BERKLEY SHORES METROPOLITAN DISTRICT HEREBY ADOPTS THE FOLLOWING AMENDED COVENANT ENFORCEMENT POLICY:

1. The Board, in acting on behalf of the District and/or in acting as members of the Architectural Review Committee pursuant to the Declaration and the Covenant Enforcement Policy, shall not enforce any bylaws, covenants, guidelines, rules, regulations, or restrictions, however denominated, contained in the Governing Documents (as defined in the Declaration) and the Covenant Enforcement Policy, as currently enacted or as the same may be amended or supplemented from time to time (collectively, the "Covenants"), if the Board determines, in its reasonable discretion or upon advice from legal counsel, that: (i) such enforcement may infringe upon constitutional rights of residents of the District against whom the Covenants are contemplated being enforced; or (ii) that such Covenants have been determined by applicable statute or by a court of competent jurisdiction to be unenforceable as a matter of law. The Covenants shall not be construed or interpreted as a grant of authority in excess of the authority granted to the District pursuant to the Service Plan and the Special District Act, as further limited by the state constitution and other applicable laws (altogether, the "Amended Covenant Enforcement Policy").

2. This Amended Covenant Enforcement Policy shall supersede and control anything contained in the Covenants to the contrary.

3. This Amended Covenant Enforcement Policy shall take effect on the date and time of its adoption.

ADOPTED AND APPROVED THIS 1<sup>st</sup> DAY OF NOVEMBER 2021.

BERKLEY SHORES METROPOLITAN DISTRICT

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By: Paul Malone, President

ATTEST:

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By: Natalie Satt, Secretary