

BERKLEY SHORES METROPOLITAN DISTRICT

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

NOTICE OF REGULAR MEETING AND AGENDA

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expiration:</u>
Paul Malone	President	2025/May 2025
Natalie Satt	Secretary	2025/May 2025
Michael Martines	Assistant Secretary	2025/May 2025
Victoria Almagno	Assistant Secretary	2027/May 2027
VACANT		2025/May 2027

DATE: November 6, 2023 (Monday)

TIME: 10:00 A.M.

LOCATION: Zoom Meeting

<https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUIZZc1VMWTJFZjFHdz09>

Telephone Number: (719) 359-4580

Meeting ID: 862 6755 0643

Passcode: 987572

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

A. _____

II. ADMINISTRATIVE MATTERS

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

B. Approve Agenda, confirm location of the meeting and posting of meeting notices and designate 24-hour posting location.

C. Consider approval of Minutes from November 7, 2022 Regular Meeting and November 16, 2022 Continued Regular Meeting (enclosures).

D. Discuss results of the cancelled of May 2, 2023 Regular Special District Election (enclosure).

- E. Discuss appointment to the Board of Directors.
-

- F. Ratification of 2022 Annual Report (enclosure).
-

III. FINANCIAL MATTERS

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

Fund	Period Ending Nov. 30, 2022	Period Ending Dec. 31, 2022	Period Ending Jan. 31, 2023	Period Ending Feb 28, 2023
General	\$ 3,687.32	\$ 13,334.95	\$ 11,927.80	\$ 14,163.83
Debt	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Capital	\$ 962.16	\$ 2,003.04	\$ 906.00	\$ 1,430.22
Total	\$ 4,649.48	\$ 15,337.99	\$ 12,833.80	\$ 15,594.05

Fund	Period Ending March 31, 2023	Period Ending April 30, 2023	Period Ending May 31, 2023	Period Ending Jun 30, 2023
General	\$ 11,613.45	\$ 8,257.56	\$ 7,225.59	\$ 12,136.59
Debt	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Capital	\$ 1,034.28	\$ 1,017.60	\$ 1,654.20	\$ 1,335.84
Total	\$ 12,647.73	\$ 9,275.16	\$ 8,879.79	\$ 13,472.43

Fund	Period Ending July 31, 2023	Period Ending Aug. 31, 2023	Period Ending Sept 30, 2023	Period Ending Oct. 31, 2023
General	\$ 7,655.39	\$ 16,433.53	\$ 15,735.14	\$ 13,040.37
Debt	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Capital	\$ \$1,415.22	\$ 1,620.90	\$ 955.62	\$ 1,184.20
Total	\$ \$9,070.61	\$ 18,054.43	\$ 16,690.76	\$ 14,224.57

- B. Review and accept the Unaudited Financial Statements through the period ending September 30, 2023 and Schedule of Cash Position updated as of September 30, 2023 (enclosure).
-

- C. Ratify approval of the preparation, execution and filing of the 2022 Audit Extension and 2022 Audit (enclosures).
-

- D. Consider engagement of _____ for preparation of 2023 Audit, in the amount of \$ _____ (to be distributed).
-

- E. Public Hearing on Proposed 2024 Budget
-

- i. Public Comment Period
 - ii. Consider Approval of Resolution 2023-11-01 Approving Proposed 2024 Budget, Certification of Mill Levy, and Appropriate Sums of Money (enclosures – preliminary AV, draft 2024 Budget, and Resolution).
-

F. Consider appointment of District Accountant to prepare 2025 Budget.

IV. LEGAL MATTERS

A. Review and consider approval of Resolution No. 2023-11-02 Annual Resolution (enclosure).

B. Consider Approval of Amendment to Operation Funding Agreement for Operations and Maintenance Expenses (enclosure).

C. Consider Ratification/Award of Trash Removal Services/Agreement with Waste Management (enclosure).

D. 2023 Legislative Memorandum (enclosure).

V. COVENANT ENFORCEMENT MATTERS

A. Discuss request from 3470 West 62nd Place and 3520 West 62nd Place regarding pavers (enclosures).

B. Consider Ratification of 2023 Snow Removal Services Contract with Environmental Designs Inc. (enclosure).

C. Consider Ratification of 2023 Landscape Maintenance Agreement with Environmental Designs Inc. (enclosure).

- D. Consider Ratification of Landscape Enhancement Contract with Environmental Designs Inc. for tree wrap services (enclosure).
-

- E. Discuss dog kill.
-

- F. 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.
-

- G. Consider Approval of Resolution Adopting Amended Rules and Regulations (enclosure).
-

VI. CONSTRUCTION MATTERS

- A. Discuss status of development.
-

VII. OTHER MATTERS

- VIII. ADJOURNMENT: **THERE ARE NO MORE REGULAR MEETINGS SCHEDULED FOR 2023.**

Additional Enclosure:

- Notice of rate increase from Special District Management Services, Inc.
- Notice of rate increase from Altitude Community Law.
- Notice of rate increase from Icenogle Seaver Pogue, P.C.

RECORD OF PROCEEDINGS

MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE BERKLEY SHORES METROPOLITAN DISTRICT (THE “DISTRICT”) HELD NOVEMBER 7, 2022

A regular meeting of the Board of Directors of the Berkley Shores Metropolitan District (referred to hereafter as the “Board”) was convened on Monday, November 7, 2022, at 10:00 a.m., via Zoom. The meeting was open to the public.

Directors In Attendance Were:

Paul Malone, President
Natalie Satt, Secretary
Victoria Almagno, Assistant Secretary

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

Also In Attendance Were:

Peggy Ripko and Shana Jones; Special District Services, Inc. (“SDMS”)

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

**DISCLOSURE OF
POTENTIAL
CONFLICTS OF
INTEREST**

Ms. Ripko requested that the Directors consider whether they had any additional conflicts of interest to disclose. Ms. Ripko 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 at least seventy-two hours in advance of the meeting.

**PUBLIC
COMMENTS**

There were no public comments at this time.

**ADMINISTRATIVE
MATTERS**

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

RECORD OF PROCEEDINGS

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

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

Minutes: The Board reviewed the Minutes of the August 17, 2022 Special Meeting.

Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Minutes of the August 17, 2022 Special Meeting were approved, as presented.

FINANCIAL MATTERS

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

Fund	Period Ending August 31, 2022	Period Ending Sept. 30, 2022	Period Ending Oct. 31, 2022
General	\$ 6,653.97	\$ 8,674.18	\$ 14,422.84
Debt	\$ -0-	\$ -0-	\$ -0-
Capital	\$ 861.36	\$ 1,705.68	\$ 816.96
Total	\$ 7,515.33	\$ 10,379.86	\$ 15,239.80

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

Unaudited Financial Statements and Schedule of Cash Position: Ms. Ripko reviewed with the Board the unaudited financial statements of the District, setting forth the cash deposits, investments, budget analysis and the schedule of cash position statement updated as of September 30, 2022.

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

2022 Audit: The Board reviewed the proposal from Simmons & Wheeler, PC to perform the 2022 Audit.

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board approved the engagement of Simmons & Wheeler, PC to perform the 2022 Audit, for an amount not to exceed \$7,700.

2022 Budget Amendment Hearing: Ms. Ripko opened the public hearing to consider the Resolution to Amend the 2022 Budget and discuss related issues.

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

Following review and discussion, Director Malone moved to adopt the Resolution to Amend 2022 Budget, Director Satt seconded the motion and, upon vote, unanimously carried, the Board adopted Resolution No. 2022-11-01 to Amend the 2022 Budget and appropriate sums of money. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

2023 Budget Hearing: Director Malone opened the public hearing to consider the Resolution to Adopt the 2023 Budget and discuss related issues.

It was noted that publication of Notice stating that the Board would consider adoption of a Resolution to Adopt the 2023 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to this public hearing. No public comments were received, and the public hearing was closed.

The Board entered into discussion regarding the 2023 Budget. Following discussion, upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Board approved continuing consideration of the 2023 Budget to the November 16, 2023 continued meeting, with direction to Ms. Ripko and Mr. Ruthven regarding revisions to the draft 2023 Budget.

LEGAL MATTERS

Election Resolution: Ms. Ivey presented to and reviewed with the Board the 2023 Regular Special District Election Resolution. Following discussion and upon motion by Director Satt, second by Director Malone, and unanimous vote, the Board of Directors approved the 2023 Regular Special District Election Resolution. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

RECORD OF PROCEEDINGS

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

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

June 5, 2023 and November 6, 2023, at 10:00 A.M., via video conference. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

§32-1-809, C.R.S. Reporting Requirements, Mode of Eligible Elector Notification for 2023: The Board discussed §32-1-809, C.R.S. reporting requirements and mode of eligible elector notification for 2023.

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

2022 Legislative Report: Ms. Ivey presented to and reviewed with the Board a memorandum regarding 2022 Legislation.

Senate Bill 21-262 Website Compliance: Ms. Ivey discussed with the Board SB 21-262 Website Compliance.

Amendment to Advance and Reimbursement Agreement for Operations and Maintenance Expenses: Attorney Ivey reviewed with the Board an Amendment to Advance and Reimbursement Agreement for Operations and Maintenance Expenses.

Following discussion, upon motion duly made by Director Satt, seconded by Director Malone and, upon vote unanimously carried, the Board approved continuing consideration of the Amendment to Advance and Reimbursement Agreement for Operations and Maintenance Expenses to the November 16, 2022 continued meeting.

RECORD OF PROCEEDINGS

Executive Session: Pursuant to Section 24-6-402(4)(b), C.R.S., upon motion duly made by Director Satt, seconded by Director Malone and, upon an affirmative vote, the Board convened in executive session at 10:21 a.m. for the purpose of receiving legal advice on specific legal questions related to trash service.

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

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

Upon motion duly made by Director Malone, seconded by Director Satt and, upon an affirmative vote, the Board reconvened in regular session at 10:27 a.m.

COVENANT ENFORCEMENT MATTERS

Landscape Maintenance: The Board discussed the update to the landscape maintenance.

Architectural Review: The Board discussed the fencing requests submitted for architectural review. The Board directed the manager to submit fencing violation to Altitude Law for enforcement action.

Covenant Conditions and Restrictions:

Lot Lines, Fencing Matters and Landscape Maintenance Options: Attorney Ivey discussed the matter of public access to the District-maintained areas with the Board. No action was taken by the Board.

CONSTRUCTION MATTERS

Development: The Board entered into discussion regarding the status of the development.

OTHER BUSINESS

Agreement with Waste Management: Attorney Ivey updated the Board on the status of the agreement with Waste Management.

RECORD OF PROCEEDINGS

CONTINUATION OF MEETING

Upon motion duly made by Director Malone, seconded by Director Satt, and upon vote, unanimously carried, the meeting was continued to November 16, 2022 at 12:00 p.m. via Zoom Meeting.

Respectfully submitted,

By _____
Secretary for the Meeting

RECORD OF PROCEEDINGS

MINUTES OF THE CONTINUED REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE BERKLEY SHORES METROPOLITAN DISTRICT (THE “DISTRICT”) HELD NOVEMBER 16, 2022

A continued regular meeting of the Board of Directors of the Berkley Shores Metropolitan District (referred to hereafter as the “Board”) was reconvened on Monday, November 16, 2022, at 12:00 p.m., via Zoom. The meeting was open to the public.

Directors In Attendance Were:

Paul Malone, President
Philip Clow, Treasurer
Natalie Satt, Secretary
Michael Martines, Assistant Secretary
Victoria Almagno, Assistant Secretary

Also In Attendance Were:

Peggy Ripko; Special District Services, Inc. (“SDMS”)

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

**DISCLOSURE OF
POTENTIAL
CONFLICTS OF
INTEREST**

Ms. Ripko requested that the Directors consider whether they had any additional conflicts of interest to disclose. Ms. Ripko 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 at least seventy-two hours in advance of the meeting.

**PUBLIC
COMMENTS**

There were no public comments at this time.

**ADMINISTRATIVE
MATTERS**

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

RECORD OF PROCEEDINGS

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

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

FINANCIAL MATTERS

2023 Budget Hearing: Ms. Ripko reviewed with the Board the estimated year-end 2022 revenues and expenditures, the proposed 2023 estimated revenues and expenditures, and the revised 2023 Budget and Ms. Ivey presented to the Board of Directors a Resolution for approval and adoption of the 2023 Budget, appropriating fund therefor and certification of a mill levy thereunder.

Following discussion, the Board considered the adoption of Resolution No. 2022-11-02 to Adopt the 2023 Budget and Appropriate Sums of Money and Resolution No. 2022-11-03 to Set Mill Levies (for the General Fund at 25.000 mills and the Debt Service Fund at 36.007 mills, for a total of 61.007 mills). Upon motion duly made by Director Malone, seconded by Director Satt and, upon vote, unanimously carried, the Resolutions were adopted, the funds were appropriated, the mill levies certified, as discussed, and execution of the Certification of Budget and Certification of Mill Levies was authorized, subject to receipt of final Certification of Assessed Valuation from the County on or before December 10, 2022. Ms. Ripko was authorized to transmit the Certification of Mill Levies to the Board of County Commissioners of Adams County and the Division of Local Government not later than December 15, 2022. Ms. Ripko was also authorized to transmit the Certification of Budget to the Division of Local Government not later than January 30, 2023.

LEGAL MATTERS

Amendment to Advance and Reimbursement Agreement for Operations and Maintenance Expenses: Attorney Ivey reviewed with the Board an Amendment to Advance and Reimbursement Agreement for Operations and Maintenance Expenses.

Following discussion, upon motion duly made by Director Satt, seconded by Director Malone and, upon vote unanimously carried, the Board approved the Amendment to Advance and Reimbursement Agreement for Operations and Maintenance Expenses consistent with the 2023 Budget.

RECORD OF PROCEEDINGS

ADJOURNMENT

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

Respectfully submitted,

By _____
Secretary for the Meeting

**CANCELLATION OF ELECTION AND
DECLARATION DEEMING CANDIDATES
ELECTED FOR
BERKLEY SHORES METROPOLITAN
DISTRICT**

The Designated Election Official of the Berkley Shores Metropolitan District has been duly authorized by the Board of Directors to cancel and declare candidates elected if, at the close of business on the sixty-third (63rd) day before the election, there are not more candidates than offices to be filled at the election to be conducted on May 2, 2023; and

As of the close of business on March 1, 2023, there were not more candidates for Director than offices to be filled, including candidates filing affidavits of intent to be write-in candidates.

Pursuant to Section 1-13.5-513(1), C.R.S., the Designated Election Official hereby cancels the regular election to be conducted on May 2, 2023.

THE ELECTION IS CANCELLED AND THE FOLLOWING CANDIDATES ARE DECLARED ELECTED FOR THE FOLLOWING TERMS:

Victoria Almagno, 4-Year Term
Vacant, 4-Year Term

DATED this 1st day of March, 2023.

/s/ Peggy Ripko
Designated Election Official

Contact Person for District:
Peggy Ripko

Telephone Number of District:
303-987-0835

Address of District:
141 Union Boulevard, Suite 150
Lakewood, Colorado 80228

**CANCELACIÓN DE ELECCIONES Y
DECLARACIÓN DE CONSIDERACIÓN DE LOS
CANDIDATOS ELEGIDOS PARA
BERKLEY SHORES METROPOLITAN
DISTRICT**

El Funcionario Electoral Designado del Berkley Shores Metropolitan District ha sido debidamente autorizado por la Junta Directiva para cancelar y declarar candidatos electos si, al cierre de actividades del sexagésimo tercer (63) día antes de la elección, no hay más candidatos que cargos por cubrir. llenarse en la elección que se llevará a cabo el 2 de mayo de 2023; y

Al cierre de operaciones del 1 de marzo de 2023, no había más candidatos para Director que cargos por cubrir, incluidos los candidatos que presentaron declaraciones juradas de intención de ser candidatos por escrito.

De conformidad con la Sección 1-13.5-513(1), C.R.S., el Oficial Electoral Designado cancela por la presente la elección regular que se llevará a cabo el 2 de mayo de 2023.

SE ANULA LA ELECCIÓN Y SE DECLARAN ELEGIDOS LOS SIGUIENTES CANDIDATOS PARA LOS SIGUIENTES TÉRMINOS:

Victoria Almagno, Término de cuatro años
Vacante, Término de cuatro años

FECHADO este 1st día de marzo de 2023.

/s/ Peggy Ripko
Oficial Electoral Designado

Número de teléfono del distrito:
303-987-0835

Dirección del Distrito:
141 Union Boulevard, Suite 150
Lakewood, Colorado 80228

BERKLEY SHORES METROPOLITAN DISTRICT

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

June 9, 2023

Adams County
Community and Economic Development
Attn: Ryan Nalty
4430 S. Adams County Pkwy.
1st Floor, Suite W2000
Brighton, CO 80601

VIA E-MAIL: rnalty@adcogov.org

Re: Berkley Shores Metropolitan District; 2022 Annual Report

Dear Ryan:

Attached is the 2022 Annual Report required to be provided to the Director of Community and Economic Development for the Berkley Shores Metropolitan District.

Please acknowledge your receipt of the Annual Report by signing this letter below and returning to this office via e-mail to pcorado@sdmsi.com.

If you have any questions, please contact me.

Sincerely,

Paola Corado
Assistant to Peggy Ripko
District Manager

Attachment

cc: Icenogle Seaver Pogue, P.C. – Jennifer Ivey, Esq. and Megan Liesmaki
Division of Local Government
State Auditor

The above referenced information and documents were received this ____ day of _____, 2023.

Adams County
Community and Economic Development

By: _____

ANNUAL INFORMATION REPORT
for the year 2022
BERKLEY SHORES METROPOLITAN DISTRICT

Pursuant to Section VII of the Service Plan and Section 32-1-207(3)(c), C.R.S for Berkley Shores Metropolitan District (the “District”) approved by the County of Adams, Colorado on August 20, 2019, this Annual Information Report is being submitted to satisfy the reporting requirement for the year 2022. For the year ending December 31, 2022, the District makes the following report:

- 1) **Boundary changes made or proposed to the District’s boundary as of December 31 of the prior year:** No boundary changes were made or proposed during 2022.
- 2) **Intergovernmental Agreements with other governmental entities either entered into, proposed or terminated as of December 31 of the prior year:** No Intergovernmental Agreements were entered into, proposed or terminated in 2022.
- 3) **Copies of the District’s rules and regulations, if any as of December 31 of the prior year:** There were no new rules and regulations in 2022.
- 4) **A summary of any litigation which involves the District Public Improvements as of December 31 of the prior year:** The District is not aware of any litigation involving the District Public Improvements as of December 31, 2022.
- 5) **Status of the District’s construction of the Public Improvements as of December 31 of the prior year:** Construction of all Public Improvements were completed as of December 31, 2022.
- 6) **A list of all facilities and improvements constructed by the District that have been dedicated to and accepted by the City as of December 31 of the prior year:** There were no facilities or improvements constructed by the District that were dedicated to or accepted as of December 31, 2022.
- 7) **The assessed valuation of the District for the current year:** \$1,669,230.00. A copy of the 2022 certification of assessed valuation from Adams County is attached hereto as **Exhibit C**.
- 8) **Current year budget including a description of the Public Improvements to be constructed in such year:** The District is not planning to construct public improvements in 2023.
- 9) **Audit of the District’s financial statements, for the year ending December 31 of the previous year, prepared in accordance with generally accepted accounting principles or audit exemption, if applicable:** A copy of the District’s 2022 audit will be provided upon its completion.

10) **Notice of any uncured events of default by the District, which continue beyond a ninety (90) day period, under any Debt instrument:** As of the date of this report, the District is not aware of any uncured events of default by the District, which continued beyond a ninety (90) day period, under any debt instrument.

11) **Any inability of the District to pay its obligations as they come due, in accordance with the terms of such obligations, which continue beyond a ninety (90) day period:** As of the date of this report, the District is not aware of any inability of the District to pay its obligations as they come due in accordance with the terms of such obligations, which continued beyond a ninety (90) day period.

12) **For information concerning rules and regulations adopted by the District please contact the District's manager:**

SDMS

141 Union Blvd, Ste 150

Lakewood, CO 80228

303-987-0835

pripko@sdmsi.com

<https://berkeleyshoresmd.colorado.gov/>

Attn: Peggy Ripko

EXHIBIT A

Rules Related to Requests for Inspection of Public Records

RESOLUTION NO. 2020-08-03

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

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

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

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

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

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

[SIGNATURE PAGE FOLLOWS]

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

APPROVED AND ADOPTED this 11th day of August, 2020

**BERKLEY SHORES METROPOLITAN
DISTRICT**

By: **Paul Malone**

President

Digitally signed by Paul Malone
DN: C=US,
E=pmalone@highlanddevelopmentco.com,
CN=Paul Malone
Date: 2020.10.21 09:03:01-06'00'

Attest:

Natalie Satt

Secretary or Assistant Secretary

Digitally signed by Natalie Satt
DN: C=US,
E=nsatt@highlanddevelopmentco.com,
O=Highland Development Company,
CN=Natalie Satt
Date: 2020.10.21 08:21:46-06'00'

EXHIBIT B

Amended Rules and Regulations

RULES AND REGULATIONS
OF
BERKLEY SHORES

AS OF September 16, 2020

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1. INTRODUCTION

1.1 Basis for Rules and Regulations

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

1.2 Definitions

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

1.3 Contents of Rules

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

1.4 Architectural Review Committee or Representative

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

1.5 ARC Contact Information

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

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

1.6 Effect of Declaration

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

1.7 Effect of Governmental and Other Regulations

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

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

1.8 Water and Sanitary Sewer Service

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

1.9 Interference with Utilities

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

Utility Notification Center of Colorado

1-800-922-1987

1.10 Goal of Rules

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

2. PROCEDURES FOR ARC APPROVAL

2.1 General

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

2.2 Drawings or Plans

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

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

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

2.3 Submission of Drawings and Plans

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

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

2.4 Action by ARC

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

2.5 Revisions and Additions to Approved Plans

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

2.6 Completion of Work

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

2.7 Inspection of Work

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

2.8 Notice of Non-Compliance

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

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

2.9 Correction of Non-Compliance

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

2.10 Amendment

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

2.11 Questions

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

3. SPECIFIC TYPES OF IMPROVEMENTS / SITE RESTRICTIONS

3.1 General

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

3.1.1 Variances

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

3.1.2 No Unsightliness

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

3.1.3 Waivers; No Precedent

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

3.1.4 Liability

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

3.2 Accessory Buildings

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

3.3 Additions and Expansions

Addition to or expansion of any home is not permitted.

3.4 Address Numbers

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

3.5 Air Conditioning Equipment

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

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

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

3.6 Antennae/Satellite Dishes

3.6.1 General Provisions

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

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

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

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

3.6.2 Installation of Antennae/Satellite Dishes

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

3.7 Awnings

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

3.8 Balconies and Decks

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

3.9 Barbecue/Gas Grills

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

3.10 Basketball Backboards

Not permitted, whether portable or affixed.

3.11 Birdbaths

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

See Section 3.52, Statues or Fountains.

3.12 Birdhouses and Bird Feeders

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

3.13 Clothes Lines and Hangers

Exterior clotheslines and hangers are not permitted.

3.14 Decks

See Section 3.8, Balconies and Decks.

3.15 Dog Houses

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

3.16 Doors

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

A. Storm Doors. Approval is required.

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

3.17 Drainage

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

3.18 Evaporative Coolers

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

See Section 3.5, Air Conditioning Equipment.

3.19 Exterior Lighting

See Section 3.29, Lights and Lighting.

3.20 Fences

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

3.21 Fire Pits

Fire pits are not permitted.

3.22 Firewood Storage

Storage of firewood is not permitted.

3.23 Flags/Flagpoles

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

3.24 Gardens – Flower or Vegetable

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

3.25 Grading and Grade Changes

See Section 3.17, Drainage.

3.26 Hanging of Clothes

See Section 3.13, Clothes Lines and Hangers.

3.27 Kennels

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

3.28 Landscaping

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

3.29 Lights and Lighting

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

Approval is required to modify or add exterior lighting.

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

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

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

3.30 Mailboxes

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

3.31 Ornaments/Art - Landscape/Yard

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

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

Approval is required for any other yard ornaments.

See Section 3.52, Statues or Fountains.

3.32 Painting

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

3.33 Patios - Enclosed

See Section 3.3, Additions and Expansions.

3.34 Paving

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

3.35 Pipes

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

3.36 Play Structures and Sports Equipment

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

3.37 Playhouses

Playhouse are not permitted.

3.38 Poles

See Section 3.23, Flags/Flagpoles.

3.39 Ponds and Water Features

Ponds and water features are not permitted.

3.40 Radio Antennae

See Section 3.6, Antennae/Satellite Dishes.

3.41 Radon Mitigation Systems

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

3.42 Roofing Materials

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

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

3.43 Rooftop Equipment

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

See Section 3.51 Solar Energy Devices.

3.44 Satellite Dishes

See Section 3.6, Antennae/Satellite Dishes.

3.45 Screen Doors

Screen doors require approval. See Section 3.16, Doors.

3.46 Seasonal Decorations

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

See Section 3.29, Lights and Lighting.

3.47 Security Devices.

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

3.48 Shutters - Exterior

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

3.49 Siding

Approval is required.

3.50 Signs

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

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

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

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

3.51 Solar Energy Devices

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

3.52 Statues or Fountains

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

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

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

3.53 Storage Sheds

See Section 3.2, Accessory Buildings.

3.54 Swamp Coolers

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

3.55 Television Antennae

See Section 3.6, Antennae/Satellite Dishes.

3.56 Tree Houses

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

3.57 Vanes

See Section 3.61, Weather Vanes and Directionals.

3.58 Vents

See Section 3.43, Rooftop Equipment.

3.59 Walls

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

3.60 Walls, Retaining

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

3.61 Weather Vanes and Directionals

Approval is required.

3.62 Wind Electric Generators

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

3.63 Windows Replacement

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

3.64 Windows: Tinting, Security Bars, etc.

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

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

Remainder of page intentionally left blank.

Appendix A

APPENDIX A: Architectural Review Request Form

ARCHITECTURAL REVIEW REQUEST FORM

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

FOR OFFICE USE ONLY

Date Received _____
Crucial Date _____
Date Sent to Entity _____
Date Rcvd from Entity _____

HOMEOWNER'S NAME(S): _____
ADDRESS: _____
EMAIL ADDRESS: _____
PHONE(S): _____

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

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

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

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

Date: _____ Homeowner's Signature: _____

ARC Action:

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

- Disapproved for the following reasons:

All work to be completed no later than: _____

DRC/ARC Signature: _____ Date: _____

SUBMITTAL FEES

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

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

EXHIBIT C

Assessed Valuation

CERTIFICATION OF VALUATION BY ADAMS COUNTY ASSESSOR

Name of Jurisdiction: **481 - BERKLEY SHORES METROPOLITAN DISTRICT**

IN ADAMS COUNTY ON 12/1/2022

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 2022 IN ADAMS COUNTY, COLORADO

1. PREVIOUS YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	\$591,440
2. CURRENT YEAR'S GROSS TOTAL TAXABLE ASSESSED VALUATION: *	\$1,669,230
3. LESS TIF DISTRICT INCREMENT, IF ANY:	\$0
4. CURRENT YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	\$1,669,230
5. NEW CONSTRUCTION: **	\$1,008,740
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.):	\$0.00

* 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 'TAVOR' 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 2022 IN ADAMS COUNTY, COLORADO ON AUGUST 25, 2022

1. CURRENT YEAR'S TOTAL ACTUAL VALUE OF ALL REAL PROPERTY: @	\$19,298,735
ADDITIONS TO TAXABLE REAL PROPERTY:	
2. CONSTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS: !	\$14,513,312
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
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NOTE: All levies must be Certified to the Board of County Commissioners NO LATER THAN DECEMBER 15, 2022

IN ACCORDANCE WITH 39-5-128(1.5) C.R.S. THE ASSESSOR PROVIDES: HB21-1312 ASSESSED VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY (ESTIMATED): **	
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** The tax revenue lost due to this exempted value will be reimbursed to the tax entity by the County Treasurer in accordance with 39-3-119 f(3). C.R.S.

EXHIBIT D
2023 Budget and Public Improvements

BERKLEY SHORES METROPOLITAN DISTRICT

2023 Budget Message

Introduction

The District was formed in 2020 for the purpose of providing design, financing, acquisition, and construction, of certain infrastructure improvements including water, streets, sanitary sewer, and park and recreation. These improvements will be dedicated to the Crestview Water and Sanitation District and Adams County, or such other entities as appropriate for the use and benefit of the District taxpayers and service users.

The 2023 budget was prepared in accordance with the Local Government Budget Law of Colorado. The budget reflects the projected spending plan for the 2023 fiscal year based on available revenues.

The District's 2022 assessed value is \$1,669,230 an increase from \$591,440 the prior year. The District certified 61.007 mills for taxes collected in the 2023 fiscal year with 25.000 mills dedicated to the General Fund and 36.007 mills dedicated to the Debt Service Fund.

Budgetary Basis of Accounting

The District uses funds to budget and report on the financial position and results of operations. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain governmental functions. The various funds determine the total District budget. All of the District's funds are considered Governmental Funds and are reported using the current financial resources and the modified accrual basis of accounting. Revenues are recognized when they are measurable and available. Revenues are considered available when they are collectible within 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. Expenditures, other than the interest on long-term obligations, are recorded when the liability is incurred or the long-term obligation paid.

Fund Summaries

The **General Fund** is used to account for resources traditionally associated with government such as property taxes, specific ownership tax and expenditures which include district administration, legal services, and other expenses related to statutory operations of a local government.

The **Debt Service Fund** is used to account for property taxes and other revenues dedicated to pay the fiscal year's debt expense which includes principal payments, interest payments, and administrative costs associated with debt obligations. The District issued debt in 2020 and below is a summary of the District's remaining \$2,312,000 Limited Tax (Convertible to Unlimited Tax) General Obligation Bonds:

Bond Principal and Interest Maturing in the Year Ending December 31,	\$2,312,000 Series 2020 Limited Tax (Convertible to Unlimited Tax) General Obligation Bonds		
	Principal	Interest	Total
2023	\$ -	\$ 121,380	\$ 121,380
2024	-	121,380	121,380
2025	-	121,380	121,380
2026-2030	43,000	604,590	647,590
2031-2035	164,000	581,439	745,439
2036-2040	347,000	520,539	867,539
2041-2045	593,000	405,248	998,248
2046-2050	1,165,000	214,989	1,379,989
Total	\$ 2,312,000	\$ 2,690,945	\$ 5,002,945

The **Capital Projects Fund** is used to account for revenues and expenditures to complete capital projects such as new improvements and upgrades to existing infrastructure.

Emergency Reserve

As required by the TABOR amendment to the Colorado Constitution, the District has provided for an Emergency Reserve in the amount of 3% of the total fiscal year expenditures in the General Fund.

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

	2021 Actual	2022 Adopted Budget	2023 Adopted Budget
Assessed Valuation	\$ 195,980	\$ 591,440	\$ 1,669,230
Mill Levy			
General Fund	25.000	25.000	25.000
Debt Service Fund	35.000	35.000	36.007
Refunds and Abatements	-	0.230	-
Total Mill Levy	<u>60.000</u>	<u>60.230</u>	<u>61.007</u>
Property Taxes			
General Fund	\$ 4,900	\$ 14,786	\$ 41,731
Debt Service Fund	6,859	20,700	60,104
Refunds and Abatements	-	136	-
Actual/Budgeted Property Taxes	<u>\$ 11,759</u>	<u>\$ 35,622</u>	<u>\$ 101,835</u>

BERKLEY SHORES METROPOLITAN DISTRICT

**GENERAL FUND
2023 Adopted Budget**

with 2021 Actual, 2022 Adopted Budget and 2022 Estimated

	2021 Actual	2022 Adopted Budget	2022 Estimated	2023 Adopted Budget
BEGINNING FUND BALANCE	\$ -	\$ 4,608	\$ 0	\$ 17,219
REVENUE				
Property Tax Revenue	4,121	14,922	14,922	41,731
Specific Ownership Taxes	722	895	895	2,504
Developer Advance	41,857	175,000	175,000	78,000
Total Revenue	46,700	190,817	190,817	122,235
Total Funds Available	46,700	195,425	190,817	139,454
EXPENDITURES				
Accounting	4,861	15,000	15,000	8,000
Audit	6,500	5,500	5,500	7,300
Insurance/SDA Dues	3,068	5,500	4,047	4,500
Legal	12,328	18,000	18,000	12,000
Election	-	3,000	3,000	1,000
Management	3,017	20,000	20,000	8,000
Miscellaneous	2,120	2,000	5,000	2,000
Treasurer's Fees	-	224	224	626
Property Management	1,319	14,400	14,400	12,000
Billing	-	6,000	6,000	-
Landscape Maintenance	-	20,000	20,000	20,000
Irrigation Repair	-	2,000	2,000	2,000
Snow Removal	-	13,000	13,000	13,000
Detention Pond Maintenance	-	5,000	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	8,123	20,000	20,000	15,000
Contingency	-	10,000	10,000	10,000
Total Expenditures	41,337	171,124	173,598	126,926
Transfers and Other Sources (Uses)				
Emergency Reserve	-	(5,725)	-	(3,667)
Transfer to Debt Service	(4,000)	-	-	-
Transfer to Capital Projects	(1,363)	-	-	-
Total Expenditures Requiring Appropriation	46,699	176,849	173,598	130,593
ENDING FUND BALANCE	\$ 0	\$ 18,577	\$ 17,219	\$ 8,861

BERKLEY SHORES METROPOLITAN DISTRICT

DEBT SERVICE FUND

2023 Adopted Budget

with 2021 Actual, 2022 Adopted Budget and 2022 Estimated

	2021 Actual	2022 Adopted Budget	2022 Estimated	2023 Adopted Budget
BEGINNING FUND BALANCE	\$ 521,751	\$ 401,780	\$ 407,370	\$ 293,871
REVENUE				
Property Tax Revenue	5,769	20,700	20,700	60,104
Specific Ownership Tax	1,010	1,242	1,242	3,606
Interest Income	271	200	2,000	2,000
Total Revenue	7,050	22,142	23,942	65,710
Total Funds Available	528,801	423,922	431,312	359,582
EXPENDITURES				
Bond Interest	121,380	121,380	121,380	121,380
Paying Agent/Trustee Fees	4,082	5,500	5,500	5,500
Miscellaneous	-	250	250	250
Treasurer's Fees	-	1,242	311	902
Contingency	-	10,000	10,000	10,000
Total Expenditures	125,462	138,372	137,441	138,032
Transfers and Other Sources (Uses)				
Transfer from General Fund	4,000	-	-	-
Transfer from Capital Projects	31	-	-	-
Total Expenditures Requiring Appropriation	125,462	138,372	137,441	138,032
ENDING FUND BALANCE	\$ 407,370	\$ 285,550	\$ 293,871	\$ 221,550

BERKLEY SHORES METROPOLITAN DISTRICT

CAPITAL PROJECTS FUND

2023 Adopted Budget

with 2021 Actual, 2022 Adopted Budget and 2022 Estimated

	2021 YTD Actual	2022 Adopted Budget	2022 Estimated	2023 Adopted Budget
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BEGINNING FUND BALANCE	\$ 1,031,073	\$ -	\$ (0)	\$ (0)
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REVENUE

Developer Advance	1,305,118	37,400	37,400	37,400
Interest Income	43	-	-	-

Total Revenue	1,305,161	37,400	37,400	37,400
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Total Funds Available	2,336,234	37,400	37,400	37,400
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EXPENDITURES

Accounting	7,291	12,000	12,000	13,000
Legal	5,714	12,000	12,000	12,000
Management	4,526	8,000	8,000	8,600
Miscellaneous	24	-	-	-
Engineering	4,725	5,400	5,400	5,400
Capital Outlay	1,277,147	-	-	-

Total Expenditures	1,299,427	37,400	37,400	39,000
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Transfers and Other Sources (Uses)

Transfer to Debt Service Fund	(31)	-	-	-
Transfer from General Fund	1,363	-	-	-
Reimburse Developer Advances	(1,038,139)	-	-	-

Total Expenditures Requiring Appropriation	2,337,597	37,400	37,400	39,000
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ENDING FUND BALANCE	\$ (0)	\$ -	\$ (0)	\$ (1,600)
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**Berkley Shores Metropolitan District
November-22**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024	10/24/2022	10/24/2022	\$ 48.00	Legal	1675
Crestview Water & Sanitation District	1515 10-2022	10/27/2022	11/21/2022	\$ 615.55	Utilities	1762
Pet Scoop	438490	10/31/2022	11/15/2022	\$ 191.20	Property Management	1710
Special District Management Services	Oct-22	10/31/2022	10/31/2022	\$ 429.36	Management	3614
Special District Management Services	Oct-22	10/31/2022	10/31/2022	\$ 74.97	Miscellaneous	1685
Special District Management Services	Oct-22	10/31/2022	10/31/2022	\$ 532.80	Accounting	3612
Special District Management Services	Oct-22	10/31/2022	10/31/2022	\$ 900.00	Property Management	1710
Special District Management Services	Oct-22	10/31/2022	10/31/2022	\$ 355.20	Accounting	1612
Special District Management Services	Oct-22	10/31/2022	10/31/2022	\$ 286.24	Management	1614
Waste Management of Colorado, Inc.	7891362-2514-9	11/1/2022	12/1/2022	\$1,100.70	Miscellaneous	1685
Xcel Energy	802764749	11/1/2022	11/22/2022	\$ 60.77	Utilities	1762
Xcel Energy	798891564	10/4/2022	10/25/2022	\$ 54.69	Utilities	1762
				\$4,649.48		

**Berkley Shores Metropolitan District
November-22**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 3,687.32		\$ 962.16	\$ 4,649.48
Total Disbursements from Checking Acct	\$3,687.32	\$0.00	\$962.16	\$4,649.48

Berkley Shores Metropolitan District

December-22

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024	11/22/2022	11/22/2022	\$ 630.00	Legal	1675
Crestview Water & Sanitation District	1514	11/22/2022	12/21/2022	\$ 283.79	Utilities	1762
Environmental Designs Inc.	160055	12/5/2022	12/12/2022	\$ 75.00	Snow Removal	1722
Environmental Designs Inc.	159535	11/23/2022	12/12/2022	\$ 2,325.00	Snow Removal	1722
Icenogle Seaver Pogue, P.C.	22662	11/30/2022	11/30/2022	\$ 3,773.60	Legal	1675
Icenogle Seaver Pogue, P.C.	22572	10/31/2022	10/31/2022	\$ 1,446.00	Legal	1675
Pet Scoop	443021	11/30/2022	12/15/2022	\$ 191.20	Property Management	1710
Special District Management Services	Nov-22	11/30/2022	11/30/2022	\$ 955.20	Management	3614
Special District Management Services	Nov-22	11/30/2022	11/30/2022	\$ 29.60	Election	1635
Special District Management Services	Nov-22	11/30/2022	11/30/2022	\$ 150.23	Miscellaneous	1685
Special District Management Services	Nov-22	11/30/2022	11/30/2022	\$ 1,047.84	Accounting	3612
Special District Management Services	Nov-22	11/30/2022	11/30/2022	\$ 1,850.00	Property Management	1710
Special District Management Services	Nov-22	11/30/2022	11/30/2022	\$ 698.56	Accounting	1612
Special District Management Services	Nov-22	11/30/2022	11/30/2022	\$ 636.80	Management	1614
Waste Management of Colorado, Inc.	7936341-2514-0	12/1/2022	12/31/2022	\$ 1,245.17	Miscellaneous	1685
				\$ 15,337.99		

**Berkley Shores Metropolitan District
December-22**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 13,334.95		\$ 2,003.04	\$ 15,337.99
Total Disbursements from Checking Acct	\$13,334.95	\$0.00	\$2,003.04	\$15,337.99

Berkley Shores Metropolitan District
January-23

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2023	12/23/2022	12/23/2022	\$ 24.00	Legal	1675
Crestview Water & Sanitation District	1516	12/22/2022	1/13/2023	\$ 42.51	Utilities	1762
Environmental Designs Inc.	161290	1/9/2023	1/13/2023	\$ 4,425.00	Snow Removal	1722
Environmental Designs Inc.	160929	1/3/2023	1/13/2023	\$ 2,700.00	Snow Removal	1722
Icenogle Seaver Pogue, P.C.	22806	12/31/2022	12/31/2022	\$ 1,322.50	Legal	1675
Pet Scoop	447395	12/30/2022	1/15/2023	\$ 239.00	Property Management	1710
Special District Management Services	Dec-22	12/31/2022	12/31/2022	\$ 462.00	Management	3614
Special District Management Services	Dec-22	12/31/2022	12/31/2022	\$ 133.20	Election	1635
Special District Management Services	Dec-22	12/31/2022	12/31/2022	\$ 107.54	Miscellaneous	1685
Special District Management Services	Dec-22	12/31/2022	12/31/2022	\$ 444.00	Accounting	3612
Special District Management Services	Dec-22	12/31/2022	12/31/2022	\$ 1,000.00	Property Management	1710
Special District Management Services	Dec-22	12/31/2022	12/31/2022	\$ 296.00	Accounting	1612
Special District Management Services	Dec-22	12/31/2022	12/31/2022	\$ 308.00	Management	1614
Waste Management of Colorado, Inc.	7981532-2514-8	1/3/2023	1/31/2023	\$ 1,247.33	Miscellaneous	1685
Xcel Energy	806828286	12/2/2022	12/22/2022	\$ 82.72	Utilities	1762
				\$12,833.80		

**Berkley Shores Metropolitan District
January-23**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 11,927.80		\$ 906.00	\$ 12,833.80
Total Disbursements from Checking Acct	\$11,927.80	\$0.00	\$906.00	\$12,833.80

**Berkley Shores Metropolitan District
February-23**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024	1/24/2023	1/24/2023	\$ 279.00	Legal	1675
Crestview Water & Sanitation District	1516	1/25/2023	2/21/2023	\$ 43.36	Utilities	1762
Environmental Designs Inc.	162172	1/27/2023	2/14/2023	\$ 675.00	Snow Removal	1722
Environmental Designs Inc.	162032	1/26/2023	2/14/2023	\$ 4,620.00	Snow Removal	1722
Environmental Designs Inc.	162576	2/7/2023	2/14/2023	\$ 150.00	Snow Removal	1722
Environmental Designs Inc.	161547	1/12/2023	2/11/2023	\$ 150.00	Snow Removal	1722
Icenogle Seaver Pogue, P.C.	22958	1/31/2023	1/31/2023	\$ 3,181.35	Legal	1675
Pet Scoop	452943	1/31/2023	2/15/2023	\$ 191.20	Property Management	1710
Special District Association	SDA-2023	1/20/2023	1/20/2023	\$ 406.43	Insurance/SDA Dues	1670
Special District Management Services	Jan-23	1/31/2023	1/31/2023	\$ 652.62	Management	3614
Special District Management Services	Jan-23	1/31/2023	1/31/2023	\$ 176.00	Election	1635
Special District Management Services	Jan-23	1/31/2023	1/31/2023	\$ 36.54	Miscellaneous	1685
Special District Management Services	Jan-23	1/31/2023	1/31/2023	\$ 777.60	Accounting	3612
Special District Management Services	Jan-23	1/31/2023	1/31/2023	\$ 1,954.80	Property Management	1710
Special District Management Services	Jan-23	1/31/2023	1/31/2023	\$ 518.40	Accounting	1612
Special District Management Services	Jan-23	1/31/2023	1/31/2023	\$ 435.08	Management	1614
Waste Management of Colorado, Inc.	8028053-2514-8	2/1/2023	3/3/2023	\$ 1,258.30	Miscellaneous	1685
Xcel Energy	810871227	1/5/2023	1/26/2023	\$ 88.37	Utilities	1762

\$ 15,594.05

Berkley Shores Metropolitan District
February-23

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 14,163.83		\$ 1,430.22	\$ 15,594.05
Total Disbursements from Checking Acct	\$14,163.83	\$0.00	\$1,430.22	\$15,594.05

**Berkley Shores Metropolitan District
March-23**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024	2/21/2023	2/21/2023	\$ 896.00	Legal	1675
Crestview Water & Sanitation District	1518	2/23/2023	3/21/2023	\$ 43.36	Utilities	1762
Environmental Designs Inc.	163205	3/1/2023	3/13/2023	\$ 150.00	Snow Removal	1722
Environmental Designs Inc.	163114	2/23/2023	3/13/2023	\$ 4,217.50	Snow Removal	1722
Icenogle Seaver Pogue, P.C.	23111	2/28/2023	2/28/2023	\$ 2,354.00	Legal	1675
Pet Scoop	460115	2/28/2023	3/15/2023	\$ 191.20	Property Management	1710
Special District Management Services	Feb-23	2/28/2023	2/28/2023	\$ 381.36	Management	3614
Special District Management Services	Feb-23	2/28/2023	2/28/2023	\$ 640.00	Election	1635
Special District Management Services	Feb-23	2/28/2023	2/28/2023	\$ 93.76	Miscellaneous	1685
Special District Management Services	Feb-23	2/28/2023	2/28/2023	\$ 652.92	Accounting	3612
Special District Management Services	Feb-23	2/28/2023	2/28/2023	\$ 993.60	Property Management	1710
Special District Management Services	Feb-23	2/28/2023	2/28/2023	\$ 435.28	Accounting	1612
Special District Management Services	Feb-23	2/28/2023	2/28/2023	\$ 254.24	Management	1614
Waste Management of Colorado, Inc.	8073362-2514-7	3/1/2023	3/31/2023	\$ 1,225.41	Miscellaneous	1685
Xcel Energy	815031132	2/6/2023	2/27/2023	\$ 119.10	Utilities	1762

\$ 12,647.73

**Berkley Shores Metropolitan District
March-23**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 11,613.45		\$ 1,034.28	\$ 12,647.73
Total Disbursements from Checking Acct	\$11,613.45	\$0.00	\$1,034.28	\$12,647.73

**Berkley Shores Metropolitan District
April-23**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024	3/24/2023	3/24/2023	\$ 579.50	Legal	1675
Colorado Community Media	82187	3/24/2023	4/11/2023	\$ 55.32	Miscellaneous	1685
Crestview Water & Sanitation District	1516	3/22/2023	4/11/2023	\$ 43.36	Utilities	1762
Environmental Designs Inc.	164455	4/3/2023	4/11/2023	\$ 75.00	Snow Removal	1722
Environmental Designs Inc.	164228	4/1/2023	4/12/2023	\$ 1,491.68	Landscape Maintenance	1725
Icenogle Seaver Pogue, P.C.	23339	3/31/2023	3/31/2023	\$ 2,519.08	Legal	1675
Pet Scoop	465287	3/31/2023	4/15/2023	\$ 239.00	Property Management	1710
Special District Management Services	Mar-23	3/31/2023	3/31/2023	\$ 451.20	Management	3614
Special District Management Services	Mar-23	3/31/2023	3/31/2023	\$ 208.00	Election	1635
Special District Management Services	Mar-23	3/31/2023	3/31/2023	\$ 110.81	Miscellaneous	1685
Special District Management Services	Mar-23	3/31/2023	3/31/2023	\$ 566.40	Accounting	3612
Special District Management Services	Mar-23	3/31/2023	3/31/2023	\$ 896.40	Property Management	1710
Special District Management Services	Mar-23	3/31/2023	3/31/2023	\$ 377.60	Accounting	1612
Special District Management Services	Mar-23	3/31/2023	3/31/2023	\$ 300.80	Management	1614
Waste Management of Colorado, Inc.	8121120-2514-1	4/3/2023	5/3/2023	\$ 1,214.95	Miscellaneous	1685
Xcel Energy	819073606	3/8/2023	3/28/2023	\$ 146.06	Utilities	1762

\$9,275.16

**Berkley Shores Metropolitan District
April-23**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 8,257.56		\$ 1,017.60	\$ 9,275.16
Total Disbursements from Checking Acct	\$8,257.56	\$0.00	\$1,017.60	\$9,275.16

Berkley Shores Metropolitan District
May-23

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024	4/21/2023	4/21/2023	\$ 838.00	Legal	1675
Crestview Water & Sanitation District	1513	4/27/2023	5/21/2023	\$ 197.16	Utilities	1762
Environmental Designs Inc.	165447	5/1/2023	5/9/2023	\$ 1,491.68	Landscape Maintenance	1725
Icenogle Seaver Pogue, P.C.	23439	4/30/2023	4/30/2023	\$ 663.00	Legal	1675
Pet Scoop	471997	4/30/2023	5/15/2023	\$ 191.20	Property Management	1710
Special District Management Services	Apr-23	4/30/2023	4/30/2023	\$ 761.40	Management	3614
Special District Management Services	Apr-23	4/30/2023	4/30/2023	\$ 128.00	Election	1635
Special District Management Services	Apr-23	4/30/2023	4/30/2023	\$ 46.60	Miscellaneous	1685
Special District Management Services	Apr-23	4/30/2023	4/30/2023	\$ 892.80	Accounting	3612
Special District Management Services	Apr-23	4/30/2023	4/30/2023	\$ 1,209.60	Property Management	1710
Special District Management Services	Apr-23	4/30/2023	4/30/2023	\$ 595.20	Accounting	1612
Special District Management Services	Apr-23	4/30/2023	4/30/2023	\$ 507.60	Management	1614
Waste Management of Colorado, Inc.	8167089-2514-3	5/1/2023	5/9/2023	\$ 1,219.43	Miscellaneous	1685
Xcel Energy	823591385	4/10/2023	4/28/2023	\$ 138.12	Utilities	1762
				\$8,879.79		

**Berkley Shores Metropolitan District
May-23**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 7,225.59		\$ 1,654.20	\$ 8,879.79
Total Disbursements from Checking Acct	\$7,225.59	\$0.00	\$1,654.20	\$8,879.79

Berkley Shores Metropolitan District
June-23

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024 05-2023	5/24/2023	5/24/2023	\$ 1,785.50	Legal	1675
Crestview Water & Sanitation District	1517	5/30/2023	6/21/2023	\$ 2,973.25	Utilities	1762
Environmental Designs Inc.	166706	5/31/2023	5/31/2023	\$ 1,491.68	Landscape Maintenance	1725
Icenogle Seaver Pogue, P.C.	23670	5/31/2023	5/31/2023	\$ 2,277.42	Legal	1675
Pet Scoop	479037	5/31/2023	6/15/2023	\$ 239.00	Property Management	1710
Special District Management Services	May-23	5/31/2023	5/31/2023	\$ 518.40	Management	3614
Special District Management Services	May-23	5/31/2023	5/31/2023	\$ 64.00	Election	1635
Special District Management Services	May-23	5/31/2023	5/31/2023	\$ 112.14	Miscellaneous	1685
Special District Management Services	May-23	5/31/2023	5/31/2023	\$ 817.44	Accounting	3612
Special District Management Services	May-23	5/31/2023	5/31/2023	\$ 950.40	Property Management	1710
Special District Management Services	May-23	5/31/2023	5/31/2023	\$ 544.96	Accounting	1612
Special District Management Services	May-23	5/31/2023	5/31/2023	\$ 345.60	Management	1614
Waste Management of Colorado, Inc.	8212765-2514-3	6/1/2023	6/12/2023	\$ 1,208.83	Miscellaneous	1685
Xcel Energy	827437408	5/8/2023	5/26/2023	\$ 143.81	Utilities	1762
				\$ 13,472.43		

**Berkley Shores Metropolitan District
June-23**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 12,136.59		\$ 1,335.84	\$ 13,472.43
Total Disbursements from Checking Acct	\$12,136.59	\$0.00	\$1,335.84	\$13,472.43

**Berkley Shores Metropolitan District
July-23**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024	6/22/2023	6/22/2023	\$ 442.50	Legal	1675
Crestview Water & Sanitation District	1517	6/22/2023	7/12/2023	\$ 2,065.83	Utilities	1762
Environmental Designs Inc.	168274	7/1/2023	7/12/2023	\$ 1,491.68	Landscape Maintenance	1725
Environmental Designs Inc.	167692	6/27/2023	7/12/2023	\$ 180.00	Landscape Maintenance	1725
Pet Scoop	487996	6/30/2023	7/15/2023	\$ 191.20	Property Management	1710
Special District Management Services	Jun-23	6/30/2023	6/30/2023	\$ 820.02	Management	3614
Special District Management Services	Jun-23	6/30/2023	6/30/2023	\$ 64.00	Election	1635
Special District Management Services	Jun-23	6/30/2023	6/30/2023	\$ 79.94	Miscellaneous	1685
Special District Management Services	Jun-23	6/30/2023	6/30/2023	\$ 595.20	Accounting	3612
Special District Management Services	Jun-23	6/30/2023	6/30/2023	\$ 799.20	Property Management	1710
Special District Management Services	Jun-23	6/30/2023	6/30/2023	\$ 396.80	Accounting	1612
Special District Management Services	Jun-23	6/30/2023	6/30/2023	\$ 546.68	Management	1614
Waste Management of Colorado, Inc.	8262398-2514-2	7/3/2023	8/2/2023	\$ 1,263.91	Miscellaneous	1685
Xcel Energy	831512750	6/7/2023	6/28/2023	\$ 133.65	Utilities	1762

\$9,070.61

**Berkley Shores Metropolitan District
July-23**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 7,655.39		\$ 1,415.22	\$ 9,070.61
Total Disbursements from Checking Acct	\$7,655.39	\$0.00	\$1,415.22	\$9,070.61

Berkley Shores Metropolitan District
August-23

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024 07-2023	7/21/2023	7/21/2023	\$ 2,272.00	Legal	1675
Crestview Water & Sanitation District	1514 July 2023	7/27/2023	8/6/2023	\$ 1,519.84	Utilities	1762
Environmental Designs Inc.	169696	8/1/2023	8/10/2023	\$ 1,491.68	Landscape Maintenance	1725
Environmental Designs Inc.	168735	7/14/2023	8/13/2023	\$ 320.90	Landscape Maintenance	1725
Icenogle Seaver Pogue, P.C.	24049	7/31/2023	7/31/2023	\$ 2,106.50	Legal	1675
Icenogle Seaver Pogue, P.C.	23890	6/30/2023	6/30/2023	\$ 4,876.48	Legal	1675
Pet Scoop	494140	7/31/2023	8/15/2023	\$ 191.20	Property Management	1710
Special District Management Services	Jul-23	7/31/2023	7/31/2023	\$ 1,083.30	Management	3614
Special District Management Services	Jul-23	7/31/2023	7/31/2023	\$ 74.65	Miscellaneous	1685
Special District Management Services	Jul-23	7/31/2023	7/31/2023	\$ 537.60	Accounting	3612
Special District Management Services	Jul-23	7/31/2023	7/31/2023	\$ 1,047.60	Property Management	1710
Special District Management Services	Jul-23	7/31/2023	7/31/2023	\$ 358.40	Accounting	1612
Special District Management Services	Jul-23	7/31/2023	7/31/2023	\$ 722.20	Management	1614
Waste Management of Colorado, Inc.	8308645-2514-2	8/1/2023	8/1/2023	\$ 1,280.24	Miscellaneous	1685
Xcel Energy	835356641	7/6/2023	7/26/2023	\$ 171.84	Utilities	1762
				\$ 18,054.43		

**Berkley Shores Metropolitan District
August-23**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 16,433.53		\$ 1,620.90	\$ 18,054.43
Total Disbursements from Checking Acct	\$16,433.53	\$0.00	\$1,620.90	\$18,054.43

**Berkley Shores Metropolitan District
September-23**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024 08-2023	8/22/2023	8/22/2023	\$ 1,194.50	Legal	1675
Crestview Water & Sanitation District	1516 August 2023	8/23/2023	9/2/2023	\$ 1,881.27	Utilities	1762
Environmental Designs Inc.	171216	9/1/2023	10/1/2023	\$ 1,491.68	Landscape Maintenance	1725
Environmental Designs Inc.	170198	8/10/2023	9/9/2023	\$ 293.80	Landscape Maintenance	1725
Environmental Designs Inc.	170366	8/18/2023	9/17/2023	\$ 280.90	Landscape Maintenance	1725
Pet Scoop	496983	8/31/2023	9/15/2023	\$ 191.20	Property Management	1710
Simmons & Wheeler, P.C.	36207	8/29/2023	8/29/2023	\$ 6,500.00	Audit	1615
Special District Management Services	45139	8/31/2023	8/31/2023	\$ 446.70	Management	3614
Special District Management Services	45139	8/31/2023	8/31/2023	\$ 74.07	Miscellaneous	1685
Special District Management Services	45139	8/31/2023	8/31/2023	\$ 508.92	Accounting	3612
Special District Management Services	45139	8/31/2023	8/31/2023	\$ 1,728.00	Property Management	1710
Special District Management Services	45139	8/31/2023	8/31/2023	\$ 339.28	Accounting	1612
Special District Management Services	45139	8/31/2023	8/31/2023	\$ 297.80	Management	1614
Waste Management of Colorado, Inc.	8354955-2514-8	9/1/2023	10/1/2023	\$ 1,284.56	Miscellaneous	1685
Xcel Energy	839271885	8/3/2023	8/23/2023	\$ 178.08	Utilities	1762
				\$ 16,690.76		

**Berkley Shores Metropolitan District
September-23**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 15,735.14		\$ 955.62	\$ 16,690.76
Total Disbursements from Checking Acct	\$15,735.14	\$0.00	\$955.62	\$16,690.76

**Berkley Shores Metropolitan District
October-23**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024	9/21/2023	9/21/2023	\$ 742.00	Legal	1675
Colorado Special District Property & Liability Pool	24WC-87-0114	8/14/2023	8/14/2023	\$ 450.00	Pre-Paid Insurance	1143
Colorado Special District Property & Liability Pool	24PL-87-1637	9/5/2023	9/5/2023	\$ 2,745.00	Pre-Paid Insurance	1143
Crestview Water & Sanitation District	1519	9/28/2023	10/8/2023	\$ 2,081.21	Utilities	1762
Environmental Designs Inc.	172897	10/3/2023	10/31/2023	\$ 527.98	Landscape Maintenance	1725
Environmental Designs Inc.	172629	10/1/2023	10/31/2023	\$ 1,491.68	Landscape Maintenance	1725
Icenogle Seaver Pogue, P.C.	24224	8/31/2023	8/31/2023	\$ 932.50	Legal	1675
Pet Scoop	501006	9/30/2023	10/15/2023	\$ 239.00	Property Management	1710
Special District Management Services	Sep-23	9/30/2023	9/30/2023	\$ 272.20	Management	3614
Special District Management Services	Sep-23	9/30/2023	9/30/2023	\$ 16.00	Election	1635
Special District Management Services	Sep-23	9/30/2023	9/30/2023	\$ 45.64	Miscellaneous	1685
Special District Management Services	Sep-23	9/30/2023	9/30/2023	\$ 912.00	Accounting	3612
Special District Management Services	Sep-23	9/30/2023	9/30/2023	\$ 907.20	Property Management	1710
Special District Management Services	Sep-23	9/30/2023	9/30/2023	\$ 608.00	Accounting	1612
Special District Management Services	Sep-23	9/30/2023	9/30/2023	\$ 181.40	Management	1614
T. Charles Wilson	13256	9/14/2023	9/14/2023	\$ 595.00	Pre-Paid Insurance	1143
Waste Management of Colorado, Inc.	8404261-2514-1	10/2/2023	10/2/2023	\$ 1,290.83	Miscellaneous	1685
Xcel Energy	843550321	9/5/2023	9/25/2023	\$ 186.93	Utilities	1762
				\$ 14,224.57		

**Berkley Shores Metropolitan District
October-23**

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 13,040.37		\$ 1,184.20	\$ 14,224.57
Total Disbursements from Checking Acct	\$13,040.37	\$0.00	\$1,184.20	\$14,224.57

BERKLEY SHORES METROPOLITAN DISTRICT

FINANCIAL STATEMENTS

September 30, 2023

BERKLEY SHORES METROPOLITAN DISTRICT
Schedule of Cash Position
September 30, 2023

	Rate	Operating	Debt Service	Capital Projects	Total
Checking:					
First Bank		\$ 49,480.91	\$ 29,753.22	\$ 1,037.42	\$ 80,271.55
Trustee:					
Wells Fargo-Bond Pmt Principa		-	55,400.67	-	55,400.67
Wells Fargo-Bond Pmt/LOC		-	221,328.35	-	221,328.35
Bond Purchase Fund		-	15,812.97	-	15,812.97
Total Funds		\$ 49,480.91	\$ 322,295.21	\$ 1,037.42	\$ 372,813.54

2022 Mill Levy Information

General Fund	25.000
Debt Service Fund	35.000
Refunds & Abatements	0.230
Total	60.230

Board of Directors

Board Members

- * Paul Malone
- * Natalie Satt
- * Michael Martines
- * Victoria Almagno

* authorized signer on checking account

**BERKLEY SHORES METROPOLITAN DISTRICT
COMBINED BALANCE SHEET - ALL FUND TYPES AND ACCOUNT GROUPS
September 30, 2023**

	<u>GENERAL</u>	<u>DEBT SERVICE</u>	<u>CAPITAL PROJECTS</u>	<u>FIXED ASSETS</u>	<u>LONG-TERM DEBT</u>	<u>TOTAL MEMO ONLY</u>
Assets and Other Debits						
Assets						
Cash in Bank - FirstBank	\$ 49,481	\$ 29,753	\$ 1,037	\$ -	\$ -	\$ 80,272
UMB Bond Fund	-	55,401	-	-	-	55,401
UMB Reserve Fund	-	221,328	-	-	-	221,328
Bond Purchase Fund	-	15,813	-	-	-	15,813
Property Taxes Receivable	18,551	26,719	-	-	-	45,270
Total Current Assets	<u>68,032</u>	<u>349,014</u>	<u>1,037</u>	<u>-</u>	<u>-</u>	<u>418,084</u>
Other Debits						
Amount in Debt Service Fund	-	-	-	-	322,295	322,295
Amount to be Provided for Debt	-	-	-	-	2,566,083	2,566,083
Total Other Debits	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>2,888,378</u>	<u>2,888,378</u>
Capital Assets						
Construction in Process	-	-	-	1,771,027	-	1,771,027
Total Capital Assets	<u>-</u>	<u>-</u>	<u>-</u>	<u>1,771,027</u>	<u>-</u>	<u>1,771,027</u>
Total Assets	<u>\$ 68,032</u>	<u>\$ 349,014</u>	<u>\$ 1,037</u>	<u>\$ 1,771,027</u>	<u>\$ 2,888,378</u>	<u>\$ 5,077,489</u>
Liabilities						
2020A Bonds Payable	\$ -	\$ -	\$ -	\$ -	\$ 2,312,000	\$ 2,312,000
Op Funding - Due Developer	-	-	-	-	214,561	214,561
Op Funding - Accrued Interest	-	-	-	-	16,635	16,635
Cap Funding - Due Developer	-	-	-	-	289,184	289,184
Due to Developer-Operations	-	-	-	-	55,999	55,999
Total Liabilities	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>2,888,378</u>	<u>2,888,378</u>
Deferred Inflows of Resources						
Deferred Property taxes	18,551	26,719	-	-	-	45,270
Total Deferred Inflows of Resources	<u>18,551</u>	<u>26,719</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>45,270</u>
Fund Balance						
Investment in Fixed Assets	-	-	-	1,771,027	-	1,771,027
Fund Balance	1,368	309,919	-	-	-	311,287
Current Year Earnings	48,112	12,376	1,037	-	-	61,526
Total Fund Balances	<u>49,481</u>	<u>322,295</u>	<u>1,037</u>	<u>1,771,027</u>	<u>-</u>	<u>2,143,840</u>
Total Liabilities, Deferred Inflows of Resources and Fund Balance	<u>\$ 68,032</u>	<u>\$ 349,014</u>	<u>\$ 1,037</u>	<u>\$ 1,771,027</u>	<u>\$ 2,888,378</u>	<u>\$ 5,077,489</u>

BERKLEY SHORES METROPOLITAN DISTRICT
Statement of Revenues, Expenditures and
Change in Fund Balance - Budget and Actual
For the 9 Months Ending
September 30, 2023
General Fund

<u>Account Description</u>	<u>Period Actual</u>	<u>YTD Actual</u>	<u>Budget</u>	<u>Favorable (Unfavorable) Variance</u>	<u>% of Budget</u>
Revenues					
Developer Advance	\$ -	\$ 102,759	\$ 78,000	\$ 24,759	131.7%
Miscellaneous income	-	200	-	200	-
Property Tax Revenue	9,177	41,673	41,731	(58)	99.9%
Specific Ownership Taxes	1,273	1,751	2,504	(753)	69.9%
Total Revenues	<u>10,450</u>	<u>146,383</u>	<u>122,235</u>	<u>24,148</u>	<u>119.8%</u>
Expenditures					
Accounting	-	3,122	8,000	4,878	39.0%
Management	-	2,948	8,000	5,052	36.9%
Audit	-	6,500	7,300	800	89.0%
Election	1,049	1,280	1,000	(280)	128.0%
Insurance/SDA Dues	269	4,059	4,500	441	90.2%
Utilities	-	9,798	15,000	5,202	65.3%
Legal	1,522	26,265	12,000	(14,265)	218.9%
Miscellaneous	418	12,708	2,000	(10,708)	635.4%
Treasurer's Fees	164	322	626	304	51.5%
Property Management	-	11,205	12,000	795	93.4%
Snow Removal	-	10,038	13,000	2,963	77.2%
Landscape Maintenance	-	10,026	20,000	9,974	50.1%
Irrigation Repair	-	-	2,000	2,000	0.0%
Detention Pond Maintenance	-	-	5,000	5,000	0.0%
Repairs & Maintenance	-	-	4,000	4,000	0.0%
Fence Repairs	-	-	2,500	2,500	0.0%
Contingency	-	-	10,000	10,000	0.0%
Emergency Reserve	-	-	3,667	3,667	0.0%
Total Expenditures	<u>3,423</u>	<u>98,270</u>	<u>130,593</u>	<u>32,323</u>	<u>75.2%</u>
Excess (Deficiency) of Revenues Over Expenditures	7,027	48,112	(8,358)	56,470	
Beginning Fund Balance	42,454	1,368	17,219	(15,851)	
Ending Fund Balance	<u>\$ 49,481</u>	<u>\$ 49,481</u>	<u>\$ 8,861</u>	<u>\$ 40,620</u>	

BERKLEY SHORES METROPOLITAN DISTRICT
Statement of Revenues, Expenditures and
Change in Fund Balance - Budget and Actual
For the 9 Months Ending
September 30, 2023
Debt Service Fund

<u>Account Description</u>	<u>Period Actual</u>	<u>YTD Actual</u>	<u>Budget</u>	<u>Favorable (Unfavorable) Variance</u>	<u>% of Budget</u>
Revenues					
Property Tax Revenue	\$ 45,498	\$ 60,020	\$ 60,104	\$ (84)	99.9%
Specific Ownership Tax	5,093	2,522	3,606	(1,084)	69.9%
Interest Income	146	11,547	2,000	9,547	577.4%
Total Revenues	<u>50,736</u>	<u>74,090</u>	<u>65,710</u>	<u>8,380</u>	<u>112.8%</u>
Expenditures					
Bond Interest	105,304	60,690	121,380	60,690	50.0%
Paying Agent/Trustee Fees	6	560	5,500	4,940	10.2%
#NUM!	-	-	250	250	0.0%
Treasurer's Fees	656	464	902	438	51.5%
#NUM!	-	-	10,000	10,000	0.0%
Total Expenditures	<u>105,966</u>	<u>61,714</u>	<u>138,032</u>	<u>76,318</u>	<u>44.7%</u>
Excess (Deficiency) of Revenues Over Expenditures	(55,230)	12,376	(72,322)	84,698	
Beginning Fund Balance	377,525	309,919	293,871	16,048	
Ending Fund Balance	<u>\$ 322,295</u>	<u>\$ 322,295</u>	<u>\$ 221,549</u>	<u>\$ 100,746</u>	

BERKLEY SHORES METROPOLITAN DISTRICT
Statement of Revenues, Expenditures and
Change in Fund Balance - Budget and Actual
For the 9 Months Ending,
September 30, 2023
Capital Projects Fund

<u>Account Description</u>	<u>Period Actual</u>	<u>YTD Actual</u>	<u>Budget</u>	<u>Favorable (Unfavorable) Variance</u>	<u>% of Budget</u>
Revenues					
Developer Advance	\$ -	\$ 12,407	\$ 37,400	\$ (24,993)	33.2%
Total Revenues	<u>-</u>	<u>12,407</u>	<u>37,400</u>	<u>(24,993)</u>	<u>33.2%</u>
Expenditures					
Accounting	-	5,793	13,000	7,207	44.6%
Management	-	5,577	8,600	3,023	64.8%
Legal	-	-	12,000	12,000	0.0%
Engineering	-	-	5,400	5,400	0.0%
Total Expenditures	<u>-</u>	<u>11,370</u>	<u>39,000</u>	<u>27,630</u>	<u>29.2%</u>
Excess (Deficiency) of Revenues Over Expenditures	-	1,037	(1,600)	2,637	
Beginning Fund Balance	1,037	-	-	-	
Ending Fund Balance	<u>\$ 1,037</u>	<u>\$ 1,037</u>	<u>\$ (1,600)</u>	<u>\$ 2,637</u>	

February 27, 2023

Board of Directors
Berkley Shores Metropolitan District
c/o Special District Management
141 Union Boulevard, Suite #150
Lakewood, CO 80228

We are pleased to confirm our understanding of the services we are to provide Berkley Shores Metropolitan District for the year ended December 31, 2022.

Audit Scope and Objectives

We will audit the financial statements of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information, and the disclosures, which collectively comprise the basic financial statements of Berkley Shores Metropolitan District as of and for the year ended December 31, 2022. Accounting standards generally accepted in the United States of America ("GAAP") provide for certain required supplementary information ("RSI"), such as management's discussion and analysis ("MD&A"), to supplement Berkley Shores Metropolitan District's basic financial statements. Such 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. As part of our engagement, we will apply certain limited procedures to Berkley Shores Metropolitan District's RSI in accordance with GAAS. These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient appropriate evidence to express an opinion or provide any assurance.

The following RSI is required by GAAP and will be subjected to certain limited procedures, but will not be audited: MD&A, as prepared by management, if applicable. We will apply certain limited procedures, which will consist principally of inquiries of management regarding methods of measurement and presentation, to management's discussion and analysis. However, we will not audit the MD&A and will express no opinion on it.

If applicable, we have also been engaged to report on supplementary information other than RSI that accompanies Berkley Shores Metropolitan District's financial statements. We will subject the following supplementary information to the auditing procedures applied in our audit of the financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and other additional procedures in accordance with GAAS, and we will provide an opinion on it in relation to the financial statements as a whole, in a report combined with our auditor's report on the financial statements.

If applicable, in connection with our audit of the basic financial statements, we will read the other information accompanying the financial statements and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated, if, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

The objectives of our audit are to obtain reasonable assurance as to whether the financial statements as a whole are free from material misstatement, whether due to fraud or error; issue an auditor's report that includes our opinion about whether your financial statements are fairly presented, in all material respects, in conformity with GAAP; and report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. Misstatements, including omissions, can arise from fraud or error and are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment of a reasonable user made based on the financial statements.

Auditor's Responsibilities for the Audit of the Financial Statements

We will conduct our audit in accordance with GAAS and will include tests of your accounting records and other procedures we consider necessary to enable us to express such opinions. As part of an audit in accordance with GAAS, we exercise professional judgment and maintain professional skepticism throughout the audit.

We will evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management. We will also evaluate the overall presentation of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation. We will plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether from (1) errors, (2) fraudulent financial reporting, (3) misappropriation of assets, or (4) violations of laws or governmental regulations that are attributable to the government or to acts by management or employees acting on behalf of the government.

Because of the inherent limitations of an audit, combined with the inherent limitations of internal control, and because we will not perform a detailed examination of all transactions, there is an unavoidable risk that some material misstatements may not be detected by us, even though the audit is properly planned and performed in accordance with GAAS. In addition, an audit is not designed to detect immaterial misstatements or violations of laws or governmental regulations that do not have a direct and material effect on the financial statements. However, we will inform the appropriate level of management of any material errors, fraudulent financial reporting, or misappropriation of assets that comes to our attention. We will also inform the appropriate level of management of any violations of laws or governmental regulations that come to our attention, unless clearly inconsequential. Our responsibility as auditors is limited to the period covered by our audit and does not extend to any later periods for which we are not engaged as auditors.

We will also conclude, based on the audit evidence obtained, whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the government's ability to continue as a going concern for a reasonable period of time.

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, tests of the physical existence of inventories, and direct confirmation of receivables and certain assets and liabilities by correspondence with selected customers, creditors, and financial institutions. We will also request written representations from your attorneys as part of the engagement.

We may, from time to time and depending on the circumstances, use third-party service providers in serving your account. We may share confidential information about you with these service providers but remain committed to maintaining the confidentiality and security of your information. Accordingly, we maintain internal policies, procedures, and safeguards to protect the confidentiality of your personal information. In addition, we will secure confidentiality agreements with all service providers to maintain the confidentiality of your information and we will take reasonable precautions to determine that they have appropriate procedures in place to prevent the unauthorized release of your confidential information to others. In the event that we are unable to secure an appropriate confidentiality agreement, you will be asked to provide your consent prior to the sharing of your confidential information with the third-party service provider. Furthermore, we will remain responsible for the work provided by any such third-party service providers.

Our audit of the financial statements does not relieve you of your responsibilities.

Audit Procedures—Internal Control

We will obtain an understanding of the government and its environment, including internal control relevant to the audit, sufficient to identify and assess the risks of material misstatement of the financial statements, whether due to error or fraud, and to design and perform audit procedures responsive to those risks and obtain evidence that is sufficient and appropriate to provide a basis for our opinions. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentation, or the override of internal control. An audit is not designed to provide assurance on internal control or to identify deficiencies in internal control. Accordingly, we will express no such opinion. However, during the audit, we will communicate to management and those charged with governance internal control related matters that are required to be communicated under AICPA professional standards.

Audit Procedures—Compliance

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of Berkley Shores Metropolitan District's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance, and we will not express such an opinion.

Other Services

If applicable, we will also prepare the financial statements of Berkley Shores Metropolitan District in conformity with accounting principles generally accepted in the United States of America based on information provided by you.

We will perform the services in accordance with applicable professional standards. The other services are limited to the financial statement services previously defined. We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

You agree to assume all management responsibilities for the financial statement preparation services, if applicable, and any other nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Responsibilities of Management for the Financial Statements

Our audit will be conducted on the basis that you acknowledge and understand your responsibility for designing, implementing, and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, including monitoring ongoing activities; for the selection and application of accounting principles; and for the preparation and fair presentation of the financial statements in conformity with accounting principles generally accepted in the United States of America with the oversight of those charged with governance.

Management is responsible for making drafts of financial statements, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the government from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

Your responsibilities include adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the latest period presented are immaterial, both individually and in the aggregate, to the financial statements of each opinion unit taken as a whole.

You are responsible for the design and implementation of programs and controls to prevent and detect fraud, and for informing us about all known or suspected fraud affecting the government involving (1) management, (2) employees who have significant roles in internal control, and (3) others where the fraud could have a material effect on the financial statements. Your responsibilities include informing us of your knowledge of any allegations of fraud or suspected fraud affecting the government received in communications from employees, former employees, grantors, regulators, or others. In addition, you are responsible for identifying and ensuring that the government complies with applicable laws and regulations.

You are responsible for the preparation of the supplementary information in conformity with accounting principles generally accepted in the United States of America. You agree to include our report on the supplementary information in any document that contains, and indicates that we have reported on, the supplementary information. You also agree to include the audited financial statements with any presentation of the supplementary information that includes our report thereon. Your responsibilities include acknowledging to us in the representation letter that (1) you are responsible for presentation of the supplementary information in accordance with GAAP; (2) you believe the supplementary information, including its form and content, is fairly presented in accordance with GAAP; (3) the methods of measurement or presentation have not changed from those used in the prior period (or, if they have changed, the reasons for such changes); and (4) you have disclosed to us any significant assumptions or interpretations underlying the measurement or presentation of the supplementary information.

You agree to assume all management responsibilities for the financial statement preparation services and any other nonattest services we provide; oversee the services by designating an individual, preferably from senior management, with suitable skill, knowledge, or experience; evaluate the adequacy and results of the services; and accept responsibility for them.

Engagement Administration, Fees, and Other

We understand that your employees will prepare all cash, accounts receivable, or other confirmations we request and will locate any documents selected by us for testing.

The audit documentation for this engagement is the property of Simmons & Wheeler, PC and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to grantor or cognizant agencies or a federal agency providing direct or indirect funding. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of Simmons & Wheeler, PC personnel. Furthermore, upon request, we may provide copies of selected audit documentation to other firms of Certified Public Accountants for our firm's required participation in the American Institute of Certified Public Accountants 'Peer Review' process. If requested, access to such audit documentation will be provided under the supervision of Simmons & Wheeler, PC personnel.

John Simmons or Diane Wheeler will be the engagement partner and will be responsible for supervising the engagement and signing the report or authorizing another individual to sign it. We expect to begin our audit on a date mutually agreed to by your accountants and our firm, and to issue our reports no later than July 31, 2023, or September 30, 2023, if the District requests an extension of time from the state auditor.

Our fee for services will be at our standard hourly rates plus out-of-pocket costs (such as report reproduction, word processing, postage, travel, copies, telephone, etc.) except that we agree that our gross fee, including expenses, will not exceed \$6,500. Our standard hourly rates vary according to the degree of responsibility involved and the experience level of the personnel assigned to your audit. Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. In accordance with our firm policies, work may be suspended if your account becomes 90 days or more overdue and may not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket costs through the date of termination. The above fee is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs.

Reporting

We will issue a written report upon completion of our audit of Berkley Shores Metropolitan District's financial statements. Our report will be addressed to those charged with governance of Berkley Shores Metropolitan District. Circumstances may arise in which our report may differ from its expected form and content based on the results of our audit. Depending on the nature of these circumstances, it may be necessary for us to modify our opinions, add a separate section, or add an emphasis-of-matter or other-matter paragraph to our auditor's report, or if necessary, withdraw from this engagement. If our opinions are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or withdraw from this engagement.

We appreciate the opportunity to be of service to Berkley Shores Metropolitan District and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, please sign below, and return this letter to us.

Very truly yours,

Simmons & Wheeler P.C.

Simmons & Wheeler, P.C.

RESPONSE

This letter correctly sets forth the understanding of Berkley Shores Metropolitan District:

By *PM*

Title President

Date 02 / 27 / 2023

BERKLEY SHORES METROPOLITAN DISTRICT

Financial Statements

Year Ended December 31, 2022

with

Independent Auditors' Report

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Independent Auditors' Report

Board of Directors
Berkley Shores Metropolitan District
Adams County, Colorado

Opinions

We have audited the accompanying financial statements of the governmental activities and each major fund, of the Berkley Shores Metropolitan District (the "District") as of and for the year ended December 31, 2022, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and each major fund of Berkley Shores Metropolitan District as of December 31, 2022, 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.

Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America ("GAAS"). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the District, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for 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.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit 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, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Other Matters

Management has omitted the management's discussion and analysis that accounting principles generally accepted in the United States 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.

Supplementary Information

Our audit was conducted for the purpose of forming an opinion on the financial statements that collectively comprise the District's financial statements as a whole. The supplementary information as listed in the accompanying table of contents are presented for purposes of additional analysis and are not a required part of the basic financial statements. The supplementary information is the responsibility of management and were derived from and relate directly to the underlying accounting and other records used to prepare the financial statements. The supplementary 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 financial statements or to the 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 financial statements as a whole.

Simmons & Wheeler P.C.

Englewood, CO
May 31, 2023

BERKLEY SHORES METROPOLITAN DISTRICT

BALANCE SHEET/STATEMENT OF NET POSITION
GOVERNMENTAL FUNDS
December 31, 2022

	<u>General</u>	<u>Debt Service</u>	<u>Capital Projects</u>	<u>Total</u>	<u>Adjustments</u>	<u>Statement of Net Position</u>
ASSETS						
Cash and investments	\$ 9,303	\$ -	\$ -	\$ 9,303	\$ -	\$ 9,303
Cash and investments - restricted	-	309,797	-	309,797	-	309,797
Receivable - County Treasurer	87	122	-	209	-	209
Property taxes receivable	41,731	60,104	-	101,835	-	101,835
Prepaid expenses	3,653	-	-	3,653	-	3,653
Capital assets not being depreciated	-	-	-	-	1,771,026	1,771,026
Total Assets	\$ 54,774	\$ 370,023	\$ -	\$ 424,797	1,771,026	2,195,823
LIABILITIES						
Accounts payable	\$ 11,675	\$ -	\$ -	\$ 11,675	-	11,675
Accrued interest on bonds	-	-	-	-	10,115	10,115
Long-term liabilities:						
Due in more than one year	-	-	-	-	2,795,072	2,795,072
Total Liabilities	11,675	-	-	11,675	2,805,187	2,816,862
DEFERRED INFLOWS OF RESOURCES						
Deferred property taxes	41,731	60,104	-	101,835	-	101,835
Total Deferred Inflows of Resources	41,731	60,104	-	101,835	-	101,835
FUND BALANCES/NET POSITION						
Fund Balances:						
Nonspendable:						
Prepays	3,653	-	-	3,653	(3,653)	-
Restricted:						
Emergencies	3,667	-	-	3,667	(3,667)	-
Debt service	-	309,919	-	309,919	(309,919)	-
Unassigned	(5,952)	-	-	(5,952)	5,952	-
Total Fund Balances	1,368	309,919	-	311,287	(311,287)	-
Total Liabilities, Deferred Inflows of of Resource and Fund Balances	\$ 54,774	\$ 370,023	\$ -	\$ 424,797		
Net Position:						
Restricted for:						
Emergencies					3,667	3,667
Debt service					299,804	299,804
Unrestricted					(1,026,345)	(1,026,345)
Total Net Position					\$ (722,874)	\$ (722,874)

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, 2022

	<u>General</u>	<u>Debt Service</u>	<u>Capital Projects</u>	<u>Total</u>	<u>Adjustments</u>	<u>Statement of Activities</u>
EXPENDITURES						
General expenses:						
Accounting	\$ 13,231	\$ -	\$ -	\$ 13,231	\$ -	\$ 13,231
Audit	6,500	-	-	6,500	-	6,500
Election	891	-	-	891	-	891
Insurance	4,297	-	-	4,297	-	4,297
Landscape maintenance	927	-	-	927	-	927
Legal	17,037	-	-	17,037	-	17,037
Management fees	13,841	-	-	13,841	-	13,841
Miscellaneous expenses	11,570	-	-	11,570	-	11,570
Property management	13,050	-	-	13,050	-	13,050
Snow removal	13,333	-	-	13,333	-	13,333
Utilities	13,603	-	-	13,603	-	13,603
Debt service:						
Bond interest expense	-	121,380	-	121,380	-	121,380
Paying agent/trustee fees	-	4,276	-	4,276	-	4,276
Developer advance interest	-	-	-	-	30,151	30,151
	<u>108,280</u>	<u>125,656</u>	<u>-</u>	<u>233,936</u>	<u>30,151</u>	<u>264,087</u>
GENERAL REVENUES						
Property taxes	14,843	20,780	-	35,623	-	35,623
Specific ownership taxes	1,004	1,405	-	2,409	-	2,409
Miscellaneous income	125	-	-	125	-	125
Interest income	-	6,021	-	6,021	-	6,021
	<u>15,972</u>	<u>28,206</u>	<u>-</u>	<u>44,178</u>	<u>-</u>	<u>44,178</u>
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES						
	(92,308)	(97,450)	-	(189,758)	(30,151)	(219,909)
OTHER FINANCING SOURCES (USES)						
Developer advances	<u>93,676</u>	<u>-</u>	<u>-</u>	<u>93,676</u>	<u>(93,676)</u>	<u>-</u>
	<u>93,676</u>	<u>-</u>	<u>-</u>	<u>93,676</u>	<u>(93,676)</u>	<u>-</u>
NET CHANGES IN FUND BALANCES						
	1,368	(97,450)	-	(96,082)	96,082	
CHANGE IN NET POSITION						
					(219,909)	(219,909)
FUND BALANCES/NET POSITION:						
BEGINNING OF YEAR	<u>-</u>	<u>407,369</u>	<u>-</u>	<u>407,369</u>	<u>(910,334)</u>	<u>(502,965)</u>
END OF YEAR	<u>\$ 1,368</u>	<u>\$ 309,919</u>	<u>\$ -</u>	<u>\$ 311,287</u>	<u>\$ (1,034,161)</u>	<u>\$ (722,874)</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, 2022

	Original and		Variance
	<u>Final Budget</u>	<u>Actual</u>	<u>Favorable</u> <u>(Unfavorable)</u>
REVENUES			
Property taxes	\$ 14,922	\$ 14,843	\$ (79)
Specific ownership taxes	895	1,004	109
Miscellaneous income	<u>-</u>	<u>125</u>	<u>125</u>
Total Revenues	<u>15,817</u>	<u>15,972</u>	<u>155</u>
EXPENDITURES			
Accounting	15,000	13,231	1,769
Audit	5,500	6,500	(1,000)
Election	3,000	891	2,109
Insurance	5,500	4,297	1,203
Legal	18,000	17,037	963
Management fees	20,000	13,841	6,159
Miscellaneous expenses	2,000	11,570	(9,570)
Property management	14,400	13,050	1,350
Billing	6,000	-	6,000
Landscape maintenance	20,000	927	19,073
Irrigation repair	2,000	-	2,000
Snow removal	13,000	13,333	(333)
Detention pond maintenance	5,000	-	5,000
Operations & maintenance reserve	5,000	-	5,000
Repairs & maintenance	4,000	-	4,000
Fence repairs	2,500	-	2,500
Utilities	20,000	13,603	6,397
Treasurer's fees	224	-	224
Contingency	10,000	-	10,000
Emergency reserve	<u>5,725</u>	<u>-</u>	<u>5,725</u>
Total Expenditures	<u>176,849</u>	<u>108,280</u>	<u>68,569</u>
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	(161,032)	(92,308)	68,724
OTHER FINANCING SOURCES (USES)			
Developer advances	<u>175,000</u>	<u>93,676</u>	<u>(81,324)</u>
Total Other Financing Sources (Uses)	<u>175,000</u>	<u>93,676</u>	<u>(81,324)</u>
NET CHANGE IN FUND BALANCE	13,968	1,368	(12,600)
FUND BALANCE:			
BEGINNING OF YEAR	<u>4,608</u>	<u>-</u>	<u>(4,608)</u>
END OF YEAR	<u>\$ 18,576</u>	<u>\$ 1,368</u>	<u>\$ (17,208)</u>

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

BERKLEY SHORES METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2022

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, 2022

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, 2022

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.

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, 2022, 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.

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.

BERKLEY SHORES METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2022

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 assets 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, 2022, 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 assets 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 2022.

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

BERKLEY SHORES METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2022

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 \$3,653 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 3,667 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 \$309,919 is restricted for the payment of the costs associated with the Series 2020A(3) Bonds. (See Note 4)

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.

BERKLEY SHORES METROPOLITAN DISTRICT
Notes to Financial Statements
December 31, 2022

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.

Note 2: Cash and investments

As of December 31, 2022, cash and investments are classified in the accompanying financial statements as follows:

Statement of net position:	
Cash and investments	\$ 9,303
Cash and investments - Restricted	<u>309,797</u>
Total	<u>\$ 319,100</u>

BERKLEY SHORES METROPOLITAN DISTRICT
Notes to Financial Statements
December 31, 2022

Cash and investments as of December 31, 2022 consist of the following:

Deposits with financial institutions	\$ 9,427
Investments - COLOTRUST	<u>309,673</u>
	<u>\$ 319,100</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, 2022, 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.

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.

BERKLEY SHORES METROPOLITAN DISTRICT
Notes to Financial Statements
December 31, 2022

Interest Rate Risk

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

Colostrust

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 Colostrust. COLOTRUST records its investments at fair value and the District records its investment in COLOTRUST using the net asset value method. Colostrust operates similarly to a money market fund with each share maintaining a value of \$1.00. COLOTRUST offers shares in three portfolios, one of which is COLOTRUST PLUS+. COLOTRUST PLUS+ may invest in U.S. Treasuries, government agencies, the highest-rated commercial paper, certain corporate securities, certain money market funds, and certain repurchase agreements, and limits its investments to those allowed by State statutes. Purchases and redemptions are available daily at a net asset value (NAV) of \$1.00. A designated custodial bank provides safekeeping and depository services to COLOTRUST in connection with the direct investment and withdrawal function of COLOTRUST. The custodian’s internal records identify the investments owned by participating governments. There are no unfunded commitments and there is no redemption notice period. At December 31, 2022, the District had \$309,673 invested in COLOTRUST, of which \$309,673 is held in trust accounts with UMB Bank..

Note 3: Capital Assets

<u>Governmental Type Activities:</u>	<u>Balance 12/31/2021</u>	<u>Additions</u>	<u>Deletions</u>	<u>Balance 12/31/2022</u>
<u>Capital assets not being depreciated:</u>				
Construction in Progress	\$ 1,771,026	\$ -	\$ -	\$ 1,771,026
Total capital assets not being depreciated	1,771,026	-	-	1,771,026
 Government type assets	 \$ 1,771,026	 \$ -	 \$ -	 \$ 1,771,026

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.

BERKLEY SHORES METROPOLITAN DISTRICT
Notes to Financial Statements
December 31, 2022

Note 4: Long Term Debt

The following is an analysis of changes in long-term debt for the period ending December 31, 2022:

	Balance 12/31/2021	Additions	Deletions	Balance 12/31/2022	Current Portion
<u>General Obligation Bonds</u>					
<u>Limited Tax (Convertible to Unlimited Tax)</u>					
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	52,669	95,369	-	148,038	-
Developer accrued interest - Operating	2,076	7,678	-	9,754	-
Developer Advance - Capital	279,030	2,108	-	281,138	-
Developer accrued interest - Capital	21,669	22,473	-	44,142	-
Total	355,444	127,628	-	483,072	-
	<u>\$2,667,444</u>	<u>\$ 127,628</u>	<u>\$ -</u>	<u>\$2,795,072</u>	<u>\$ -</u>

A description of the long-term obligations as of December 31, 2022, 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 costs 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 1st and December 1st commencing on December 1, 2021.

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

BERKLEY SHORES METROPOLITAN DISTRICT
Notes to Financial Statements
December 31, 2022

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 the 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, 2022, the Reserve Fund was funded in the amount of \$232,561 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
2023	\$ -	\$ 121,380	\$ 121,380
2024	-	121,380	121,380
2025	-	121,380	121,380
2026	2,000	121,380	123,380
2027	2,000	121,276	123,276
2028-2032	88,000	599,130	687,130
2033-2037	228,000	562,380	790,380
2038-2042	438,000	482,056	920,056
2043-2047	718,000	339,518	1,057,518
2048-2050	836,000	101,062	937,062
	\$2,312,000	\$2,690,942	\$5,002,942

Operation Funding Agreements

On February 24, 2020, the District and the HDC 6300 Lowell Boulevard, LLLP (the “Developer”) entered into an Operation Funding Agreement for the purpose of funding the District’s operations, maintenance and administrative expenses. Pursuant to the Operation Funding Agreement, the Developer agreed to advance funds necessary to fund, or directly pay, the District’s operations, maintenance and administrative expenses for fiscal year 2020 on a periodic basis as needed, up to a stated shortfall amount of \$50,000. On November 2, 2020, the District entered into the First Amendment to Operation Agreement, which increased the shortfall amount to \$225,000 for fiscal years 2020 and 2021. On December 31, 2021, the

BERKLEY SHORES METROPOLITAN DISTRICT
Notes to Financial Statements
December 31, 2022

District entered into the Second Amendment to Operation Funding Agreement, which increased the shortfall amount to \$285,000 for fiscal years 2020, 2021 and 2022. On November 7, 2022, the District entered into the Third Amendment to Operation Funding Agreement, which increased the shortfall amount to \$363,236 for fiscal years 2020, 2021, 2022 and 2023. The District agrees to repay the amounts advanced, to the extent it has funds available from the imposition of its taxes, fees, rates, tolls, penalties and charges, and from any other revenue legally available, after the payment of its annual debt service obligations and annual operations, maintenance and administrative expenses, which repayment is subject to annual budget and appropriation. Simple interest shall accrue on each Developer Advance from the date of deposit into the District's account or from the date of direct payment by the Developer, until paid, at the rate of 8% per annum. The Operation Funding Agreement, as amended, shall not constitute a debt or indebtedness of the District within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial obligation, and the making of any reimbursement hereunder shall be at all times subject to annual appropriation by the District in its absolute discretion. Payment to reimburse the Developer shall be made on December 2 of each year and shall be applied first to accrued and unpaid interest and then to the principal amount due. The term of the Operation Funding Agreement, as amended, shall expire on December 31, 2023. Any obligation of the Developer to advance funds will expire upon advance to the District of amounts sufficient to pay expenses incurred in 2020, 2021, 2022 and 2023, not to exceed the Shortfall Amount. Any obligation of the District to reimburse the Developer shall expire on December 31, 2063. As of December 31, 2022, the principal amount of the reimbursement obligation under the Operation Funding Agreement was \$148,038 along with accrued interest in the amount of \$9,754.

Facilities Funding and Acquisition Agreement

On February 24, 2020, the District and the Developer entered into a Facilities Funding and Acquisition Agreement (the "FFA") with an effective date of February 4, 2020, which set forth the rights, obligations and procedures for the funding and acquisition of certain public improvements and for the District to reimburse the Developer for such costs. In this FFA the District acknowledges that the Developer has expended funds for the District's organizational expenses and the District is authorized to reimburse the Developer for such Organization Expenses subject to requirements in the FFA. Per the FFA, the Developer may also design, construct and complete certain improvements, in which case the District will acquire such Improvements in accordance with the FFA. In the event that the District proceeds with the design, construction and completion of any Improvements, the District shall request funding from the Developer, along with the construction related expenses up to the Shortfall Amount of \$2,500,000. The Developer shall advance funds necessary to fund the construction related expenses incurred by the District on a periodic basis as needed for fiscal years 2020 through 2025, up to the Shortfall Amount. The District agreed to reimburse the Developer for all Developer Advances and/or Verified Costs. Simple interest shall accrue on Organization

BERKLEY SHORES METROPOLITAN DISTRICT
Notes to Financial Statements
December 31, 2022

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 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, 2022, the principal amount of the reimbursement obligation under the FFA was \$281,138 along with accrued interest in the amount of \$44,142.

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 Series 2020A(3) Bonds were used to repay this amount to the Developer under this agreement.

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

Debt Authorization

As of December 31, 2022, 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 2023.

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.

BERKLEY SHORES METROPOLITAN DISTRICT
Notes to Financial Statements
December 31, 2022

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.

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

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

Note 7: Risk Management

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

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

BERKLEY SHORES METROPOLITAN DISTRICT
Notes to Financial Statements
December 31, 2022

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

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

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

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, 2022

	Original and <u>Final Budget</u>	<u>Actual</u>	Variance Favorable <u>(Unfavorable)</u>
REVENUES			
Property taxes	\$ 20,700	\$ 20,780	\$ 80
Specific Ownership Taxes	1,242	1,405	163
Interest income	<u>200</u>	<u>6,021</u>	<u>5,821</u>
Total Revenues	<u>22,142</u>	<u>28,206</u>	<u>6,064</u>
EXPENDITURES			
Bond interest expense	121,380	121,380	-
Paying agent/trustee fees	5,500	4,276	1,224
Treasurer's fees	1,242	-	1,242
Miscellaneous expense	250	-	250
Contingency	<u>10,000</u>	<u>-</u>	<u>10,000</u>
Total Expenditures	<u>138,372</u>	<u>125,656</u>	<u>12,716</u>
NET CHANGE IN FUND BALANCE	(116,230)	(97,450)	18,780
FUND BALANCE:			
BEGINNING OF YEAR	<u>401,780</u>	<u>407,369</u>	<u>5,589</u>
END OF YEAR	<u>\$ 285,550</u>	<u>\$ 309,919</u>	<u>\$ 24,369</u>

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

BERKLEY SHORES METROPOLITAN DISTRICT

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

For the Year Ended December 31, 2022

	Original And Final <u>Budget</u>	<u>Actual</u>	Variance Favorable <u>(Unfavorable)</u>
REVENUES			
Interest income	\$ -	\$ -	\$ -
Total Revenues	<u>-</u>	<u>-</u>	<u>-</u>
EXPENDITURES			
Accounting	12,000	-	12,000
Legal	12,000	-	12,000
Management fees	8,000	-	8,000
Engineering	<u>5,400</u>	<u>-</u>	<u>5,400</u>
Total Expenditures	<u>37,400</u>	<u>-</u>	<u>37,400</u>
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES			
	(37,400)	-	37,400
OTHER FINANCING SOURCES (USES)			
Developer advances	<u>37,400</u>	<u>-</u>	<u>(37,400)</u>
Total Other Financing Sources (Uses)	<u>37,400</u>	<u>-</u>	<u>(37,400)</u>
NET CHANGE IN FUND BALANCE			
	-	-	-
FUND BALANCE:			
BEGINNING OF YEAR	<u>-</u>	<u>-</u>	<u>-</u>
END OF YEAR	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

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

BERKLEY SHORES METROPOLITAN DISTRICT

May 31, 2023

Simmons & Wheeler, P.C.
304 Inverness Way South, Suite 490
Englewood, Colorado 80112

This representation letter is provided in connection with your audit of the financial statements of the Berkley Shores Metropolitan District, which comprise the respective financial position of the governmental activities, the business-type activities, the aggregate discretely presented component units, each major fund, and the aggregate remaining fund information (where applicable) as of December 31, 2022, and the respective changes in financial position and, where applicable, cash flows for the year then ended, and the related notes to the financial statements, for the purpose of expressing opinions as to whether the financial statements are presented fairly, in all material respects, in accordance with accounting principles generally accepted in the United States of America.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement. An omission or misstatement that is monetarily small in amount could be considered material as a result of qualitative factors.

We confirm, to the best of our knowledge and belief, as of the date of the audit report, the following representations made to you during your audit:

Financial Statements

1. We have fulfilled our responsibilities, as set out in the terms of the audit engagement letter, including (where applicable) our responsibility for the preparation and fair presentation of the financial statements in accordance with U.S. GAAP and for the preparation of the supplementary information in accordance with the applicable criteria.
2. The financial statements referred to above are fairly presented in conformity with U.S. generally accepted accounting principles and include all properly classified funds and other financial information of the primary government and all component units, where applicable, as required by generally accepted accounting principles to be included in the financial reporting entity.
3. We acknowledge our responsibility for 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.

4. We acknowledge our responsibility for the design, implementation, and maintenance of internal control to prevent and detect fraud.
5. Significant assumptions we used in making accounting estimates, including those measured at fair value, are reasonable.
6. Related party relationships and transactions, including revenues, expenditures/expenses, loans, transfers, leasing arrangements, and guarantees, and amounts receivable from or payable to related parties have been appropriately accounted for and disclosed in accordance with the requirements of U.S. GAAP.
7. Adjustments or disclosures have been made for all events, including instances of noncompliance, subsequent to the date of the financial statements that would require adjustment to or disclosure in the financial statements (or in the schedule of findings and questioned costs, if applicable).
8. The effects of uncorrected misstatements are immaterial, both individually and in the aggregate, to the financial statements as a whole for each opinion unit. A list of the uncorrected misstatements, where applicable, is attached to the representation letter.
9. The effects of all known actual or possible litigation, claims, and assessments have been accounted for and disclosed in accordance with U.S. GAAP.
10. Guarantees, whether written or oral, under which the entity is contingently liable, if any, have been recorded and disclosed.

Information Provided

11. We have provided you with:
 - (a) Access to all information, of which we are aware, that is relevant to the preparation and fair presentation of the financial statements, such as records, documentation, and other matters (and all audit or relevant monitoring reports, if any, received from funding sources).
 - (b) Additional information that you have requested from us for the purpose of the audit.
 - (c) Unrestricted access to persons within the entity from whom you determined it necessary to obtain audit evidence.
 - (d) Minutes of the meetings of the Board of Directors, or summaries of actions of recent meetings for which minutes have not yet been prepared.
12. All material transactions have been recorded in the accounting records and are reflected in the financial statements.
13. We have disclosed to you the results of our assessment of the risk that the financial statements may be materially misstated as a result of fraud.

14. We have no knowledge of any fraud or suspected fraud affecting the entity involving:
 - (a) Management,
 - (b) Employees who have significant roles in internal control, or
 - (c) Others where the fraud could have a material effect on the financial statements.
15. We have no knowledge of any allegations of fraud or suspected fraud affecting the entity's financial statements communicated by employees, former employees, regulators, or others.
16. We have no knowledge of instances of noncompliance or suspected noncompliance with provisions of laws, regulations, contracts, or grant agreements, or abuse, whose effects should be considered when preparing financial statements.
17. We have disclosed to you all known actual or possible litigation, claims, and assessments whose effects should be considered when preparing the financial statements.
18. We have disclosed to you the identity of the entity's related parties and all the related party relationships and transactions of which we are aware.
19. We have made available to you all financial records and related data, and, all audit or relevant monitoring reports, if any, received from funding sources.

Government Specific

20. There have been no communications from regulatory agencies concerning noncompliance with, or deficiencies in, financial reporting practices.
21. Where applicable, we have taken timely and appropriate steps to remedy fraud, noncompliance with provisions of laws, regulations, contracts, or grant agreements, or abuse that you have reported to us.
22. Where applicable, we have a process to track the status of audit findings and recommendations.
23. We have identified to you any previous audits, attestation engagements, and other studies related to the audit objectives and whether related recommendations have been implemented.
24. The District has no plans or intentions that may materially affect the carrying value or classification of assets, liabilities, or equity.
25. Where applicable, we have provided our views on reported findings, conclusions, and recommendations, as well as our planned corrective actions, for the report.
26. We are responsible for compliance with the laws, regulations, and provisions of contracts and grant agreements applicable to us, including tax or debt limits and debt contracts, and legal and contractual provisions for reporting specific activities in separate funds.

27. We have identified and disclosed to you all instances that have occurred or are likely to have occurred, of fraud and noncompliance with provisions of laws and regulations that we believe have a material effect on the financial statements or other financial data significant to the audit objectives, and any other instances that warrant the attention of those charged with governance.

28. We have identified and disclosed to you all instances, which have occurred or are likely to have occurred, of noncompliance with provisions of contracts and grant agreements that we believe have a material effect on the determination of financial statement amounts or other financial data significant to the audit objectives.

29. We have identified and disclosed to you all instances that have occurred or are likely to have occurred, of abuse that could be quantitatively or qualitatively material to the financial statements or other financial data significant to the audit objectives.

30. There are no violations or possible violations of budget ordinances, laws and regulations (including those pertaining to adopting, approving, and amending budgets), provisions of contracts and agreements, tax or debt limits, and any related debt covenants whose effects should be considered for disclosure in the financial statements, or as a basis for recording a loss contingency, or for reporting on noncompliance.

31. Where applicable, as part of your audit, you assisted with preparation of the financial statements and related notes. We acknowledge our responsibility as it relates to those nonaudit services, including that we assume all management responsibilities; oversee the services by designating an individual, preferably within senior management, who possesses suitable skill, knowledge, or experience; evaluate the adequacy and results of the services performed; and accept responsibility for the results of the services. We have reviewed, approved, and accepted responsibility for those financial statements and related notes.

32. The entity has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets nor has any asset been pledged as collateral except as noted in the financial statements.

33. The entity has complied with all aspects of contractual agreements that would have a material effect on the financial statements in the event of noncompliance.

34. We have followed all applicable laws and regulation in adopting, approving and amending budgets.

35. Where applicable, the financial statements include all component units as well as joint ventures with an equity interest, and properly disclose all other joint ventures and other related organizations.

36. The financial statements properly classify all funds and activities in accordance with GASB Statement No. 34.

37. All funds that meet the quantitative criteria in GASB Statement Nos. 34 and 37 for presentation as major are identified and presented as such and all other funds that are presented as major are particularly important to financial statement users.
38. Components of net position (net investment in capital assets; restricted; and unrestricted) and classifications of fund balance (nonspendable, restricted, committed, assigned, and unassigned) are properly classified and, if applicable, approved.
39. Where applicable, investments, derivative transactions, and land and other real estate held by endowments are properly valued.
40. Provisions for uncollectible receivables have been properly identified and recorded.
41. Expenses have been appropriately classified in or allocated to functions and programs in the statement of activities, and allocations have been made on a reasonable basis.
42. Revenues are appropriately classified in the statement of activities within program revenues, general revenues, contributions to term or permanent endowments, or contributions to permanent fund principal.
43. Interfund, internal, and intra-entity activity and balances have been appropriately classified and reported.
44. Special and extraordinary items are appropriately classified and reported, if applicable.
45. Deposits and investment securities and derivative transactions are properly classified as to risk and are properly disclosed.
46. Capital assets, including infrastructure and intangible assets, are properly capitalized, reported, and, if applicable, depreciated.
47. The entity meets the GASB-established requirements for accounting for eligible infrastructure assets using the modified approach if applicable.
48. We have appropriately disclosed the entity's policy regarding whether to first apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net position is available and have determined that net position is properly recognized under the policy. We are following our established accounting policy regarding which resources (that is, restricted, committed, assigned, or unassigned) are considered to be spent first for expenditures for which more than one resource classification is available. That policy determines the fund balance classifications for financial reporting purposes.

49. We are following our established accounting policy regarding resources (that is, restricted, committed, assigned or unassigned) are considered to be spent first for expenditures for which more than one resource classification is available. That policy determines the fund balance classifications for financial reporting purposes.

50. We acknowledge our responsibility for the required supplementary information (RSI). The RSI is measured and presented within prescribed guidelines and the methods of measurement and presentation have not changed from those used in the prior period. We have disclosed to you any significant assumptions and interpretations underlying the measurement and presentation of the RSI.

51. Where applicable, with respect to the supplementary information:

(a) We acknowledge our responsibility for presenting the supplementary information, as defined in the table of contents of the financial statements, in accordance with accounting principles generally accepted in the United States of America, and we believe the supplementary information, including its form and content, is fairly presented in accordance with accounting principles generally accepted in the United States of America. The methods of measurement and presentation of the supplementary information have not changed from those used in the prior period, and we have disclosed to you any significant assumptions or interpretations underlying the measurement and presentation of the supplementary information.

(b) If the supplementary information is not presented with the audited financial statements, we will make the audited financial statements readily available to the intended users of the supplementary information no later than the date we issue the supplementary information and the auditor's report thereon.

52. We have evaluated the entity's ability to continue as a going concern and have included appropriate disclosures, as necessary, in the financial statements.

53. The entity understands that TABOR (Section 20 of Article X of the Colorado Constitution) is complex and subject to interpretation and that many of the provisions will require judicial interpretation. We have reviewed the various provisions and interpretations and believe to the best of our knowledge at this time, the entity is in compliance.

BERKLEY SHORES METROPOLITAN DISTRICT

Signed: _____

Title: _____

Signed: _____

Title: _____

STATE OF COLORADO
COUNTY OF ADAMS
BERKLEY SHORES METROPOLITAN DISTRICT
2024 BUDGET RESOLUTION

The Board of Directors of the Berkley Shores Metropolitan District, Adams County, Colorado held a regular meeting on Monday November 6, 2023, at the hour of 10:00 A.M., via video conference at <https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUIZZc1VMWTJFZjFHdz09> and via telephone conference at Dial In: 1-719-359-4580, Meeting ID: 862 6755 0643, Passcode: 987572

The following members of the Board of Directors were present:

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

Also present were:

Ms. Ripko 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 2024 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 regular meeting of the Board of Directors of the District and that a notice of regular meeting was posted on a public website of the District, <https://berkleysthoresmd.colorado.gov>, no less than twenty-four hours prior to the holding of the meeting, and to the best of her 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 2024 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 2024 AND ENDING ON THE LAST DAY OF DECEMBER 2024.

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, 2023; and

WHEREAS, the proposed budget is more than fifty thousand dollars (\$50,000.00), due and proper notice was published on Thursday, October 26, 2023, 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 Section 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 6, 2023 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 Section 29-1-301, C.R.S., and Article X, Section 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 Section 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 Section 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 2024 Revenues and 2024 Expenditures. That the estimated revenues and expenditures for each fund for fiscal year 2024, 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 2024. In the event the final assessed valuation provided by the Adams County Assessor's Office differs from the assessed valuation used in the proposed budget, the District's accountant is hereby directed to modify and/or adjust the budget and mill levy certification as needed to reflect the final assessed valuation without the need for additional Board authorization.

Section 3. Senate Bill 23-303 and Proposition HH. That the passage of Proposition HH at the November 7, 2023 general election would result in the implementation of various provisions of Senate Bill 23-303 which will impact the District's budget, including, but not limited to, the addition of Section 29-1-306, C.R.S., which limits the increase in the District's property tax revenue to no more than a prescribed inflation amount subject to exclusion of revenue from certain sources. That, as part of the preparation of the proposed budget and [as included in Exhibit B], the District's accountant calculated the "property tax limit" as defined in and in the manner set forth in Section 29-1-306, C.R.S. and has determined that the District's property tax revenue for property tax year 2023 will not increase by more than "inflation" (as defined in in Section 29-1-306(1)(a), C.R.S.) from the District's property tax revenue for the property tax year 2022 and therefore the property tax limit will not be exceeded by imposition of the mill levies included in the budget of the District for fiscal year 2024. In performing the property tax limit calculation, the District has directed that for purposes of Section 29-1-306(2)(b), C.R.S. the most recently published estimate of inflation for the 2022 calendar year available at the time of preparation of the 2024 budget be utilized by the District's accountant. Finally, that the due to the timing of the November 7, 2023 general election and the requirement that the District be provided a proposed budget for its review and consideration on or before October 15, 2023, the District's accountant has made a good faith effort and used the best information available at the time of preparation of the budget to provide the District with alternative scenarios showing a proposed budget and mill

levies for fiscal year 2024 in the event that Proposition HH passes and alternatively in the event that Proposition HH does not pass. Due to the uncertainty of the outcome of the passage of Proposition HH and the significant possibility that the final assessed valuations differ from the preliminary assessed valuations, once the outcome of Proposition HH is known and the final assessed valuations are provided by the Adams County Assessor's Office, the District's accountant is hereby directed to modify and/or adjust the budget and mill levy certification as needed to reflect the final assessed valuation without the need for additional Board authorization.

Section 4. 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 5. Budget Certification. That the budget shall be certified by Natalie Satt, 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 6. 2024 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 \$80,345 and that the 2023 valuation for assessment, as certified by the Adams County Assessor, is \$3,213,790. That for the purposes of meeting all general operating expenses of the District during the 2024 budget year, there is hereby levied a tax of 25.000 mills upon each dollar of the total valuation of assessment of all taxable property within the District for the year 2024.

Section 7. 2024 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 \$115,719 and that the 2023 valuation for assessment, as certified by the Adams County Assessor, is \$3,213,790. That for the purposes of meeting all debt retirement expenses of the District during the 2024 budget year, there is hereby levied a tax of 36.007 mills upon each dollar of the total valuation of assessment of all taxable property within the District for the year 2024.

Section 8. 2024 Mill Levy Adjustment. The Board may adjust the mill levy, as specifically set forth in the District's Service Plan (the "Adjusted Mill Levy"). The Board hereby determines in good faith to establish the Adjusted Mill Levy as set forth in the mill levy certification attached hereto as Exhibit C pursuant to the authority granted by its Service Plan to ensure that the District's revenues shall be neither diminished nor enhanced as a result of the changes effecting the mill levy. Subject to adjustment and finalization by the District's accountant in accordance with Sections 2 and 3 hereof, the Board further authorizes that the Adjusted Mill Levy be reflected in the District's Certification of Tax Levies to be submitted to the Board of County Commissioners of Adams County on or before December 15, 2023, for collection in 2024.

Section 9. Certification to County Commissioners. That the Board Secretary and/or District's accountant are 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 6TH DAY OF NOVEMBER 2023.

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 regular meeting of the Board of Directors of the Berkley Shores Metropolitan District held on November 6, 2023, via video conference at <https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUIZZc1VMWTJFZjFHdz09> and via telephone conference at Dial In: 1-719-359-4580, Meeting ID: 862 6755 0643, Passcode: 987572, as recorded in the official record of the proceedings of the District, insofar as said proceedings relate to the budget hearing for fiscal year 2024; 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 6th day of November 2023.

Natalie Satt, Secretary

[SEAL]

EXHIBIT A

Affidavit
Notice as to Proposed 2024 Budget

Colorado Community Media
750 W. Hampden Ave. Suite 225
Englewood, CO 80110

Public Notice

NOTICE AS TO PROPOSED
2024 BUDGET AND HEARING
BERKLEY SHORES
METROPOLITAN DISTRICT

Berkley Shores Metro Dist (isp) **
c/o Icenogle Seaver Pogue
4725 South Monaco Street, Suite 360
Denver CO 80237

NOTICE IS HEREBY GIVEN that a proposed budget has been submitted to the BERKLEY SHORES METROPOLITAN DISTRICT for the ensuing year of 2024. A copy of such proposed budget has been filed in the office of Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado, where same is open for public inspection. Such proposed budget will be considered at a hearing at the regular meeting of the Berkley Shores Metropolitan District to be held at 10:00 A.M., on Monday, November 6, 2023. The meeting will be held via online meeting at: <https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRTWkRyUjZzc1VMWTFJFzJlFkZ099>; and via telephone at 1-719-359-4580, Meeting ID: 862 6755 0643, Passcode: 987572. Any interested elector within the Berkley Shores Metropolitan District may inspect the proposed budget and file or register any objections at any time prior to the final adoption of the 2024 budget.

AFFIDAVIT OF PUBLICATION

State of Colorado }
County of Adams } ss

BY ORDER OF THE BOARD OF DIRECTORS:
BERKLEY SHORES METROPOLITAN DISTRICT

By: *Isi ICENOGLER* | SEAVER | POGUE
A Professional Corporation

This Affidavit of Publication for the Northglenn-Thornton Sentinel, a weekly newspaper, printed and published for the County of Adams, State of Colorado, hereby certifies that the attached legal notice was published in said newspaper once in each week, for 1 successive week(s), the last of which publication was made 10/26/2023, and that copies of each number of said paper in which said Public Notice was published were delivered by carriers or transmitted by mail to each of the subscribers of said paper, according to their accustomed mode of business in this office.

Legal Notice No. NTS3069
First Publication: October 26, 2023
Last Publication: October 26, 2023
Publisher: Northglenn-Thornton Sentinel



For the Northglenn-Thornton Sentinel

State of Colorado }
County of Adams } ss

The above Affidavit and Certificate of Publication was subscribed and sworn to before me by the above named Linda Shapley, publisher of said newspaper, who is personally known to me to be the identical person in the above certificate on 10/26/2023. Linda Shapley has verified to me that she has adopted an electronic signature to function as her signature on this document.



Carla Bethke
Notary Public
My commission ends April 11, 2026

CARLA BETHKE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20004025550
MY COMMISSION EXPIRES APRIL 11, 2026

**NOTICE AS TO PROPOSED 2024 BUDGET AND HEARING
BERKLEY SHORES METROPOLITAN DISTRICT**

NOTICE IS HEREBY GIVEN that a proposed budget has been submitted to the **BERKLEY SHORES METROPOLITAN DISTRICT** for the ensuing year of 2024. A copy of such proposed budget has been filed in the office of Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado, where same is open for public inspection. Such proposed budget will be considered at a hearing at the regular meeting of the Berkley Shores Metropolitan District to be held at 10:00 A.M., on Monday, November 6, 2023. The meeting will be held via online meeting at: <https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUIZZc1VMWTJFZjFHdz09>; and via telephone at 1-719-359-4580, Meeting ID: 862 6755 0643, Passcode: 987572. Any interested elector within the Berkley Shores Metropolitan District may inspect the proposed budget and file or register any objections at any time prior to the final adoption of the 2024 budget.

**BY ORDER OF THE BOARD OF DIRECTORS:
BERKLEY SHORES METROPOLITAN DISTRICT**

By: /s/ ICENOGLE | SEAVER | POGUE
A Professional Corporation

Publish In: *Northglenn/Thornton Sentinel/Westminster Window*
Publish On: Thursday, October 26, 2023

EXHIBIT B

Budget Document
Budget Message

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

	2022 Actual	2023 Adopted Budget	2024 Preliminary Budget
Assessed Valuation	\$ 591,440	\$ 1,669,230	\$ 3,213,790
Mill Levy			
General Fund	25.000	25.000	25.000
Debt Service Fund	35.000	36.007	36.007
Refunds and Abatements	0.230	-	-
Total Mill Levy	<u>60.230</u>	<u>61.007</u>	<u>61.007</u>
Property Taxes			
General Fund	\$ 14,786	\$ 41,731	\$ 80,345
Debt Service Fund	20,700	60,104	115,719
Refunds and Abatements	136	-	-
Actual/Budgeted Property Taxes	<u>\$ 35,622</u>	<u>\$ 101,835</u>	<u>\$ 196,064</u>

BERKLEY SHORES METROPOLITAN DISTRICT

GENERAL FUND

2024 Preliminary Budget

with 2022 Actual, 2023 Adopted Budget and 2023 Estimated

	2022 Actual	01/23-06/23 YTD Actual	2023 Adopted Budget	2023 Estimated	2024 Preliminary Budget
BEGINNING FUND BALANCE	\$ 1	\$ 1,368	\$ 17,219	\$ 1,368	\$ (598)
REVENUE					
Property Tax Revenue	14,843	23,180	41,731	41,731	80,345
Specific Ownership Taxes	1,004	1,012	2,504	2,504	4,821
Developer Advance	93,676	66,523	78,000	90,000	50,000
Miscellaneous income	125	200	-	500	200
Total Revenue	109,648	90,915	122,235	134,735	135,366
Total Funds Available	109,649	92,284	139,454	136,103	134,768
EXPENDITURES					
Accounting	13,232	2,027	8,000	8,000	8,480
Audit	6,500	-	7,300	7,300	7,300
Insurance/SDA Dues	4,297	4,059	4,500	4,059	4,700
Legal	17,037	15,373	12,000	18,000	15,000
Election	891	1,216	1,000	1,216	-
Management	13,841	1,381	8,000	8,000	8,480
Miscellaneous	11,568	8,344	2,000	9,000	5,000
Treasurer's Fees	-	45	626	626	1,205
Property Management	13,050	7,056	12,000	12,000	12,000
Landscape Maintenance	-	4,475	20,000	20,000	20,000
Landscape Improvements	927	-	-	-	-
Irrigation Repair	-	-	2,000	2,000	2,000
Snow Removal	13,333	10,038	13,000	15,000	15,000
Detention Pond Maintenance	-	-	5,000	5,000	5,000
Repairs & Maintenance	-	-	4,000	4,000	4,000
Fence Repairs	-	-	2,500	2,500	5,000
Utilities	13,603	3,848	15,000	10,000	1,000
Contingency	-	-	10,000	10,000	10,000
Total Expenditures	108,280	57,863	126,926	136,701	124,165
Transfers and Other Sources (Uses)					
Emergency Reserve	-	-	(3,667)	(3,667)	(4,061)
Total Expenditures Requiring Appropriation	108,280	57,863	130,593	136,701	128,226
ENDING FUND BALANCE	\$ 1,368	\$ 34,421	\$ 8,861	\$ (598)	\$ 6,542

BERKLEY SHORES METROPOLITAN DISTRICT

**DEBT SERVICE FUND
2024 Preliminary Budget
with 2022 Actual, 2023 Adopted Budget and 2023 Estimated**

	2022 Actual	01/23-06/23 YTD Actual	2023 Adopted Budget	2023 Estimated	2024 Preliminary Budget
BEGINNING FUND BALANCE	\$ 407,370	\$ 309,919	\$ 293,871	\$ 309,919	\$ 247,041
REVENUE					
Property Tax Revenue	20,780	33,386	60,104	60,104	115,719
Specific Ownership Tax	1,405	1,458	3,606	3,606	6,943
Interest Income	6,021	7,629	2,000	11,443	8,000
Total Revenue	28,206	42,472	65,710	75,153	130,662
Total Funds Available	435,576	352,392	359,581	385,072	377,703
EXPENDITURES					
Bond Interest	121,380	60,690	121,380	121,380	121,380
Paying Agent/Trustee Fees	4,276	379	5,500	5,500	5,500
Miscellaneous	-	-	250	250	250
Treasurer's Fees	-	65	902	902	1,736
Contingency	-	-	10,000	10,000	10,000
Total Expenditures	125,656	61,134	138,032	138,032	138,866
Total Expenditures Requiring Appropriation	125,656	61,134	138,032	138,032	138,866
ENDING FUND BALANCE	\$ 309,919	\$ 291,257	\$ 221,550	\$ 247,041	\$ 238,837

BERKLEY SHORES METROPOLITAN DISTRICT

CAPITAL PROJECTS FUND

2024 Preliminary Budget

with 2022 Actual, 2023 Adopted Budget and 2023 Estimated

	2022 Actual	01/23-06/23 YTD Actual	2023 Adopted Budget	2023 Estimated	2024 Preliminary Budget
BEGINNING FUND BALANCE	\$ (1)	\$ -	\$ -	\$ -	\$ -
REVENUE					
Developer Advance	-	8,045	37,400	38,000	39,000
Total Revenue	-	8,045	37,400	38,000	39,000
Total Funds Available	(1)	8,045	37,400	38,000	39,000
EXPENDITURES					
Accounting	(1)	4,151	13,000	12,000	13,000
Legal	-	-	12,000	12,000	12,000
Management	(0)	3,227	8,600	8,600	8,600
Engineering	-	-	5,400	5,400	5,400
Total Expenditures	(1)	7,378	39,000	38,000	39,000
Total Expenditures Requiring Appropriation	(1)	7,378	39,000	38,000	39,000
ENDING FUND BALANCE	\$ -	\$ 667	\$ (1,600)	\$ -	\$ -

EXHIBIT C

Certification of Tax Levy

CERTIFICATION OF TAX LEVIES for NON-SCHOOL Governments

TO: County Commissioners¹ of _____, Colorado.

On behalf of the _____,
(taxing entity)^A

the _____,
(governing body)^B

of the _____,
(local government)^C

Hereby officially certifies the following mills to be levied against the taxing entity's GROSS \$ _____ assessed valuation of: _____
(GROSS^D assessed valuation, Line 2 of the Certification of Valuation Form DLG 57^E)

Note: If the assessor certified a NET assessed valuation (AV) different than the GROSS AV due to a Tax Increment Financing (TIF) Area^F the tax levies must be calculated using the NET AV. The taxing entity's total property tax revenue will be derived from the mill levy multiplied against the NET assessed valuation of: \$ _____
(NET^G assessed valuation, Line 4 of the Certification of Valuation Form DLG 57)
USE VALUE FROM FINAL CERTIFICATION OF VALUATION PROVIDED BY ASSESSOR NO LATER THAN DECEMBER 10

Submitted: _____ for budget/fiscal year _____.
(no later than Dec. 15) (mm/dd/yyyy) (yyyy)

PURPOSE (see end notes for definitions and examples)	LEVY²	REVENUE²
1. General Operating Expenses ^H	_____ mills	\$ _____
2. <Minus> Temporary General Property Tax Credit/ Temporary Mill Levy Rate Reduction ^I	< _____ > mills	\$ < _____ >
SUBTOTAL FOR GENERAL OPERATING:	<input type="text"/> mills	\$ <input type="text"/>
3. General Obligation Bonds and Interest ^J	_____ mills	\$ _____
4. Contractual Obligations ^K	_____ mills	\$ _____
5. Capital Expenditures ^L	_____ mills	\$ _____
6. Refunds/Abatements ^M	_____ mills	\$ _____
7. Other ^N (specify): _____	_____ mills	\$ _____
	_____ mills	\$ _____
TOTAL: [Sum of General Operating Subtotal and Lines 3 to 7]	<input type="text"/> mills	\$ <input type="text"/>

Contact person: _____ Daytime phone: () _____
(print)

Signed: _____ Title: _____

Include one copy of this tax entity's completed form when filing the local government's budget by January 31st, per 29-1-113 C.R.S., with the Division of Local Government (DLG), Room 521, 1313 Sherman Street, Denver, CO 80203. Questions? Call DLG at (303) 864-7720.

¹ If the *taxing entity's* boundaries include more than one county, you must certify the levies to each county. Use a separate form for each county and certify the same levies uniformly to each county per Article X, Section 3 of the Colorado Constitution.

² Levies must be rounded to three decimal places and revenue must be calculated from the total NET assessed valuation (Line 4 of Form DLG57 on the County Assessor's **FINAL** certification of valuation).

CERTIFICATION OF TAX LEVIES, continued

THIS SECTION APPLIES TO TITLE 32, ARTICLE 1 SPECIAL DISTRICTS THAT LEVY TAXES FOR PAYMENT OF GENERAL OBLIGATION DEBT (32-1-1603 C.R.S.). Taxing entities that are

Special Districts or Subdistricts of Special Districts must certify separate mill levies and revenues to the Board of County Commissioners, one each for the funding requirements of each debt (32-1-1603, C.R.S.) Use additional pages as necessary. The Special District's or Subdistrict's total levies for general obligation bonds and total levies for contractual obligations should be recorded on Page 1, Lines 3 and 4 respectively.

CERTIFY A SEPARATE MILL LEVY FOR EACH BOND OR CONTRACT:

BONDS^J:

- 1. Purpose of Issue: _____
Series: _____
Date of Issue: _____
Coupon Rate: _____
Maturity Date: _____
Levy: _____
Revenue: _____

- 2. Purpose of Issue: _____
Series: _____
Date of Issue: _____
Coupon Rate: _____
Maturity Date: _____
Levy: _____
Revenue: _____

CONTRACTS^K:

- 3. Purpose of Contract: _____
Title: _____
Date: _____
Principal Amount: _____
Maturity Date: _____
Levy: _____
Revenue: _____

- 4. Purpose of Contract: _____
Title: _____
Date: _____
Principal Amount: _____
Maturity Date: _____
Levy: _____
Revenue: _____

Use multiple copies of this page as necessary to separately report all bond and contractual obligations per 32-1-1603, C.R.S.

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 6th day of November 2023.

Natalie Satt, Secretary

S E A L

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

At a regular meeting of the Board of Directors of the Berkley Shores Metropolitan District, Adams County, Colorado, held at 10:00 A.M., on Monday, November 6, 2023 via video conference at: <https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUIZZc1VMWTJFZjFHdz09;> and via telephone conference at Dial In: 1-719-359-4580, Meeting ID: 862 6755 0643, Passcode: 987572, 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, Section 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, Sections 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, Section 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, Section 32-1-104(2), C.R.S. requires that the District, on or before January 15, file a copy of the notice required by Section 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, Sections 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, Section 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, Sections 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 Section 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 Section 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 Section 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, Article 13 of Title 38, 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 Section 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 Section 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 Sections 32-1-903(2), 24-6-402(2)(c)(I) & (III), and 32-1-903(6)(c) 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, including an annual 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, Section 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 (20) 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 Section 32-1-903(1.5), C.R.S. and further stating the date, time and physical location of such meeting; and

WHEREAS, Section 32-1-903(6)(a), C.R.S. requires that the Board hold an annual meeting at a time and location to be designated by the Board and such location may be in person, virtual, or in person and virtual; provided that if the annual meeting is held solely in person, then it must be held at a physical location within the boundaries of the District, within the boundaries of any county in which the District is located, in whole or in part, or within any other county so long as the physical location does not exceed five (5) miles from the District's boundaries; and

WHEREAS, pursuant to Section 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 Section 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 Section 24-12-101, C.R.S., and the oath must be filed with the County Clerk and Recorder, and in accordance with Section 32-1-901(1), C.R.S. with the Clerk of the Court and with the Division; and

WHEREAS, in accordance with Section 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 Section 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 Section 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 Section 32-1-902(3)(a), C.R.S.; and

WHEREAS, Directors are governed by Section 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 Section 18-8-308, C.R.S.; and

WHEREAS, Directors are governed by Section 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 Section 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 Section 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, Sections 24-71.3-101 *et seq.*, C.R.S.; and

WHEREAS, pursuant to Section 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, Sections 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, Section 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 Section 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 Section 32-1-207(3)(c), C.R.S., and unless otherwise waived or requested by an earlier date, any special district created after July 1, 2000, must electronically file an annual report for the preceding calendar year by October 1st 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, Sections 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 Section 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 Section 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, Sections 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 Section 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 that an order or decree confirming the inclusion of real property into the District is recorded; and

WHEREAS, in accordance with Section 32-1-104.5, C.R.S., (1) within one year of the date an order and decree has been issued by a district court for a newly organized metropolitan district; or (2) for all metropolitan districts organized after January 1, 2000, by January 1, 2023, such metropolitan district, shall establish, maintain and annually update an official website containing specific information as set forth in Section 32-1-104.5(3)(a), C.R.S.; 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, Sections 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 Section 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 Sections 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 Section 32-1-809(2), C.R.S; and (2) in accordance with Section 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 directs management 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* 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*.
10. The Board designates the URL Domain <https://berkleysthoresmd.colorado.gov/> as the District's official website and posting place for notices of meetings in 2024 pursuant to Sections 24-6-402(2)(c) and 32-1-104.5, C.R.S. and ratifies their designation of <https://berkleysthoresmd.colorado.gov/> as the posting place for notices of meetings in 2023 for purposes of Sections 24-6-402(2)(c) and 32-1-104.5, C.R.S. Further, in compliance with Section 24-6-402(2)(III), C.R.S., the

Board designates the mailboxes within the District located between W. 63rd Ave. and W. 63rd Place, adjacent to the building at 3553 W. 63rd Ave., 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. The Board directs management to maintain and update the official website of the District in compliance with Section 32-1-104.5(3)(a), C.R.S.
- 12. 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.
- 13. The Board determines to hold regular meetings on Monday, June 3, 2024 and Monday, November 4, 2024, at 10:00 A.M. via online meeting at _____ and via telephone conference at Dial-In: _____, Meeting ID: _____, Passcode: _____. The Board directs those notices of all meetings must include the method or procedures, including the conference number and/or link, by which members of the public can attend the meeting. Any additional means of public participation, if any, will also be designated on the meeting agenda.
- 14. The Board determines to hold its annual meeting as required by Section 32-1-903(6), C.R.S. on Monday, November 4, 2024, at _____.M. via online meeting at _____ and via telephone conference at Dial-In: _____, Meeting ID: _____, Passcode: _____. The Board directs those notices of all meetings must include the method or procedures, including the conference number and/or link, by which members of the public can attend the meeting. Any additional means of public participation, if any, will also be designated on the meeting agenda.
- 15. Pursuant to Section 32-1-904, C.R.S., the Board determined that the office of the District shall be at Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado, 80228.
- 16. The Board directs legal counsel to prepare, administer and file an oath or affirmation in accordance with Sections 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 Section 24-14-102(2), C.R.S. or a bond for each Director as required by Section 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.

17. The Board hereby elects the following officers for the District:

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

18. The Board directs that each Director may receive compensation for services as Directors in accordance with Sections 32-1-902(3)(a)(I) & (II), C.R.S.

19. 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 Section 18-8-308, C.R.S. shall be deemed filed with the Directors of the District when filed with the Secretary of State.

20. The Board authorizes the use of electronic records and electronic signatures. 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, Sections 24-71.3-101 *et seq.*, C.R.S.

21. 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 Section 24-72-203, C.R.S.

22. 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 Sections 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 Section 32-1-1101.5(1), C.R.S.

23. 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 Section 32-1-1101.5(1.5), C.R.S.
24. The Board directs management to prepare and file an annual report as required under the Service Plan for the District and Section 32-1-207(3)(c), C.R.S., as applicable.
25. The District is currently a member of the Special District Association ("SDA") and insured through 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.
26. 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 (90th) day after the date of the executive session.
27. The Board hereby designates the District's accountant as its official custodian over public deposits in accordance with Sections 11-10.5-101 *et seq.*, C.R.S.
28. The Board directs legal counsel to prepare the special district public disclosure statement in accordance with Section 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.
29. Peggy Ripko, of Special District Management Services, Inc., is hereby appointed as the "Designated Election Official" of the Board for any elections to be held during 2024 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.
30. 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 6TH DAY OF NOVEMBER 2023.

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 6th day of November 2023.

Natalie Satt, Secretary

[SEAL]

FOURTH AMENDMENT TO OPERATION FUNDING AGREEMENT

This **FOURTH AMENDMENT TO OPERATION FUNDING AGREEMENT** (“**Fourth Amendment**”) is made and entered into effective this 6th day of November 2023 by and between **BERKLEY SHORES METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”) and **HDC 6300 LOWELL BOULEVARD, LLLP**, a Colorado limited liability limited partnership (the “**Developer**”) (individually, each a “**Party**” and collectively the “**Parties**”).

RECITALS

A. The District and the Developer entered into that certain Operation Funding Agreement, dated February 24, 2020 and effective as of February 4, 2020, as amended by that First Amendment to Operation Funding Agreement dated November 2, 2020, that Second Amendment to Operation Funding Agreement dated December 31, 2021, and that Third Amendment to Operation Funding Agreement dated November 7, 2022 (collectively, the “**Agreement**”), whereby the Developer agreed to advance funds to the District for operations and maintenance expenses.

B. Pursuant to the Agreement, the obligation of the Developer to fund the Shortfall Amount is limited to an amount not to exceed \$310,000.

C. Pursuant to the Agreement, the obligation of the Developer to fund the Shortfall Amount expires on December 31, 2023.

D. The District anticipates that it will not have sufficient revenues to make payment of its operations and maintenance expenses through fiscal year 2024.

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

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

COVENANTS AND AGREEMENTS

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

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

“1. Acknowledgement of Anticipated Shortfalls. The District anticipates a shortfall in revenues available for operations and maintenance expenses to be incurred for fiscal years 2020, 2021, 2022, 2023 and 2024 in an aggregate amount of Three Hundred Ten Thousand Dollars (\$310,000) (the “Shortfall Amount”).”

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

“8. Term/Repose. Any obligation of Developer to advance funds will expire upon amounts sufficient to pay expenses incurred in 2020 through 2024. Any obligation of District to reimburse Developer shall expire on December 31, 2024. In the event the District has not reimbursed the Developer for any Developer Advance(s) made pursuant to this Agreement on or before December 31, 2064, any amount of principal and accrued interest outstanding on such date shall be deemed to be forever discharged and satisfied in full.”

4. All references in the Agreement, to the phrase “fiscal year 2020” shall be deleted in their entirety and substituted in lieu thereof shall be the phrase: “fiscal years 2020 through 2024”.

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

SIGNATURE PAGE FOLLOWS

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

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

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

By: _____

President

Attest:

Secretary

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

By: _____

Manager

Attest:

Title: _____



WM of Colorado, Inc("WM")
5500 S Quebec St , Ste 250
Greenwood Village CO 80111
(303) 797-1600

WM Agreement # **010-713726**
 Customer Acct # **010-713726**
 Acct. Name **Berkley Shres**
 Salesperson **Mike Maher**

Homeowner Association Service Agreement

Homeowner Association Information Term Information

Association Name:	Berkley Shres	Contact Name	Peggy Ripko	Effective Date	7/1/2023
Association Total Unit Count:	89	Telephone #	(303) 987-0835	Term Length	Initial Term is 60 months from the Effective Date. After the Initial Term, this Agreement shall automatically renew thereafter for additional successive terms of 60 months (each, a "Renewal Term"), unless terminated as set forth in Section 7 of the Terms and Conditions.
Street Address:	Various Addresses	Email:	pripko@sdmsi.com		
City State Zip:	Denver CO 80221	Billing Method	WM bills Association		
County	AR				

Equipment & Service Summary

Material Stream	Cart Size	Collection Frequency	Total Unit Count ¹	Monthly Rate ^{2&3} (per Unit)
Waste Materials	96 gallon	Weekly	89	\$15.30 +RMO
Recyclables	96 gallon	Every Other Week	89	Included in Rate

Schedule of Supplemental Charges ³

Valet/Walk-up Service (per month)	NA	Container Exchange (per cart)	NA
Overage (per incident)	NA	Cart Removal (per cart)	NA
Contamination (per incident)	NA	Additional Cart (per cart)	\$5.00
Hard to Service (per unit)	NA	Administrative Fee ⁴	\$8.50
Delivery Charge (per cart)	NA		

Special Program Instruction/Comments

- 89 home at \$15.30 home, per month. Rate includes all fees and will be detailed on the invoice to show totals. Fuel, Environmental, Energy, and RMO Charges are all variable and will fluctuate with fuel, energy, and recycleable markets.
- Includes weekly trash collection and every-other-week recycle collection. All Trash and Recycle must be inside carts
- Included use of 96-gallon trash and recycle carts. Additional Carts are \$5.00 per cart per month and direct billed to resident.
- Bulk items, such as furniture, will be charged to residents, and must be scheduled in advance .
- Rate guaranteed for 12 months with future increases to be based on The Consumer Price Index – Water, Sewer, and Trash Index with a max increase of 5% per year.

¹ Total unit count subject to change monthly based on new unit builds.

² The above listed monthly rates are for recurring regularly scheduled services only. Charges for all additional services will be at rates specified in the Schedule of Supplemental Charges.

³ **The monthly rate and supplemental charges do not include, and are subject to, a Fuel Surcharge ("FSC"), Environmental Charge ("EVC") and, if applicable, a Recycle Material Offset. Information about these charges can be found at www.wm.com/billhelp. State & Local fees and/or taxes will also be added to the Charges.**

⁴ An Administrative Fee will be assessed per invoice and can be removed by enrolling in paperless statements and automated payments. This Agreement does not provide for a fixed price during the Contract Term. Unless specifically provided otherwise herein, Association should expect WM to increase Charges as allowed by Section 8(b) and to seek other price increases subject to Association's consent under Section 8(c) of this Agreement. Consent to price increases may be given orally, in writing, or by notice and Association's payment of, or failure to object to, the price increase.

This Homeowner Association Service Agreement ("Agreement") is made as of the Effective Date shown above by and between the Waste Management Affiliate identified immediately below ("WM") and Association named below. The individuals signing on behalf of WM and Association each acknowledge that he/she/they has read and understands the following terms and conditions, which are hereby incorporated into this Agreement, and that he/she/they has the authority to sign on behalf of WM and Association, respectively.

_____ Association Signature	_____ Printed Name	_____ Title	_____ Date
_____	_____	_____	_____

WM Signature

Printed Name

Title

Date

Terms and Conditions

1. DEFINITIONS.

- a. "Contamination" refers to materials placed in a Recyclables container other than Recyclables.
- b. **"Contamination Charge"** means an amount charged to Association with reimbursement to WM, to compensate WM costs for separating non-Recyclables placed in Recyclable's cart, or for arranging special, unscheduled collections due to placement of non-Recyclables in Recyclables containers.
- c. **"Customer"** means a residential premise located within the geographical area encompassing all of the residences which are subject to any of the rules of Association as of the Effective Date of this Agreement and any additional geographical area(s) encompassing any additional residences that become subject to any of the rules of Association.
- d. **"Excluded Materials"** means any waste tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous, regulated medical or hazardous waste, toxic substance or material, as defined by, characterized or listed under applicable federal, state, or local laws or regulations, or chemical or other properties that are deleterious or capable of causing material damage to any part of WM's property, its personnel or the public or materially impair the strength or the durability of the WM's structures or equipment, or any materials containing information (in hard copy or electronic format, or otherwise) which information is protected or regulated under any local, state or federal privacy or data security laws, including, but not limited to the Health Insurance Portability and Accountability Act of 1996, as amended, or other regulations or ordinances, or any special waste or other waste or material that is prohibited from being received, managed or disposed of at a transfer, storage, recycling or disposal facility used hereunder by federal, state or local law, regulation, ordinance, permit or other legal requirement.
- e. **"Overage"** means (i) Waste Materials and/or Recyclables exceeding its container's intended capacity such that the lid is lifted (or would be lifted if lowered) or (ii) Waste Materials and/or Recyclables placed on top of or in the immediate vicinity of the Container, in bags or otherwise.
- f. **"Overage Charge"** means an amount charged to Association to compensate for expense incurred by WM arising from Overages, and to provide a financial incentive to Customers to subscribe to the level of service that will allow all materials to fit within the container.
- g. **"Recyclables" are defined in Section 16.**
- h. **"Waste Materials"** means all non-hazardous solid waste and Recyclables (as defined in Section 16) generated by Customer(s) at Association's Service Address(es) attributed to the normal activities of a single-family residence but excludes Excluded Materials.

2. **SERVICES.** Association grants to WM the exclusive right to provide the "Services" (defined below). WM, through itself and its Affiliates, shall furnish equipment and services to collect and dispose of and/or recycle all Waste Materials generated by Customers, deposited, accumulated, or otherwise coming to exist at Association's Service Address(es), subject to the terms and provisions contained herein (the "Services"). Association agrees that this is an exclusive Agreement in that all Customers shall be required by Association to utilize the Services of WM. Association represents and warrants that the materials to be collected under this Agreement shall be only "Waste Materials" as defined herein. Title to Waste Materials is transferred to WM upon WM's receipt or collection unless otherwise provided in this Agreement or applicable law. Title to Excluded Materials shall remain with the generator and shall not transfer to WM. Association is liable for Excluded Materials. All Waste Materials must be curbside by 6:00 A.M. on the scheduled collection day. All Waste Materials must fit inside the cart(s).

3. **CONTRACT TERM.** The Initial Term and any subsequent Renewal Term of this Agreement (collectively, the "Contract Term") is set forth on the Service Summary. Unless otherwise specified on the Service Summary, at the end of the Initial Term and any subsequent Renewal Term, the Contract Term shall automatically renew for an additional Renewal Term at the then current Service levels and applicable Charges, unless (a) for a Renewal Term of twelve (12) months or more, either party gives to the other party written notice of termination at least ninety (90) days, but not more than one hundred eighty (180) days, prior to the termination of the then-existing term, and (b) for a Renewal Term of less than twelve (12) months, either party gives to the other party written notice of termination at least thirty (30) days prior to the termination of the then-existing term.

4. **SERVICE GUARANTEE.** If WM fails to perform Services in accordance with the attached service summary (the "Service Summary"), and WM does not remedy such failure within ten (10) days of its receipt of a written demand from Association, Association may immediately terminate this Agreement without penalty.

5. **REPRESENTATIONS BY ASSOCIATION.** Association represents and warrants to WM that (A) Association has the authority under the applicable Covenant, Conditions & Restrictions and/or bylaws and declarations (CC&Rs) to enter into this Agreement either on behalf of or for the benefit of all of the Customers; (B) Association has the authority to obligate all of the Customers to utilize WM exclusively for the Services; and, (C) this Agreement has been approved by Association's board of directors.

6. **ASSOCIATION OBLIGATIONS.** Association agrees to perform all obligations required of Association pursuant to the terms and conditions of this Agreement, including, but not limited, the following:
- a. Association shall timely update WM in the event the total number of units (i.e., the total house count eligible to receive WM's services) increases from the Unit Count set forth in the Service Summary. WM will use the updated Unit Count total in its next invoice to Association. WM has no responsibility for any incorrect Unit Counts provided by Association, but has the right, in its discretion, to verify the Residential Unit count information provided by Association. Association agrees that if Association's community is fully constructed, the Unit Count will be fixed for the Contract Term and Association will not be entitled to any credits or Unit Count deductions if there are any temporary or permanent vacancies.
 - b. Association assumes full responsibility for informing current and future residents of this Agreement.
 - c. Association shall timely inform WM of complaints made by Customers and shall work with WM in good faith to resolve any Customer service issues.
 - d. Association shall educate Customers to encourage, promote and obtain proper Waste Materials and Recyclables set-out, collection, and disposal as required by this Agreement.
 - e. Association shall provide safe and unobstructed access to the equipment referenced in Section 10 on the scheduled collection day. If the equipment is inaccessible, Association agrees to pay additional charges for any service modifications caused by or resulting from Association's failure to provide access.
 - f. Association shall not deposit or permit the deposit of collection of any Excluded Materials.
 - g. Association shall pay WM the Charges for the Services, including additional Charges for additional Services provided by WM as described in Section 8(a).

7. **TERMINATION RIGHTS.** Notwithstanding the foregoing, this Agreement can be terminated prior to the end of the Initial Term, or a Renewal Term, as follows:

- a. by Association (with no obligation to pay liquidated damages as provided in Section 11), (i) if WM fails to satisfy the Service Guarantee provided in Section 4 or (ii) pursuant to Section 8(c) if WM increases the Charges payable by Association hereunder with a Consensual Price Increase;
- b. by Association with thirty (30) days prior written notice to WM, subject to Association's obligation to pay liquidated damages as provided in Section 11 no later than thirty (30) days after written notice of termination;
- c. by WM, (i) if as a result of Association's breach of Section 9 or of Association's failure to pay, WM suspends Services for more than fifteen (15) days, or (ii) if Association fails to cure any other breach of its obligations under this Agreement within five (5) business days of its receipt of written demand from WM to cure such breach;
- d. by WM, with at least fifteen (15) days prior written notice to Association, any time after Association retains, designates or appoints a broker or agent to act for Association, or manage its Services, under this Agreement; and,
- e. by WM, with at least thirty (30) days prior written notice to Association, for any reason if WM determines that such termination in its best interest.

In order to move containers in a safe, secure and orderly fashion, WM shall have up to fourteen (14) days to remove any containers and equipment from Association's service location(s) after the effective date of the termination of this Agreement.

8. (a) **CHARGES; ADDITIONAL SERVICES; CHANGES.** The initial charges, fees and other amounts payable by Association ("Charges") for Services and/or equipment furnished by WM are set forth on the Service Summary. WM also reserves the right to charge Association additional Charges for additional Services provided by WM to Association, whether requested or incurred by Association, including, but not limited to container relocation or removal; gate, enclosure or roll out services; account resume or reactivation services; extra pickups or trip charges; Contamination Charge; Overage Charge and overflows; and equipment repair and maintenance (see www.wm.com/billhelp for a list of "Additional Services", which may be updated from time to time), all at such standard prices or rates that WM is charging its Associations in the service area at such time. Changes in the frequency of collection, collection schedule, number, capacity and/or type of equipment, the terms and conditions of this Agreement, and any changes to the Charges payable under this Agreement (including any Consensual Price Increase or Negotiated Price Adjustment), may be agreed to orally, in writing or by other actions and practices of the parties, including, without limitation, electronic or online acceptance or payment of the invoice reflecting such changes, and written notice to Association of any such changes, and Association's failure to object to such changes, which shall be deemed to be Association's affirmative consent to such changes.

(b) **PERMITTED PRICE INCREASES.** WM reserves the right, and Association acknowledges that it should expect WM to increase or add Charges payable by Association hereunder during the Contract Term: (i) for any changes or modifications to, or differences between, the actual equipment and Services provided by WM to Association and those specified on the Service Summary; (ii) for any changes or difference in the composition, amount or weight of the Waste Materials collected by WM from Association's service location(s) from what is specified on the Service Summary (including for container overages or overflows); (iii) for any increase in or other modification made by WM to the Fuel Surcharge, Regulatory Cost Recovery Charge, Recyclable Materials Offset, Environmental Charge, and/or any other Charges included or referenced in the Service Summary (which Charges are calculated and/or determined on enterprise-wide basis, including WM and all Affiliates); (iv) to cover any increases in disposal, processing, and/or transportation costs, including fuel surcharges; (v) to cover increased costs due to uncontrollable circumstances, including, without limitation, changes (occurring from and after three (3) months prior to the Effective Date) in local, state, federal or foreign laws or regulations (or the enforcement, interpretation or application thereof), including the imposition of or increase in taxes, fees or surcharges, or acts of God such as floods, fires, hurricanes and natural disasters; and (vi) for increases in the Consumer Price Index ("CPI") for Water, Sewer and Trash Collection Services published by U.S. Bureau of Labor Statistics, or with written notice to Association, any other national, regional or local CPI, with such increases in CPI being measured from the Effective Date, or as applicable, Association's last CPI based price increase date ("PI Date"). Increases to Charges specified in this Section 8(b) may be applied singularly or cumulatively and may include an amount for WM's operating or profit margin. Association acknowledges and agrees that any increased Charges under this Section 8 (including any Consensual Price Increases or Negotiated Price Adjustments) are not represented to be solely an offset or pass through of WM's costs.

(c) **CONSENSUAL PRICE INCREASES.** Without limiting the foregoing, WM also reserves the right to seek, and Association acknowledges that it should expect WM to seek, increases in the Charges payable by Association hereunder for reasons not specifically permitted in Section 8(b) (a "Consensual Price Increase"). If Association does not accept the Consensual Price Increase, Association's sole right and remedy shall be to terminate this Agreement by written notice to WM no later than thirty (30) days after WM notifies Association of such Consensual Price Increase. Association's failure to terminate this Agreement (within the 30-

day period) shall be construed as Association's acknowledgement that the continuation of the Services by WM hereunder is good, valuable and sufficient consideration for the Consensual Price Increase. Notwithstanding the foregoing, the parties may, but are not obligated to, agree to a different increase or adjustment to Association's Charges (a "Negotiated Price Adjustment") as a result of a Consensual Price Increase. Absent a Negotiated Price Adjustment, the Consensual Price Increase shall be binding and enforceable against Association under this Agreement unless Association terminates this Agreement (within the 30-day period) as described above. Association's agreement to a Consensual Price Increase or Negotiated Price Adjustment may be evidenced pursuant to Section 8(a) and the parties agree that this Agreement with such modified Charges will continue in full force and effect.

9. INVOICES; PAYMENT TERMS. WM shall send all invoices for Charges incurred by Association and any required notices to Association under this Agreement to Association's billing address specified in the Service Summary, unless Association elects to be billed or receive notices electronically or by e-mail. WM shall invoice Association based on the Unit Count, regardless of how many Units utilize the Services. Association shall pay all invoiced Charges within thirty (30) days of the invoice date. Any Association invoice balance not paid within thirty (30) days of the date of invoice is subject to a late charge, and any Association check returned for insufficient funds is subject to a non-sufficient funds charge, both to the maximum extent allowed by applicable law. Association acknowledges that any late charge charged by WM is not to be considered as interest on debt or a finance charge, and is a reasonable charge for the anticipated loss and cost to WM for late payment. If payment is not made when due, WM retains the right to suspend Services, in whole or in part, until the past due balance is paid in full. In addition to full payment of outstanding balances, Association shall be required to pay a reactivation charge to resume suspended Services. If Services are suspended for more than fifteen (15) days, WM may immediately terminate this Agreement, in whole or in part, for default and recover any equipment and all amounts owed hereunder, including liquidated damages under Section 11.

10. EQUIPMENT, ACCESS. All equipment furnished by WM shall remain its property; however, Association shall have care, custody and control of the equipment and shall be liable for all loss or damage to the equipment and for its contents while at Association's service location(s). Association shall not overload, move or alter the equipment or allow a third party to do so, and shall use it only for its intended purpose. At the termination of this Agreement, WM's equipment shall be in the condition in which it was provided, normal wear and tear excepted. WM may suspend Services or terminate this Agreement in the event Association violates any of the requirements of this provision. Association shall pay, if charged by WM, any additional Charges, determined by WM in its sole discretion, for overloading, moving or altering the equipment or allowing a third party to do so, and for any service modifications caused by or resulting from Association's failure to provide access. Association warrants that Association's property is sufficient to bear the weight of WM's equipment and vehicles and agrees that WM shall not be responsible for any damage to Association's pavement or any other surface resulting from the equipment or Services.

11. LIQUIDATED DAMAGES. In the event Association terminates this Agreement prior to the expiration of the Initial or Renewal Term for any reason other than as set forth in Section 7(a), or in the event WM terminates this Agreement for Association's default pursuant to Section 7(c), Association shall pay the following liquidated damages in addition to WM's legal fees, if any: (a) if the remaining Contract Term (including any applicable Renewal Term) under this Agreement is six (6) or more months, Association shall pay the average of its six (6) monthly Charges immediately prior to default or termination (or, if the Effective Date is within six (6) months of WM's last invoice date, the average of all monthly Charges) multiplied by six (6); or (b) if the remaining Contract Term is less than six months, Association shall pay the average of its six (6) most recent monthly Charges multiplied by the number of months remaining in the Contract Term. Association acknowledges that the actual damage to WM in the event of Association's early termination or breach of contract is impractical or extremely difficult to fix or prove, the foregoing liquidated damages amount is reasonable and commensurate with the anticipated loss to WM resulting therefrom, and such liquidated damages payment is an agreed upon charge for Association's early termination or breach of contract and is not imposed as a penalty. Association shall also pay liquidated damages of \$100 for every Association waste tire that is found at any disposal facility used by WM. In addition to and not in limitation of the foregoing, WM shall be entitled to recover all losses, damages and costs, including attorneys' fees and costs, resulting from Association's breach of any other provision of this Agreement in addition to all other remedies available at law or in equity.

12. INDEMNITY. WM agrees to indemnify, defend and save Association and its Affiliates harmless from and against any and all liability which Association or its Affiliates may suffer, incur or pay as a result of any bodily injuries (including death), property damage or violation of law, to the extent caused by any negligent act or omission or willful misconduct of WM or its employees, which occurs (a) during the collection or transportation of Association's Waste Materials, or (b) as a result of the disposal of Association's Waste Materials in a facility owned by WM or an Affiliate, provided that WM's indemnification obligations will not apply to occurrences involving Excluded Materials. Association agrees to indemnify, defend and save WM and its Affiliates harmless from and against any and all liability which WM and its Affiliates may suffer, incur or pay as a result of any bodily injuries (including death), property damage or violation of law to the extent caused by Association's breach of this Agreement or by any negligent act or omission or willful misconduct of any of the Customers or Association or its employees, agents or contractors or any Customer or Association's use, operation or possession of any equipment furnished by WM. Neither party shall be liable to the other for consequential, incidental or punitive damages arising out of the performance or breach of this Agreement.

13. RIGHT TO PROVIDE COMPETING OFFERS. If Association receives an offer from (or makes any offer to) a third party relating to such third party's provision to Association of the same or similar Services to those provided hereunder, Association shall give WM prompt written notice of any such offer and a 15-day period to respond to such third party offer prior to Association agreeing to such third-party offer. The Parties agree that Section 13 does not obligate WM to respond to or match any such offer and that Association's termination of this Agreement after receiving a competing offer will be pursuant to Section 7(b).

14. DISPUTE RESOLUTION-ARBITRATION AGREEMENT AND CLASS ACTION WAIVER BINDING ARBITRATION: Except for those claims expressly excluded below (EXCLUDED CLAIMS), Association and WM agree that any and all existing or future controversy or claim between them arising out of or related to this Agreement or any prior agreements between the parties, whether based in contract, law or equity or alleging any other legal theory, or arising prior to, in connection with, or after the termination of this Agreement or any other agreements, shall be resolved by mandatory binding arbitration (see www.wm.com for details on arbitration procedures). CLASS ACTION WAIVER: Association and WM agree that under no circumstances, whether in arbitration or otherwise, may Association bring any claim against WM, or allow any claim that Association may have against WM to be asserted, as part of a class action, on a consolidated or representative basis or otherwise aggregated with claims brought by, or on behalf of, any other entity or person, including other Associations of WM. EXCLUDED CLAIMS: The following are not subject to mandatory binding arbitration: (a) either party's claims against the other in connection with bodily injury or real property damage and for environmental indemnification; and (b) WM's claims against Association for collection or payment of Charges, damages (liquidated or otherwise) or any other amounts due or payable to WM by Association under this Agreement or any prior agreements between the parties, but Association and WM may mutually agree to arbitrate any Excluded Claims.

15. MISCELLANEOUS. (a) Except for the obligation to make payments hereunder for Services already performed, neither party shall be in default for its failure to perform or delay in performance caused by events or significant threats of events beyond its reasonable control, whether or not foreseeable, including, but not limited to, strikes, labor trouble, riots, imposition of laws or governmental orders, fires, acts of war or terrorism, acts of God, and the inability to obtain equipment, and the affected party shall be excused from performance during the occurrence of such events. (b) This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns. (c) The terms, conditions and disclosures set forth on www.wm.com related to billing, charges, dispute resolution and for those Associations that sign up for electronic billing and payment, WM ezPay or Autopay, are incorporated by reference and made a part hereof (as such terms, conditions and disclosures may be changed or modified from time to time, effective from such change or modification). In addition to, and not in limitation of, the foregoing, the terms and provisions of this Agreement may be amended and modified as agreed to by the parties as provided in Section 8(a). Subject to the foregoing, this Agreement represents the entire agreement between the parties and supersedes any and all other agreements for the same Services at the same Association locations covered by this Agreement, whether written or oral, that may exist between the parties. (d) This Agreement shall be construed in accordance with the law of the state in which the Services are provided. (e) All written notification to WM required by this Agreement shall be effective upon receipt and delivered by Certified Mail, Return Receipt Requested, courier or by hand to WM's address on the first page of the Service Summary, provided that WM may provide written notice to Association of a different address for written notice to WM. (f) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be severed from and shall not affect the remainder of this Agreement; however, the parties shall amend this Agreement to give effect, to the maximum extent allowed, to the intent and meaning of the severed provision. (g) In the event WM successfully enforces its rights against Association hereunder, Association shall be required to pay WM's attorneys' fees and court costs. (h) Notwithstanding the termination of this Agreement, Sections 10, 11, 12, 13, 14 and 15 and Association's obligation to make payments for all Charges and other amounts due or payable hereunder through the termination date shall survive the termination of this Agreement. (i) It is expressly agreed that the parties shall be independent contractors and that the relationship between the parties shall not constitute a partnership, joint venture, agency, or employer-employee relationship. (j) The term "Affiliate" means with respect to any specified party, any corporation, limited liability company, partnership or other legal entity, directly or indirectly, controlled by, controlling or under common control with such specified party, with "control" meaning, directly or indirectly, the power to direct or cause the direction of the management and policies of such legal entity, whether through the ownership of voting securities, by contract or otherwise. (k) "business day" means Monday through Friday, excluding bank holidays. (l) If this Agreement is entered into before control of Association is transferred from the developer to the residents, this Agreement shall be binding on Association after the transfer of such control.

16. RECYCLABLES.

(a) "Recyclables" means the following materials, but only if they are dry, loose (i.e., not bagged), unshredded and empty: aluminum cans, PET bottles with the symbol #1 (with screw tops only), mail, magazines, glossy inserts and pamphlets, newspaper, HDPE plastic bottles and containers with the symbol #2 (milk jugs, detergent containers, and shampoo bottles, etc.), uncoated paperboard (e.g., cereal boxes; food and snack boxes), PP plastic bottles and containers with symbol #5 (e.g., yogurt containers, syrup bottles), uncoated printing, writing and office paper, steel and tin cans, uncoated old corrugated containers/cardboard (e.g., moving boxes, pizza boxes), and any color glass food and beverage containers.

(b) The following materials are not Recyclables: plastic bags and bagged materials (even if containing recyclables), microwavable trays, porcelain and ceramics, mirrors, window or auto glass, light bulbs, coated cardboard, soiled paper, including paper plates and cups, plastics not listed above including but not limited to those with symbols #3, #4, #6, #7 and unnumbered plastics, including utensils, expanded polystyrene, coat hangers, glass and metal cookware/bakeware, household appliances and electronics, hoses, cords, wires, yard waste, construction debris, and wood, flexible plastic or film packaging and multi-laminated materials, needles, syringes, IV bags or other medical supplies, food waste and liquids, containers containing such items, textiles, cloth, or any fabric (e.g., bedding, pillows, sheets), Excluded Materials or containers which contained Excluded Materials, napkins, paper towels, tissue, paper plates, and paper cups, any Recyclables less than 4" in size in any dimension, propane tanks, fuel canisters, batteries and any other material that does not fall within the definition of Recyclables.



ICENOGL SEAVR POGUE

MEMORANDUM

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

FROM: Icenogle Seaver Pogue, P.C.

DATE: July 21, 2023

RE: Summary of 2023 Legislation

INTRODUCTION

The First Regular Session of the Seventy-Fourth General Assembly of the State of Colorado (the “General Assembly”) convened on January 9, 2023, and adjourned on May 8, 2023. This memorandum summarizes certain bills enacted into law in 2023 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 GENERALLY

Special District Construction Contracts

HB 23-1023

Under current law, a special district is only required to publish a notice for bids on all construction contracts for work, material, or both if the expense is equal to or in excess of \$60,000. House Bill (“HB”) 23-1023, increases the dollar amount threshold from \$60,000 to \$120,000. In addition, this amount shall be adjusted accounting for inflation on July 1, 2028, and every five years thereafter. HB 23-1023 will take effect on August 7, 2023, unless a referendum petition is filed.

Remedies Person with Disabilities

HB 23-1032

This bill prohibits an individual with a disability from being excluded from participation in, or denied the benefits of services, programs, or activities provided by a public entity or a “place of public accommodation.”¹ The bill establishes that a person alleging discrimination on the basis of a disability in employment, housing, or discriminatory advertising must first exhaust available administrative proceedings and remedies before filing an action in district court. In the case of alleged discrimination in a place of public accommodation, an individual may file an action directly with the court. In certain civil suits, the

¹ “Place of public accommodation” means any place of business engaged in any sales to the public and any place offering services, facilities, privileges, advantages, or accommodations to the public, including but not limited to... any sporting or recreational area and facility; any public transportation facility; ... swimming pool, ..., gymnasium, or other establishment conducted to serve the health, appearance, or physical condition of a person; ... or any public building, park, arena, theater, hall, auditorium, museum, library, exhibit, or public facility of any kind whether indoor or outdoor. C.R.S. § 24-34-601(1).

bill permits a court to require compliance with applicable provisions and award either actual monetary damages or levy a statutory fine. This bill took effect on May 25, 2023, upon signature of the Governor.

Homeowners' Association + Metropolitan District Homeowners' Rights Task Forces **HB 23-1105**

HB 23-1105 creates two task forces: the Homeowners Association Homeowner's Rights Task Force ("HOA Task Force"), and the Metropolitan District Homeowner's Rights Task Force ("Metro Task Force"). Among other things, the HOA Task Force has the authority to investigate Homeowners' Association (HOA) fining authority and practices, foreclosure practices, and communications between HOA and HOA homeowners. The Metro Task Force will be comprised of the State Director of the Division of Housing and the Director of the Division of Real Estate, both *ex officio* members, and two homeowners residing in a metropolitan district, an elected member of a city council, a Colorado licensed attorney who primarily represents homeowners in legal proceedings against metropolitan districts, a representative of a nonprofit organization that represents the affordable housing community, a member of the House of Representatives, a member of the Senate, a Colorado licensed attorney who specializes in metropolitan district law, an elected County Commissioner, a representative of a developer, a representative recommended by a statewide nonprofit organization that represents metropolitan districts in a coalition. Appointments to the Metro Task Force will be made on or before November 1, 2023. The Metro Task Force has the authority to investigate metropolitan district tax levying authority and practices, foreclosure practices, communications between homeowners and metropolitan districts, and metropolitan district governance policies (including voting and elections). The Metro Task Force shall also examine how a metropolitan district that enforces covenants could be transitioned into a common interest community. For purposes of HB 23-1105 a "metropolitan district" is limited to metropolitan districts that were created to finance infrastructure to support a housing subdivision, as such, commercial metropolitan districts would not fall within the purview of HB 23-1105. A metropolitan district shall notify its residents about the task force before the task force holds its first meeting. The Metro Task Force shall prepare an interim report on or before March 1, 2024, and a final report on or before June 15, 2024. HB 23-1105 took effect on May 26, 2023.

Transparency for Metropolitan Districts **SB 23-110**

Starting on January 1, 2024, all metropolitan district service plans submitted to one or more county commissioners or municipalities must set the maximum mill levy for general obligation indebtedness that may be levied and the maximum debt that may be issued by the metropolitan district. SB 23-110 also requires that beginning in 2023 any metropolitan district with residential units within its boundaries that was organized after January 1, 2000 and is not in inactive status, hold an annual meeting at which no official action will be taken, that includes a presentation regarding the current public infrastructure projects within the metropolitan district and outstanding bonds, a review of unaudited financial statements showing year-to-date revenues and expenditures, and an opportunity for members of the public to ask questions. This meeting must be held in person, virtually, or in person and virtually, provided that, an annual meeting that is held solely in person must be held at a physical location that is within the boundaries of the metropolitan district, within the boundaries of any county in which the metropolitan district is located, in whole or in part, or within any other county so long as the location does not exceed five miles from the metropolitan district's boundaries. In addition, at a meeting at which the board adopts the annual budget for the metropolitan district, the board must provide a public comment period during the meeting. SB 23-110 also requires, that prior to issuing debt to a metropolitan district director or any entity with respect to which a director must make disclosure pursuant to Section 24-18-109, C.R.S., the metropolitan district must receive a statement from a registered municipal advisor certifying that the interest rate satisfies certain statutory requirements set forth in SB 23-110. Finally, SB 23-110 also requires that on or after January 1, 2024, a seller of residential real property within a metropolitan district organized on or after January 1, 2000, must provide the purchaser of the property with the metropolitan district's official website, which will be

provided as part of the Colorado Real Estate Commission approved seller's property disclosure or other concurrent writing . SB 23-110 will take effect on August 7, 2023, unless a referendum petition is filed.

Waterwise Landscaping**SB 23-178**

SB 23-178 clarifies existing laws and establishes new laws relating to waterwise landscaping in associations, common interest communities, and special districts by allowing homeowners to use non-vegetative landscaping. SB 23-178 also allows an association (or, "unit owners' association"), as defined in Section 38-33.3-301, C.R.S. to adopt and enforce design or aesthetic guidelines. SB 23-178 also clarifies that any restrictive covenant, bylaws, or rules or regulations of a common interest community, as defined by Section 38-33.3-103, C.R.S.; or any rules or policy of a special district, as defined in Section 32-1-103, C.R.S.; that prohibits waterwise landscaping is contrary to public policy and is unenforceable. In addition to an association, a common interest community or special district may adopt design or aesthetic guidelines, provided that they do not: (1) prohibit non-vegetative turf grass from being used in the backyard of a unit owner's property; (2) unreasonably mandate the use of hardscape for more than 20% of landscaping in a unit; (3) prohibit vegetable gardens anywhere in the yard of a unit owner; and (4) prohibit property owners from having the option of utilizing at least 80% drought tolerant plantings. In addition, an association must select at least 3 preplanned and preapproved waterwise garden designs for front yards within each individual common interest community. In order to qualify for preapproval, any design must conform to the waterwise design principles laid out in Section 37-60-135(2)(1), C.R.S. Preapproved designs may be selected from The Colorado State University Extension Plant Select Organization's design list. Through Section 38-33-106.5(1)(i)(I)(A), and Section 37-60-126 (11)(a)(III), C.R.S., the laws adopted by SB 23-178 apply to both detached single family homes and attached single family homes sharing one or more walls with another unit, albeit through different statutory provisions. SB 23-178 does not apply to condominiums.

For every unit owner within an association affected by a violation, the unit owner may bring a civil action so as to prevent further violations and may recover actual damages plus \$500.00, costs, and reasonable attorney's fees. A unit owner must also give an association 45 days' notice to cure any violation before filing suit. SB 23-178 will take on effect on August 7, 2023, unless a referendum petition is filed.

EMPLOYMENT

Worker's Compensation**HB 23-1076**

Under current law, if a worker's compensation claim arises out of mental impairment, a claimant is limited to 12 weeks of benefits. HB 23-1076 allows a claimant to claim 36 weeks of benefits. HB 23-1076 also clarifies that, within 45 days of an insurer or self-insured employer terminating an employee's "temporary total disability benefits" as defined in Section 8-42-105(3)(c), C.R.S. an employee may apply for an expedited hearing on any issues stated in Sections 8-42-105(5)(a)(I) – (III), C.R.S. HB 23-1076 also clarifies that all permanent partial disability benefits are not limited to a specific medical treatment. Lastly, HB 23-1076 also clarifies the rules regarding the allocation of costs for an independent medical examination as well as the rules regarding costs and hearings in front of an administrative judge adjudicating worker's compensation disputes. HB 23-1076 will take effect on August 7, 2023, unless a referendum petition is filed.

Additional Uses of Paid Sick Leave**SB 23-017**

SB 23-017 expands the Colorado Healthy Families and Workplaces Act to allow an employee to use sick leave for: grieving, attending a funeral or memorial service, or to deal with financial and/or legal matters incidental to the death of a family member; if an employee needs to care for a family member whose school or place of care has been closed due to inclement weather, loss of power, loss of heating, loss of water, or other unexpected occurrence; or if an employee needs to evacuate their place of residence due to inclement

weather, loss of power, loss of heating, loss of water, or other unexpected occurrence.² SB 23-017 will take effect on August 7, 2023, unless a referendum petition is filed.

Average Weekly Wage Paid Benefits Leave**SB 23-046**

SB 23-046 modifies the calculation of an individual’s weekly leave benefits under the Colorado Paid Family and Medical Leave Insurance (FAMLI) Act by allowing all jobs worked to be included in the calculation. Under the law prior to SB 23-046, only the individual’s average weekly wage from the job or jobs from which the individual was taking leave were included in the calculation. SB 23-046 took effect on March 23, 2023.

Fairness in Job Applications**SB 23-058**

SB 23-058 created the Job Application Fairness Act, which, on or after July 1, 2024, prohibits employers from requesting or requiring, on an initial job application, that an applicant disclose their age, date of birth, and/or their dates of attendance/graduation from an educational institution. An employer may request that an applicant provide additional application materials such as certifications, transcripts, and/or other materials, provided that the employer notifies the applicant they may redact the information outlined above. An employer may also request that an individual verify their compliance with age requirements if required by an occupational qualification and/or federal/state law or regulation, provided verification does not violate the nondisclosure requirements outlined above by, for example, asking for the specific age of the individual. SB 23-058 will take effect on August 7, 2023, unless a referendum petition is filed.

Ensure Equal Pay for Equal Work**SB 23-105**

SB 23-105 amends the Colorado Equal Pay for Equal Work Act. Section 2 of SB 23-105 directs the Director of the Division of Labor and Statistics to adopt new processes for the mediation of complaints of alleged violations of Section 8-5-102, C.R.S., promulgate rules for enforcement and, when violations are founds, to order compliance and/or other relief. SB 23-105 also increases the allowance for back pay from three to six years. Section 3 of SB 23-105 requires an employer to disclose, on every job posting: the date the application window closes, in addition to the already required inclusion of the hourly or salary compensation or range thereof and description of the job’s benefits and other compensation. SB 23-105 also requires that within 30 calendar days of a candidate beginning work, the employer must make reasonable efforts to provide employees whom the employer intends the selected candidate to work with: the selected candidate’s name, the selected candidate’s former job title if the selected candidate was already employed by the employer, the selected candidate’s new job title, and information on how employees may show interest in similar job opportunities should they arise. Additional requirements are applicable for positions with career progression. Nothing in SB 23-105 requires an employer to identify an employee in a way that violates their privacy rights under local, state, or federal law. SB 23-105 will take effect on January 1, 2024, unless a referendum petition is filed.

Public Employees Workplace Protection**SB 23-111**

SB 23-111 creates the “Protections for Public Workers Act,” Sections 29-33-101, C.R.S., *et. seq.* and adds labor protections for public employees within Colorado, which is defined to include employees of special districts. Under SB 23-111 a public employee has the right to: discuss or express their views regarding public employee representation, workplace issues, or the rights granted to the public employee in Protections for Public Workers Act; engage in protected, concentrated activity for the purpose of mutual aid or protection; fully participate in the political process while off duty and/or not in uniform, including the ability to speak with members of the public employer’s governing body on matters related to

² For a more detailed explanation, please consult §§ 8-13.3-404(1)(a)(IV), (e), (f), C.R.S.

employment or a matter of public concern and the ability to engage in other political activities in the same manner as others in Colorado; and organize, form, join, or assist or refrain from, organizing, forming, joining, or assisting an employee organization. Provided, however, an employer may limit these rights to the extent necessary to maintain the nonpartisan role of the employer.

A public employer shall not: discriminate or threaten to discriminate against, coerce, intimidate, interfere with, or impose reprisals against a public employee exercising these rights; interfere in the administration of an employee organization; discharge or discriminate against a public employee because they have filed an affidavit, petition, or complaint or given any information or testimony pursuant to the Protections for Public Workers Act or because they formed, joined, assisted, or chosen to be represented by an employee organization.

Section 29-33-105(3), C.R.S. which grants the Division of Labor Standards the authority to adjudicate unfair labor practices, will take effect on July 1, 2024. The remainder will take effect on August 7, 2023, unless a referendum petition is filed.

Protecting Opportunities and Workers' Rights (POWR) Act**SB 23-172**

SB 23-172 amends the Colorado Anti-Discrimination Act by defining “harassment” as “unwelcome conduct or communication related to an individual’s membership in a protected class where submission to the conduct is a condition of the individual’s employment, is used as a basis for employment decisions or interferes with the individual’s work, or is objectively offensive to a reasonable person in the same protected class.” SB 23-172 specifies that (1) harassment does not need to be severe or pervasive to constitute a discriminatory or unfair practice; (2) petty slights or annoyances or lack of good manners do not constitute harassment unless it meets the totality of the circumstances and the standards in the bill; and (3) various factors are considered under the totality of the circumstances. This bill makes additional changes to anti-discrimination laws including but not limited to the following: adding protections for individuals based on their marital status; eliminating the ability of an employer to assert that an individual’s disability has a significant impact on the job as the rationale for being unable to accommodate an individual who is otherwise qualified for the job; requiring employers to preserve records of complaints related to discriminatory or unfair labor practices for at least five years and include certain information in the complaint repository; and establishing an affirmative defense for an employer if the employer meets certain requirements, including a harassment prevention program. A harassment prevention program satisfies the affirmative defense if the employer promptly investigates complaints and takes reasonable remedial actions when warranted. Additionally, under SB 23-172 a nondisclosure provision in a contract preventing the disclosure of an alleged discriminatory or unfair employment practice is void unless: it provision applies equally to all parties; clearly states that it does not restrain an employee or prospective employee from disclosing the underlying facts of alleged practices, which includes disclosing the existence and terms of a settlement to the people, peoples, groups, agencies, governments, or any other purpose as required by law as listed in Sections 24-34-407(1)(b)(I) – (IV), C.R.S. SB 23-172 also states that any disclosure under (1)(b) of this section is not disparagement; and that if a nondisparagement provision is included in a contract, and if the employer disparages the employee or prospective employee, the employer may not seek enforcement or damages.

Under SB 23-172, an employer must preserve any employment or personal record that the employer made, received, or kept for at least five years after the latter of: the date the employer made or received the record or the date of the personnel action about which the record relates to, or to the final disposition of the issue. SB 23-172 will take effect on August 7, 2023, unless a referendum petition is filed.

HOUSING

Regulating Local Housing Growth Restrictions

HB 23-1255

HB 23-1255 prohibits a governmental entity (inclusive of special districts) from enacting or enforcing an anti-growth law affecting non-publicly owned property, except in certain circumstances. HB 23-1255 defines an “anti-growth law” as “a land use law that explicitly limits either the growth of the population in the governmental entity's jurisdiction or the number of development permits or building permit applications for residential development or the residential component of any mixed-use development submitted to, reviewed by, approved by, or issued by a governmental entity for any calendar or fiscal year.” HB 23-1255 provides a number of exceptions allowing for the enactment of temporary, nonrenewable anti-growth laws which may not be effective for more than twenty-four months in any given five-year period. HB 23-1255 will take effect on August 7, 2023, unless a referendum petition is filed.

ELECTIONS

Modifications to Laws Regarding Elections

SB 23-276

SB 23-276 contains various additions, amendments, and repeals regarding Colorado Election Law. Many sections of this bill do not apply to special districts, only those sections that apply are outlined below.

- Section 1 amends the definition of identification to include any form of identification as specified in Sections 1-1-104(19.5)(a)(I) -19.5(a)(XIII), C.R.S. that is in a digital format.
- Section 2 repeals certain language regarding the determination of residence for purposes of voting in an election.
- Section 18 adds that for any coordinated election, the County who will conduct the coordinated election on behalf of a special district shall enter into an agreement sharing the county’s reasonable costs in relation to the coordinated election that are not otherwise reimbursed by the state. Section 27 also clarifies that special districts are only responsible for the actual costs of a coordinated election and not costs such as overhead costs or other costs listed in Section 1-7-116 (b), C.R.S.
- Section 19 removes language requiring that nothing within this section shall be construed to mean that a special district replace a voting system in use prior to May 28, 2004.
- Section 26 lays out requirements for (“Watchers”), as defined in Section 1-1-104 (51), C.R.S., and directs a County Clerk or Designated Election Official to revoke the certificate of a Watcher who takes or records pictures or videos in places where election activity occurs or places where confidential or personally identifiable information is in view.
- Section 28 clarifies that an elector may take a mobile phone or other electronic device into a voter service or polling center provided they do not make or receive any phone calls, except for calls to or from the Multilingual Ballot Hotline. In addition, an elector may not take **any** pictures or videos of any item in a voter service or polling center other than pictures or videos of their own ballot.
- Section 29 clarifies that only an election judge can examine an electromechanical voting system component to determine if the system or any of its components have been defaced or damaged. Such may be necessary to determine if any wrongdoing has occurred.
- Section 30 clarifies that a bipartisan group of election judges shall create a true duplicate copy of a damaged ballot so that said ballot can be read by an electronic voting system.
- Section 34 clarifies rules for signature verification and the curing of a deficiencies in ballots. In addition, this section also sets the timeline for the update of the Statewide Voter Registration System so as to reflect that a voter has cured a deficiency in their ballot.
- Section 39 states that any recount of coordinated election be in accordance with Section 1-10.5-102, C.R.S. Section 40 further clarifies that for any recount not required by law or regulation, an

interested party may submit a “notarized written request” in accordance with Section 1-10.4-102, C.R.S. Section 40 also lays out the requirements and timeline for the filing of a recount request.

- Section 47 clarifies rules on contribution limits to candidate committees or groups that donate to candidate committees, such as an issue committee or small-scale committee. In particular the bill prohibits an issue committee or small-scale committee from donating to a candidate committee. In addition, the bill also clarifies the date that a candidate committee must be terminated, depending on whether a candidate is elected or not elected. Sections 1-45-103.7 (12)(a)(I), (II), C.R.S.
- Section 52 clarifies that no special district may expend any money from any source or make any contributions to urge electors to vote in favor of or against any referred measure, as defined in Section 1-1-104(34.5), C.R.S. passed by the General Assembly or the governing body of any political subdivision with authorization to refer matters to voters or recall measure for the recall of any officer that that has been submitted for approval for circulation on an approved petition form.
- Section 54 clarifies that any County Clerk or Designated Election Official shall not use any state or federal money to pay for advertising expenses that “predominantly features a person who is a declared candidate for a federal, state or local office.” Section 25-75-115(1), C.R.S. Advertising does not include official notices, communications required by law or ongoing/routine communications.

SB 23-276 took effect on June 6, 2023. Section 18 will take effect on July 1, 2024.

PUBLIC RECORDS

Access to Government Records

SB 23-286

SB 23-286 makes the following changes to the Colorado Open Records Act (“CORA”):

- Prohibits the custodian of public records from requiring a requester to provide identification in order to request or inspect a public record, except as required by Section 24-72-204(3.5)(g), C.R.S. or when a record requested is confidential and accessible only on the basis that the requester the person in interest.
- For any public record that is stored in a searchable digital format, a custodian shall provide a digital copy of the public record, unless otherwise requested, via email or another mutually agreed method if the records are too large for an email. Unless required by Section 24-72-204(3.5)(b), C.R.S., no digital record shall be made into a non-searchable non-digital record before production in response to a request.
- Addition of the ability of the custodian to deny access to telephone numbers and home addresses that are provided by a person to an elected official or special district for the purpose of communications from the elected official or special district.
- Unless disclosure is otherwise prohibited and notwithstanding Sections 2-3-511 and 24-72-203(3)(a)(X), (X.5), C.R.S., any public records relating to “sexual harassment complaints made against an elected official and the results or report of investigations regarding alleged sexual harassment by an elected official conducted by or for that official's government” shall be made available for inspection if the investigation concluded that the elected official is culpable for any act of sexual harassment; except that the identity of any accuser, accused who is not an elected official, victim, or witness and any other information that would identify any such person, and any other portion not subject to disclosure under Section 24-72-204(2), C.R.S. must be redacted.
- A custodian shall not charge a per-page fee basis for digital records.
- Should a custodian allow the public to pay for other services/products with a credit card or other electronic payment method, the custodian shall allow the requester to pay any fee or deposit associated with a record request via a credit card or other electronic payment method. A custodian may charge a requestor any service fee charged by a credit card company.

SB 23-286 will take effect on August 7, 2023, unless a referendum petition is filed.

PUBLIC SAFETY

Wildfire Evacuation and Clearance Time Modeling

HB 23-1075

HB 23-1075 directs the State Office of Emergency Management to study the efficacy and feasibility of local or jurisdictional emergency management agencies with jurisdiction in a wildfire risk area to integrate evacuation and clearance time modeling into their emergency management plans. HB 23-1075 took effect on May 12, 2023.

Inclusive Languages in Emergency Situations

HB 23-1237

HB 23-1237 directs the University of Colorado’s Natural Hazards Center (“Hazards Center”) to determine what fire districts and local 911 agencies need to provide emergency alerts in languages other than English by July 1, 2024. In addition, the Hazards Center shall determine what local 911 agencies must provide language interpretation in 911 calls by July 1, 2024. HB 23-1237 took effect on May 12, 2023.

Establishment of a Wildfire Resiliency Code Board

SB 23-166

SB 23-166 concerns the establishment of Wildfire Resiliency Code Board (“Board”) adopt model codes and standards for the mitigation of damage from wildfires in wildland-urban interface areas. The bill also requires that local governments, which includes fire protection districts, which have the authority to adopt building of fire codes, shall adopt codes that meet or exceed the model code set by the Board. HB 23-1237 took effect on May 12, 2023.

TAX

Electronic Sales and Use Tax Simplification System

HB 23-1017

HB 23-1017 concerns updates to the State’s Electronic Sales and Use Tax Simplification System (“System”). Of note to special districts collecting sales and use taxes, is the addition of a filtering option to sort retailers and create exportable spreadsheet reports. The Department of Revenue shall not charge any convenience or similar fee for use of the System nor shall it deduct an amount from moneys distributed to local taxing jurisdictions in lieu of any convenience or similar fee. HB 23-1017 will take effect on August 7, 2023, unless a referendum petition is filed.

Metropolitan District Tax for Parks and Recreation

HB 23-1062

HB 23-1062 extends the ability of a metropolitan district to levy a uniform sales tax for purposes of parks or recreational facilities or programs. The tax is only effective in areas of the district that are not also within the boundaries of an incorporated municipality. The net revenues of any such tax that is levied are limited to being used on parks or recreational facilities or programs. HB 23-1062 will take effect on August 7, 2023, unless a referendum petition is filed.

Allowing Temporary Reductions in Property Tax Due

SB 23-108

SB 23-108 codifies the practice of certain local governments using a temporary mill levy reduction to provide property tax relief for purposes other than to effect a refund for any purpose required by TABOR. Concurrent with the certification of a levy to the county commissioners, a local government may certify the temporary property tax credit or mill levy reduction. A temporary reduction in property taxes for the purpose of tax relief is subject to annual renewal. SB 23-108 will take effect on August 7, 2023, unless a referendum petition is filed.

The passage of SB 23-303 is intended to address significant anticipated property tax increases for property owners in the forthcoming years. Most provisions of SB 23-303 will require voter approval to become effective and will be submitted to the Colorado voters as “Proposition HH” at the general election to be held on November 7, 2023. Proposition HH will read as follows: *Shall the state reduce property taxes for homes and businesses, including expanding property tax relief for seniors, and backfill counties, water districts, fire districts, ambulance and hospital districts, and other local governments and fund school districts by using a portion of the state surplus up to the proposition HH cap as defined in this measure?*

The passage of SB 22-238 last year resulted in the reduction of assessed valuations through 2024. Subject to a cap set forth in SB 22-238, the State is required to reimburse local government entities for property tax revenue lost as a result of those reduced assessed valuation calculations.

Pursuant to SB 23-303, assessed valuation calculations are further reduced for several classes of real property over a period of ten (10) years, as set forth in the chart below. This reduction will further impact property taxes collected by local governments. Under SB 23-303, the State will generate additional funds to reimburse local governments for lost property tax revenue by using a portion of the States’s TABOR surplus to backfill the lost property tax revenue. TABOR currently requires State surpluses to be refunded to the taxpayers, and further requires the State to obtain authorization from Colorado voters to reduce property taxes and to retain excess State tax revenues to backfill the revenue lost by local governments. As required by SB 23-303, the State will refer Proposition HH to the voters at the November 2023 election to obtain voter authorization to reduce property taxes and retain excess State tax revenues as set forth in SB 23-303. If Proposition HH passes, the State will be authorized to retain and spend all of the State surplus that is under the Proposition HH cap and the assessed valuation calculations set forth in the chart below will be in effect. If Proposition HH fails, the property tax reductions and local government backfill using excess State tax revenues will be repealed and will not go into effect, and the State’s current property tax law under SB 22-238 will continue to apply.

The chart below³ compares the State’s current property tax law under SB 22-238 with the property tax laws enacted under SB 23-303, assuming Proposition HH is approved by the Colorado voters at the November 2023 election.

Current Law - SB22-238	SB23-303 (w/ ballot measure approved)
<p>LODGING:</p> <p><u>2023 tax year:</u> 27.9% (no \$30K reduction)</p> <p><u>2024 tax year and all subsequent years:</u> 29%</p>	<p>LODGING:</p> <p><u>2023 tax year:</u> 27.85% of the actual property value, <i>minus</i> the lesser of \$30,000 or the amount that causes the assessed value to be \$1,000 (the “30K reduction”)</p> <p><u>2024 to 2026 tax years:</u> 27.85% (no \$30K reduction)</p>

³ Chart courtesy of BROWNSTEIN CLIENT ALERT, MAY 9, 2023 entitled *Major Property Tax Relief Passed by the Colorado Legislature, Now It’s Up to the Voters.*

2027 to 2028 tax years: 27.65%

2029 to 2030 tax years: 26.9%

2031 to 2032 tax years:

a) 25.9%, *if* for the 2031 tax year, the average increase in assessed value for property within the 32 counties with the smallest increase in total valuation is $\geq 3.7\%$ (“*Sufficient AV Growth*”)

b) 26.9%, *if* for the 2031 tax year, the average increase in assessed value for property within the 32 counties with the smallest increase in total valuation is $< 3.7\%$ (“*Insufficient AV Growth*”)

All tax years following 2032: 29%

AGRICULTURE and RENEWABLE ENERGY-PRODUCING LAND:

2023 and 2024 tax years: 26.4% of the actual property value, *minus* the \$30K reduction

All tax years following 2024: 29%

AGRICULTURAL, RENEWABLE ENERGY PRODUCING LAND, and NEW RENEWABLE ENERGY AGRICULTURAL LAND:

Agricultural *or* Renewable Energy:

2023 to 2030 tax years: 26.4% (*no \$30K reduction*)

2031 to 2032 tax years:

a) 25.9%, *if* for the 2031 tax year, there is Sufficient AV Growth

b) 26.4%, *if* for the 2031 tax year, there is Insufficient AV Growth

All tax years following 2032: 29%

Renewable Energy Agricultural Land:

2023 tax year: 26.4% (*no \$30K reduction*)

2024 to 2032 tax years: 21.9%

All tax years following 2032: 29%

IMPROVED COMMERCIAL SUBCLASS:

IMPROVED COMMERCIAL SUBCLASS:

2023 tax year: 27.9% of the actual property value, *minus* the \$30K reduction.

2024 tax year and all subsequent years: 29%

2023 tax year: 27.85% of the actual property value, *minus* the \$30K reduction

2024 to 2026 tax years: 27.85% (*no \$30K reduction*)

2027 to 2028 tax years: 27.65%

2029 to 2030 tax years: 26.9%

2031 to 2031 tax years:

a) 25.9%, *if* for the 2031 tax year, there is Sufficient AV Growth

b) 26.9%, *if* for the 2031 tax year, there is Insufficient AV Growth

All tax years following 2032: 29%

ALL OTHER NONRESIDENTIAL (*that is not commercial, lodging, agriculture or renewable energy*):

2023 tax year: 27.9% (*no \$30K reduction*)

2024 tax year and all subsequent years: 29%

ALL OTHER NONRESIDENTIAL (*that is not commercial, lodging, agriculture, renewable energy, renewable energy agriculture, or is not under a vacant land subclass*):

2023 to 2026 tax year: 27.85% (*no \$30K reduction*)

2027 to 2028 tax years: 27.65%

2029 to 2030 tax years: 26.9%

2031 to 2031 tax years:

a) 25.9%, *if* for the 2031 tax year, there is Sufficient AV Growth

b) 26.9%, *if* for the 2031 tax year, there is Insufficient AV Growth

All tax years following 2032: 29%

MULTI-FAMILY:

2023 tax year: 6.765% of the actual property value, *minus* the lesser of \$15,000 or the amount that

MULTI-FAMILY:

2023 tax year: 6.7% of the actual property value, *minus* the lesser of \$50,000 or the amount

reduces the assessed value to \$1,000 (the “\$15K reduction”).

2024 tax year: 6.8%

All years following 2024 tax year: 7.15%

that reduces the assessed value to \$1,000 (the “\$50K reduction”).

2024 to 2032 tax year: 6.7% of the actual property value, *minus* the lesser of \$40,000 or the amount that reduces the assessed value to \$1,000 (the “\$40K reduction”).

All tax years following 2032: 7.15%

SINGLE FAMILY:

2023 tax year: 6.765% of the actual property value, *minus* the \$15K reduction

2024 tax year: To be temporarily established by the property tax administrator on or before March 21, 2024, the percentage necessary to generate an aggregate reduction of local government property tax revenue of \$700M in tax years 2023 and 2024

All years following 2024 tax year: 7.15%

SINGLE FAMILY:

2023 tax year: 6.7% of the actual property value, *minus* the \$50K reduction

2024 to 2024 tax years: 6.7% of the actual property value, *minus* the \$40K reduction

2025 to 2032 tax years: There is a split in Single Family tax rates between Primary Residence, Qualified-Senior Primary Residence and Non-primary Residence as follows:

· Primary Residence (including Multi-Family Primary Residence*): 6.7% of the actual property value, *minus* the \$40K reduction.

· Qualified-Senior Prim. Residence: 6.7% of the actual property value, *minus* the lesser of \$140,000 or the amount that reduces the assessed value to \$1,000.

· Non-Primary Residence (All other residential that is not Multi-Family, Primary Residence or Qualified-Sr Prim Residence): 6.7% (no reduction)

All tax years following 2032: 7.15%

*Definition of Multi-Family Primary Residence is discussed below.

Also, for tax years beginning in 2025, SB 22-303 also includes new subclasses of property as follows:

- Single-family residential class includes three subclasses: Primary Residence, Qualified-Senior Primary Resident, and all other residential that is not multi-family, primary residence or qualified-senior primary resident;
- Multi-Family Primary Residence subclass, and

- a Renewable Energy Agricultural Land subclass.

SB22-238, already required the state to reimburse local government entities (including water districts, fire districts, ambulance and hospital districts and school districts) for property tax revenue lost as a result of reductions in valuation, subject to a cap and a shorter duration. SB23-303 generates additional funds to reimburse local governments and certain special districts by dedicating a portion of the state TABOR surplus to the backfill and extending the backfill relief from 2024 through 2032. SB 23-303 is subject to statewide voter approval in the November 2023 General Election as Proposition HH. If Proposition HH passes, SB 23-303 will take effect on the date of the vote’s official declaration by the governor. Given this timing, SB 23-303 also revises certain statutory deadlines for property tax year 2023 including the deadline for mill levy certification pursuant to Section 39-5-128, C.R.S., which is postponed from December 15, 2023 to January 5, 2024.

Property Tax Valuation

SB 23-304

SB 23-304 concerns changes to the assessment and valuation of property tax. SB 23-304 requires a county assessor to take into consideration a property’s current use; existing zoning, governmental, or environmental land use restrictions; multi-year leases or other contractual agreements affecting the use of or income from the property; easements and reservations of record; and covenants, conditions, and restrictions of record, in setting valuation of the property. In addition, SB 23-304 makes changes to some taxpayer protests processes and taxpayer data requests. SB 23-304 will take effect on August 7, 2023, unless a referendum petition is filed.

MISCELLANEOUS

Requiring Labeling of Disposable Wipes

SB 23-150

SB 23-150 requires that after December 31, 2023, packages of premoistened, nonwoven disposable wipes be labeled with the phrase “Do Not Flush.” SB 23-150 will take effect on August 7, 2023, unless a referendum petition is filed.

Local Government Provision of Communication Services

SB 23-183

SB 23-183 makes certain changes and clarifications regarding the provision of cable television, telecommunications, or broadband internet services. Under current law, special districts are prohibited from providing these services without voter approval. SB 23-183 removes the voter approval requirement and allows special districts to provide the above referenced services or enter into public-private partnership agreements without voter approval. It should be noted that advance voter approval may still be required for purposes of TABOR. SB 23-183 also allows local governments to provide middle mile infrastructure, as defined in 47 U.S.C. § 1741(a)(9). SB 23-183 took effect on May 1, 2023.

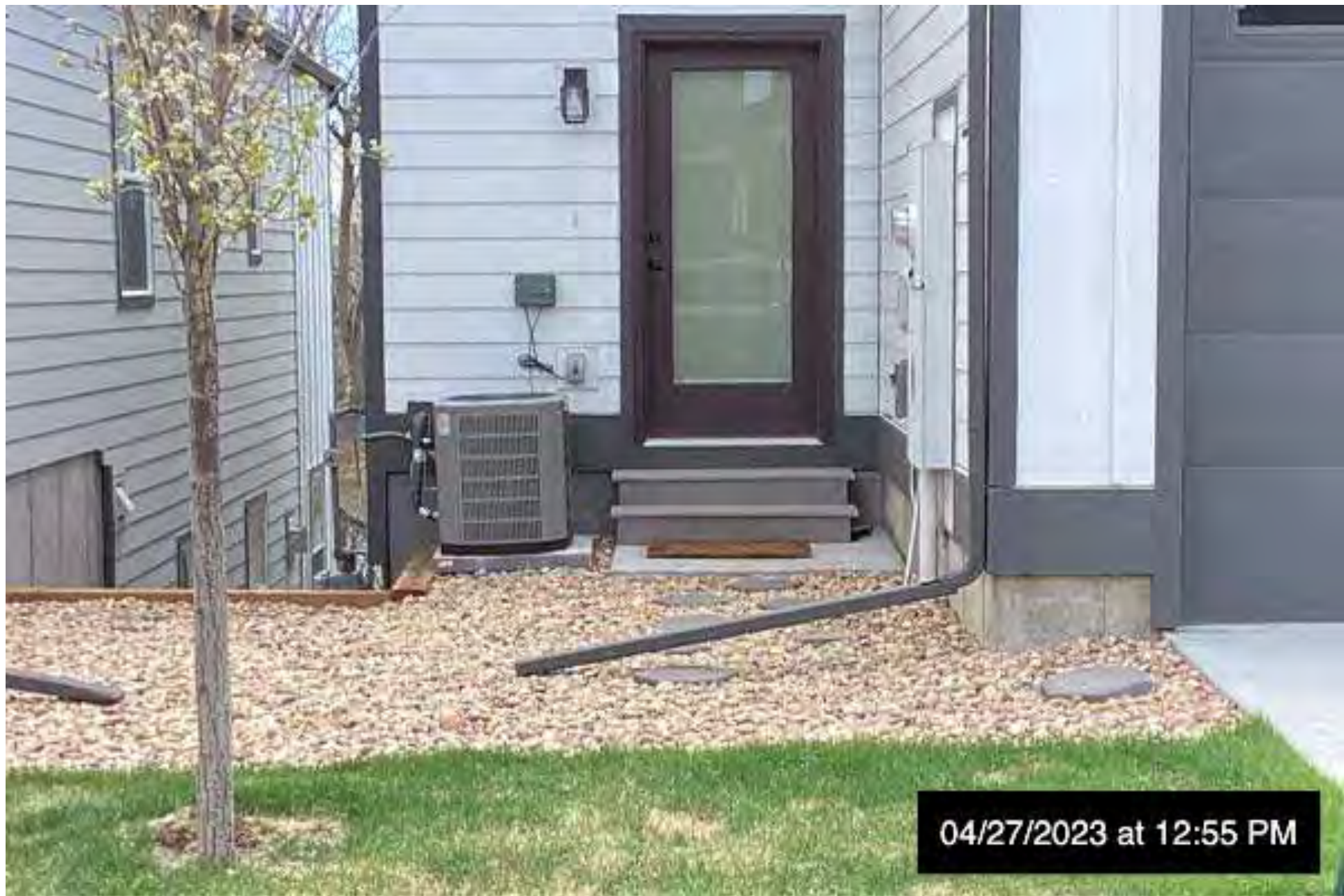
Water Quality Control Fee Setting by Rule

SB 23-274

SB 23-274 requires the Water Quality Control Commission (“Commission”), after consultation with stakeholders, to set fees by rule for a variety of industries for pollution discharge and other water-related activities, by October 31, 2025. Existing fees remain in place until January 1, 2026, unless the Commission adopts rules to phase-in the new fees earlier. The commission must establish the fees by rule beginning July 1, 2026. SB 23-274 also updates the membership of the Commission. SB 23-274 took effect on May 17, 2023.



04/27/2023 at 12:56 PM



04/27/2023 at 12:55 PM

**BERKLEY SHORES DISTRICT
SNOW REMOVAL SERVICES CONTRACT**

This **SNOW REMOVAL SERVICES CONTRACT** (“Contract”) is entered into effective as of January 1, 2023, by and between BERKLEY SHORES METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado organized pursuant to Title 32 of the Colorado Revised Statutes (the “District”), and ENVIRONMENTAL DESIGNS, INC., a Colorado corporation (the “Contractor”).

RECITALS

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

WHEREAS, pursuant to Section 32-1-1001(1)(d)(I), C.R.S., the District is permitted to enter into contracts affecting its affairs; and

WHEREAS, the District has determined that it requires the performance of various snow removal services; and

WHEREAS, the District desires to engage the Contractor to render these services; and

WHEREAS, the Contractor desires to render said services; and

WHEREAS, the parties desire to enter into this Contract to establish the terms and conditions by which the Contractor shall provide the services to the District.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES.

The Contractor shall provide the snow removal services, including any and all necessary documentation, materials and equipment, as described in **Exhibit A** attached hereto and incorporated herein by this reference (the “Services”). The Contractor shall be responsible for providing, at its cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Services as required by this Contract. If such a schedule is included, the Services shall be performed in accordance with the schedule set out in **Exhibit A**.

2. COMPENSATION.

2.1. Compensation for Services. The District shall compensate the Contractor for all

labor, equipment and material necessary to provide the Services according to the rate schedule attached hereto and incorporated herein in **Exhibit B**, subject to District annual appropriations and in accordance with and subject to all of the conditions in this Contract. In no event shall compensation for the Services exceed what has been budgeted and appropriated (the "Compensation"). The Compensation is inclusive of all reimbursable expenses and shall not be exceeded without the written authorization of the District.

2.2. Payments. The Contractor shall submit monthly invoices to the District for Services satisfactorily performed during each month of the term of this Contract. The District's approval of invoices shall be a condition of payment. All invoices shall be addressed to the District as follows: Berkley Shores Metropolitan District c/o Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228.

2.3.1. Requirements for Payment.

a. Invoices. The Contractor's invoices shall be in a format acceptable to the District, shall be supported by cost information in such detail as may be required by the District and shall be sufficient to substantiate all items for a proper audit and post audit thereof.

2.3.2. Unsatisfactory Invoices or Services. The District may return to the Contractor for revision of unsatisfactory invoices and may withhold payment thereof. The District may withhold payment for Services which are not completed as scheduled, or which are completed unsatisfactorily, until completed satisfactorily and may deny payment for such Services upon termination of this Contract.

2.3.3. Right of Set-off. Without prejudice to any other right or remedy it may have, the District reserves the right to set off at any time any amount owing to it by the Contractor against any amount payable by the District to the Contractor under this Contract.

2.4. Time of Payments. The District shall render payment to the Contractor within thirty (30) days of receipt of the invoice for all approved invoiced Services not previously invoiced and which were performed no more than forty-five (45) days prior to the District's receipt of the invoice.

2.5. In compliance with Section 24-91-103.6, Colorado Revised Statutes, the following statements are included in this Contract:

2.5.1. The District has appropriated an amount of money equal to or in excess of the contract amount for the Services to be performed under this Contract.

2.5.2. The District is prohibited from issuing any change order or other form of order or directive requiring additional compensable work to be performed by the Contractor, if such directive causes the aggregate amount under the Contract to exceed the amount appropriated for the original Contract, unless the Contractor is given written

assurance by the District that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision in the Contract. "Remedy-granting provision" means any contract clause which permits additional compensation in the event that a specific contingency or event occurs. Such term shall include, but not be limited to change clauses, differing site conditions clauses, variation in quantities clauses, and termination clauses.

2.5.3. Any form of order or directive issued by the District requiring additional compensable work to be performed by the Contractor shall be deemed to include a clause that requires the District to reimburse the Contractor for the Contractor's costs on a periodic basis for all additional directed work performed until such time as a change order is finalized. Provided, however, that in no instance shall the periodic reimbursement be required before the Contractor has submitted an estimate of cost to the District for the additional compensable work to be performed.

3. TERM.

The term of this Contract shall be from the date first set forth above and shall expire on December 31, 2023, or by the exercise of the termination provisions specified herein, whichever occurs first.

4. GENERAL PROVISIONS/REPRESENTATIONS.

4.1. Inspections/Services. The Contractor has familiarized itself with the nature and extent of the Contract and the proposed Services. To the extent the Contractor deems necessary, the Contractor has inspected the sites and all surrounding locations whereupon it may be called to perform its obligations under this Contract and is familiar with the requirements of the Services and accepts them for such performance.

4.2. Good Standing. The Contractor is validly organized and exists in good standing under the laws of the State of Colorado and has all requisite power to own its properties and assets and to carry on its business as now conducted or proposed to be conducted and it is duly qualified, registered to do business and in good standing in the State of Colorado.

4.3. Professional Standards. The Contractor will perform all Services in accordance with generally accepted standards of care, skill, diligence and professional competence applicable to contractors engaged in the Denver metropolitan area in providing similar services at the time and place that services are rendered.

4.4. Performance During Term. The Contractor will begin providing the Services on the first day of the term of this Contract and will thereafter continually and diligently perform the Services throughout the term of this Contract.

4.5. Compliance with the Law. The Contractor will, at its own expense, throughout the term of this Contract, comply with all federal, state, and local laws, statutes, ordinances, codes, guidelines, court rulings and orders of all governmental authorities applicable to services

performed by the Contractor under this Contract, including but not limited to employee safety.

4.6. Personnel. The Contractor represents that all of its personnel who will perform any Services under this Contract have received the information, instructions and training required to provide such Services, including training to prevent harm to such personnel, residence and members of the public who may be in the vicinity.

4.7. Licenses. The Contractor represents that the Contractor and its personnel have all licenses required by applicable law to perform the Services required by this Contract and will, at Contractor's expense, maintain such licenses throughout the term of this Contract.

4.8. Mechanics' and Materialmen's Liens. The Contractor will (i) make timely payments to Contractor's employees, subcontractors and/or suppliers, and (ii) be responsible for satisfaction of any liens and encumbrances which are filed or asserted against the District and/or its property, which liens result from the Services performed by the Contractor under this Contract. If any lien is filed claiming by, through or under the Contractor or the Services performed by the Contractor, the Contractor will cause such lien to be discharged or bonded within ten (10) days after its filing. If the Contractor fails to cause such lien to be discharged or bonded within such ten (10) day period, the District, in addition to any other available remedy, may bond or discharge the lien and, at the District's discretion, deduct its costs incurred, including attorneys' fees and interest at the rate of twelve (12%) percent per annum from the dates incurred, from any payments due the Contractor or invoice the Contractor for the amounts paid.

4.9. Authorized Execution. The execution, delivery and performance of this Contract and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not require any further consent or approval of the board of directors or any shareholders of the Contractor or any other person which has not been obtained.

5. INDEMNIFICATION.

Subject to the provisions of Section 13-50.5-102(8), Colorado Revised Statutes, to the extent applicable to this Contract, the Contractor shall indemnify, defend, and hold harmless the District and each of its directors, employees, agents, and consultants, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities, of, by, or with respect to third parties ("Any Claims") to the extent they arise from or may be alleged to arise, directly or indirectly, in whole or in part, from the intentional or negligent acts or omissions of the Contractor or any of its subcontractors, material suppliers, agents, representatives, or employees, or the agents, representatives, or employees of any subcontractors or material suppliers (collectively the "Contractor/Related Parties"), in connection with this Contract and/or the Contractor's Services hereunder, including, without limitation, Any Claims which cause or allow to continue a condition or event which deprives the District or any of its directors or employees of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes. Provided, however, that the Contractor shall not be liable for any claim, loss, damage, injury, or liability arising out of the negligence, willful acts, or intentional torts of the District, its directors, employees, agents, and consultants.

The obligations of the indemnifications extended by the Contractor to the District under this Section shall survive termination or expiration of this Contract.

The Contractor will promptly defend any action or actions filed in connection with Any Claims and will pay all judgments, costs, and expenses, including legal costs and attorneys' fees incurred in connection with Any Claim. The District may protect its interest in defending against Any Claims by selecting its own counsel with legal costs and attorneys' fees paid for by the Contractor. The Contractor's defense, indemnification, and insurance obligations shall be to the fullest extent permitted by law and nothing in this Contract shall be construed as requiring the Contractor to defend in litigation, indemnify, or insure the District against liability for damage arising out of the death or bodily injury to persons or damage to property caused by the negligence or fault of the District or any third party under the control or supervision of the District.

To the extent the terms of Section 13-50.5-102(8), Colorado Revised Statutes, are applicable to this Contract, the Contractor and the District hereby agree for the purposes of this Section that: (i) "the degree or percentage of negligence or fault attributable" to the Contractor/Related Parties as used in Section 13-50.5-102(8)(a), Colorado Revised Statutes, shall be conclusively determined by a trial court at the state level and (ii) the term "adjudication" used in Section 13-50.1-102(8)(c), Colorado Revised Statutes, shall mean a trial court order at the state level.

Insurance coverage requirements or limitations on damages specified in this Contract in no way lessen or limit the obligations of the Contractor under the terms of this Section. The Contractor shall obtain, at the Contractor's own expense, additional insurance, if any, required to satisfy the terms of this Section.

6. INSURANCE.

6.1. General Requirements. The Contractor shall acquire and maintain in full force and effect, during the entire term of the Contract, including any extensions thereof, and at any time thereafter necessary to protect the District, its directors, employees, agents, consultants and the Contractor from claims that arise out of or result from the operations under this Contract by the Contractor or by a subcontractor or a vendor or anyone acting on their behalf or for which they may be liable, the coverages set forth in subsection 6.2. All insurance is to be placed with insurance carriers licensed in the State of Colorado with an A.M. Best and Company rating of no less than A-(X) or as otherwise accepted by the District. The District and its respective directors, officers, employees and agents shall be named as an additional insured as provided in subsection 6.3. The Contractor shall request its insurer to amend or endorse its insurance policy to provide that the insurer will give the District sixty (60) days written notice prior to the cancellation, non-renewal or material modification of any policy of insurance obtained to comply with this Section. In addition, Contractor shall immediately upon receipt provide the District a copy of any notice of cancellation, non-renewal or material modification of any policy of insurance obtained to comply with this Section.

6.2. Minimum Insurance Coverages.

6.2.1. Workers' compensation insurance in accordance with applicable law,

including employers' liability with minimum limits of One Hundred Thousand Dollars (\$100,000.00) each accident, Five Hundred Thousand Dollars (\$500,000.00) Disease-Policy Limit, One Hundred Thousand Dollars (\$100,000.00) Disease each employee.

6.2.2. Commercial general liability insurance in the amount of One Million Dollars (\$1,000,000.00) combined single limit bodily injury and property damage, each occurrence; Two Million Dollars (\$2,000,000.00) general aggregate, and One Million Dollars (\$1,000,000.00) products and completed operations aggregate. Coverage shall be on an ISO 1996 Form (CG 0001 or equivalent), include all major divisions of coverage and be on a comprehensive basis, including:

- a. Premises and operations;
- b. Personal injury liability;
- c. Contractual liability;
- d. Property damage;
- e. Products and completed operations;
- f. Independent contractors coverage;
- g. Explosion, collapse and underground (for contractors only);
- h. Contractors' limited pollution coverage (for contractors only); and
- i. Endorsement CG 2-503 or equivalent; general aggregate applies on a per project basis (for contractors only).

6.2.3. Commercial automobile liability insurance in the amount of One Million Dollars (\$1,000,000.00) combined single limit bodily injury and property damage, each accident covering owned, leased, hired, non-owned and employee non-owned vehicles used at the project site.

6.2.4. Professional liability coverage in the amount of One Million Dollars (\$1,000,000.00) each claim and in the aggregate covering the negligent acts or omissions of the Contractor and/or its subcontractors in the performance of the Services.

6.2.5. Excess liability coverage, beyond that of the general liability, automobile liability and employers liability coverages required herein, in the amount of at least Two Million Dollars (\$2,000,000.00) combined single limit bodily injury and property damage, each occurrence, and Four Million Dollars (\$4,000,000.00) in the aggregate. Separate aggregates need to be structured as found in the underlying coverages.

6.2.6. All coverages specified herein shall waive any right of subrogation against the District and its directors, officers and employees.

6.3. Additional Insured Parties. The District and its respective directors, officers, employees and agents shall be named as an additional insured on all policies (with the exception of workers' compensation insurance and professional liability coverage). Professional liability coverage shall be endorsed to include contractual liability coverage, insured contract coverage or similar coverage for the professional services performed under this Contract.

6.4. Certificates of Insurance. Prior to commencing any Services under the Contract, the Contractor shall provide the District with a certificate or certificates evidencing the coverages identified on the face of the certificate with the contract number for this Contract, the name of the project and a copy of the additional insured endorsement. If the Contractor subcontracts any portion(s) of the Services, such subcontractor(s) shall be required to furnish certificates evidencing workers' compensation and employers' liability insurance, commercial general liability insurance coverage and automobile liability insurance in amounts satisfactory to the District and the Contractor and containing the "additional insured," "waiver of subrogation" and "cancellation" conditions found in this Section. If the coverage required expires during the term of this Contract, the Contractor and its subcontractor(s) shall provide replacement certificate(s) evidencing the continuation of the required policies at least fifteen (15) days prior to expiration.

6.5. Additional Provisions. Each liability policy including, where required, umbrella/excess liability policy is to contain, or be endorsed to contain, the following:

6.5.1. The Contractor's insurance coverage shall be primary insurance with respect to the District and its directors, officers and employees. Any insurance maintained by the District or its directors, officers and employees shall be in excess of the Contractor's insurance and shall not contribute to it.

6.5.2. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to limits of liability.

6.6. Compliance with Reporting Provisions. The Contractor shall comply with reporting provisions or other conditions of the policies required herein, and a failure to do so constitutes a breach of this Contract. Any failure on the part of the Contractor to comply with reporting provisions or other conditions of the policies shall not affect the obligation of the Contractor to provide the required coverage to the District (and its directors, officers and employees).

6.7. Claims-Made Policies. If any policy is a claims-made policy, the policy shall provide the Contractor the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. The Contractor agrees to purchase such an extended reporting period if needed to ensure continuity of coverage. The Contractor's failure to purchase such an extended reporting period as required by this Section shall not relieve it of any liability under this Contract. If the policy is a claims-made policy, the retroactive date of any such policy shall be not later than the date this Contract is executed by the parties hereto. If the Contractor purchases a subsequent claims-made policy in place of any prior claims-made policy, the retroactive date of such subsequent policy shall be no later than the date this Contract is executed by the parties hereto.

6.8. No Limitation on Other Obligations. The procuring of required policies of insurance shall not be construed to limit the Contractor's liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. The Contractor shall be solely responsible for any deductible losses under the policy.

6.9. Additional Risks and Hazards. If the District requests in writing that insurance for

risks other than those described herein or for other special hazards be included in property insurance policies, the Contractor shall obtain such insurance, if available, in a form and for a cost approved by the District, and the cost thereof shall be charged to the District.

6.10. Subcontractors. If the Contractor subcontracts any portion(s) of the Services, the Contractor shall require that each subcontractor retained by the Contractor acquire and maintain insurance coverage as set forth in this Section 6. The Contractor shall require each subcontractor to provide to the Contractor insurance certificates and endorsements, including necessary updates to the same, demonstrating compliance with this Section 6. The Contractor shall retain all subcontractor insurance certificates and endorsements for the duration of the Contract. The Contractor shall, upon District request, submit them to the District for review or audit. Failure to acquire and maintain subcontractor insurance certificates is a material breach of this Contract.

7. TERMINATION.

7.1. Types of Termination.

7.1.1. Events of Default and Termination For Cause. The Contractor shall be immediately in default hereunder (an “Event of Default”) upon the occurrence of any of the events described below:

- a. Any breach of the terms and conditions of this Contract.
- b. Failure to perform the Services under this Contract, or significant delay or discontinuance of performance of the Services.
- c. Lack of financial responsibility (including failure to obtain and maintain insurance) for loss or damage to the District or its property.
- d. Dishonesty, embezzlement or false reporting of any material financial information, including but not limited to invoices.
- e. Insolvency, bankruptcy or commission of any act of bankruptcy or insolvency or assignment for the benefit of creditors.
- f. Any attempt by the Contractor to assign its performance of this Contract without the consent required by this Contract.
- g. Termination of any subcontract for any substantial Services without the prior written consent of the District.

In addition to any other rights provided herein, upon an Event of Default, the District shall have the right in its sole discretion to immediately terminate this Contract and further performance of the Services, in whole or in part, by delivery to the Contractor of written notice of termination specifying the extent of termination and the effective date of termination.

7.1.2. Termination for Convenience. In addition to any other rights provided herein, the District shall have the right in its sole discretion to terminate, upon thirty (30) days advance notice, for convenience, this Contract and further performance of the Services, in whole or in part, by delivery to the Contractor of written notice of termination specifying the extent of termination and the effective date of termination.

7.2. Any Other Remedies Allowed by Law. The District shall be entitled to any other remedies allowed by law in addition to the remedies provided in this Section.

7.3. Payment and Liabilities Upon Termination.

7.3.1. Termination For Cause. If an Event of Default has occurred, the Contractor shall be liable to the District for any actual damages for losses, including, but not limited to, any and all costs and expenses reasonably incurred by the District or any party acting on the District's behalf in completing the Services or having the Services completed (excluding changes in the Services by the District following such Event of Default). The District shall determine the total cost of the Services satisfactorily performed by the Contractor prior to the effective date of termination for cause. All reasonable damages, losses, costs and charges incurred by the District, including attorney's fees and costs, relating to obtaining and mobilizing another contractor, of completing the Services and of retaining another contractor's acceptance of full responsibility for all obligations of the Contractor under this Contract shall be deducted from any monies due or which may become due to the Contractor. The District shall determine the total amount due and shall notify the Contractor in writing of the amount the Contractor owes the District or the amount the District owes the Contractor.

7.3.2. Termination For Convenience. After termination for convenience, the Contractor shall submit a final termination settlement invoice to the District in a form and with a certification prescribed by the District. The Contractor shall submit the invoice promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the District upon written request of the Contractor within such thirty-day period. If the Contractor fails to submit the invoice within the time allowed, the District's payment obligations under this Contract shall be deemed satisfied and no further payment by the District to the Contractor shall be made.

7.4. Contractor's Obligations Upon Termination. After receipt of notice of termination, for cause or for convenience, and unless otherwise directed by the District, the Contractor shall immediately proceed as follows:

7.4.1. Stop work on the Services as specified in the notice of termination; and

7.4.2. Take any action that may be necessary, or that the District may direct, for the protection and preservation of the Services and property related to this Contract that is in the possession of the Contractor and in which the District has or may acquire an interest.

8. OWNERSHIP OF MATERIALS AND RISK OF LOSS.

All work product of the Contractor prepared pursuant to this Contract, including but not limited to all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall be, upon preparation, and remain the property of the District under all circumstances, whether or not the Services are completed. All work product shall be provided to the District at the time of completion of any of the discrete tasks specified herein or at the time of

termination of this Contract, whichever event first occurs, and shall be provided to any subsequent owners only with the District's express permission. The Contractor shall maintain reproducible copies on file of any such work product involved in the Services for a period of five (5) years and shall make them available for the District's use and provide such copies to the District, upon request, at commercial printing rates. At any time, the District may obtain reproducible copies of the Contractor's work product by paying printing costs as set forth above.

9. CONTRACTOR'S TRADE SECRETS AND OPEN RECORDS REQUESTS.

9.1. Application of the Act. The Contractor acknowledges and agrees that all documents in the District's possession, including documents submitted by the Contractor, are subject to the provisions of the Colorado Open Records Act, Sections 24-72-200.1 *et seq.*, Colorado Revised Statutes, and the Contractor acknowledges that the District shall abide by the Colorado Open Records Act, including honoring all proper public records requests made thereunder. The Contractor shall be responsible for all costs incurred in connection with any determinations required to be made by a court, pursuant to the Colorado Open Records Act. The Contractor is advised to contact legal counsel concerning such acts in application of the Colorado Open Records Act to the Contractor.

9.2. Confidential or Proprietary Materials. If the Contractor deems any document(s) which it submits to the District to be confidential, proprietary, or otherwise protected from disclosure under the Colorado Open Records Act, then it shall appropriately label such document(s), and submit such document to the District together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. This request will either be approved or denied by the District; however, the District will make a good-faith effort to accommodate all reasonable requests, subject to the provisions of the Colorado Open Records Act.

9.3. Stakeholder. In the event of litigation concerning the disclosure of any document(s) submitted by the Contractor to the District, the District's sole involvement will be as stakeholder retaining the document(s) until otherwise ordered by the court, and the Contractor shall be fully responsible for otherwise prosecuting or defending any actions concerning the document(s) at its sole expense and risk.

10. INDEPENDENT CONTRACTOR.

It is the express intention of the parties that the Contractor is not employed by the District but is an independent contractor. An agent or employee of Contractor shall never be or deemed to be an employee or agent of the District. The District is concerned only with the results to be obtained. **AS AN INDEPENDENT CONTRACTOR, THE CONTRACTOR ACKNOWLEDGES AND AGREES, PURSUANT TO SECTION 8-40-202(2)(b)(IV), C.R.S., THAT IT IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS AND THAT THE CONTRACTOR, AS AN INDEPENDENT CONTRACTOR, IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED PURSUANT TO THIS CONTRACT RELATIONSHIP.**

11. ASSIGNMENT.

Neither the District nor the Contractor may assign this Contract or parts hereof or its rights hereunder without the express written consent of the other party.

12. SUBCONTRACTORS.

To the extent that the Contractor engages subcontractors to perform, or otherwise provide support to assist the Contractor to perform any portion of the Services performed under this Contract (each a “Permitted Subcontractor”), then: (a) the Contractor shall remain responsible for the services, tasks, functions and responsibilities performed by Permitted Subcontractors to the same extent as if such services, tasks, functions and responsibilities were performed directly by the Contractor and, for purposes of this Contract, such Services shall be deemed Services performed by the Contractor; (b) the Contractor shall cause such Permitted Subcontractors to comply with the obligations and restrictions associated with the services, tasks, functions and responsibilities performed by such Permitted Subcontractors that are applicable to the Contractor under this Contract; and (c) the Contractor shall acquit its responsibilities as provided in subsection 6.10 of this Contract.

13. MISCELLANEOUS.

13.1. Time is of the Essence. The performance of the Services of the Contractor shall be undertaken and completed in accordance with this Contract and in such sequence as to assure its expeditious completion in light of the purposes of this Contract. It is agreed that time is of the essence in the performance of this Contract.

13.2. Notice. All notices must be in writing and (a) delivered personally, (b) sent by electronic mail, delivery receipt requested, (c) sent by United States certified mail, postage prepaid, return receipt requested (“US Mail”), or (d) placed in the custody of a nationally recognized overnight carrier for next day delivery (“Carrier”), and will be deemed given (i) when received, if delivered personally, (ii) on the day sent if sent during regular business hours (9 a.m. to 5 p.m.), otherwise on the next day at 9 a.m., if sent by electronic mail, (iii) 4 days after deposit, if sent by US Mail, or (iv) the next business day after deposited with a Carrier during business hours on a business day. All notices shall be delivered to the following addresses, or such other address as is provided by one party to the other in accordance with this section:

Notices to District:

Berkley Shores Metropolitan District
c/o Special District Management Services, Inc.
141 Union Boulevard, Suite 150
Lakewood, Colorado 80228
Attn: Peggy Ripko
Email: pripko@sdmsi.com

With a copy to:

Icenogle Seaver Pogue, P.C.
4725 South Monaco Street, Suite 360
Denver, CO 80237
Attn.: Jennifer L. Ivey
Email: JIvey@ISP-Law.com

Notices to Contractor:

Environmental Designs, Inc.
12511 E. 112th Avenue
Brighton, Colorado 80640
Attn: Eric VanLaren
Email: Evanlaren@environmentaldesigns.net

13.3. Governmental Immunity. Nothing in this Contract or in any action taken by the District pursuant to this Contract shall be construed to be a waiver, in whole or in part, of any right, privilege or protection afforded the District or its Board of Directors, officers, employees, servants, agents or authorized volunteers pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., C.R.S.

13.4. Annual Appropriations. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The District's payment obligations hereunder are subject to annual appropriation. The District has appropriated sufficient funds for this Contract for the current fiscal year.

13.5. Entire Contract. This Contract constitutes the entire agreement between the parties and sets forth the rights, duties and obligations of each to the other as of this date. Any prior agreements, promises, negotiations or representations not expressly set forth in this Contract are of no force and effect.

13.6. Contract Modification. The Contract may not be amended, altered or otherwise changed except by a written agreement signed by authorized representatives of the parties.

13.7. No Waiver. No waiver of any of the provisions of this Contract shall be deemed to constitute a waiver of any other of the provisions of this Contract, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

13.8. Choice of Law. This Contract and all related documents including all exhibits attached hereto, and all matters arising out of or relating to this Contract, are governed by and construed in accordance with the laws of the State of Colorado.

13.9. Venue. Each party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against any other party in any way arising from or relating to this Contract in any forum other than the state courts of the State of Colorado.

13.10. Binding Contract. This Contract shall inure to and be binding on the heirs, executors, administrators, successors and assigns of the parties hereto.

13.11. No Third Party Beneficiaries. This Contract is entered into for the sole benefit of the District and Contractor, and no other parties are intended to be direct or incidental beneficiaries of this Contract, and no third party shall have any right in, under or to this Contract.

13.12. Severability. If any term or provision of this Contract is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Contract; provided, however, that if any fundamental term or provision of this Contract is invalid, illegal, or unenforceable, the remainder of this Contract shall be unenforceable.

13.13. Rules of Construction. For purposes of this Contract, except as otherwise expressly provided or unless the context clearly requires otherwise (i) the terms defined herein include the plural as well as the singular and include any words based upon the root of such defined terms; (ii) words importing gender include all genders; (iii) the words “include,” “includes,” and “including” mean inclusion without limitation; (iv) the word “or” is not exclusive; (v) the words “herein,” “hereof,” and “hereunder,” and other words of similar import, refer to this Contract as a whole and not to any particular Section or other subdivision; and (vi) the headings in the Contract are for convenience only and shall not affect the interpretation of this Contract. Unless the context otherwise requires, reference herein to: (A) Sections and Additional Services refer to the Sections of this Contract and Additional Services made pursuant to this Contract, as applicable; (B) an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (C) a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulation promulgated thereunder. This Contract shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

13.14. Electronic Signatures. The parties consent to the use of electronic signatures pursuant to the Uniform Electronic Transactions Act, Sections 24-71.3-101, *et seq.*, Colorado Revised Statutes, as may be amended from time to time. The Contract, and any other documents requiring a signature hereunder, may be signed electronically by the parties in a manner acceptable to the District. The parties agree not to deny the legal effect or enforceability of the Contract solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Contract in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

13.15. Counterpart Execution. This Contract may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have hereunto entered this Contract effective as of the date first written above.

CONTRACTOR:

ENVIRONMENTAL DESIGNS, INC.

Eric VanLaren

By: Eric Van Laren

Its: Account Manager

ATTEST:

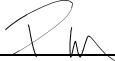
Matt Ward

By: Matt Ward

Its: Account Manager

DISTRICT:

BERKLEY SHORES METROPOLITAN
DISTRICT



By: Paul Malone

Its: President

ATTEST:

Natalie Satt

By: Natalie Satt

Its: Secretary

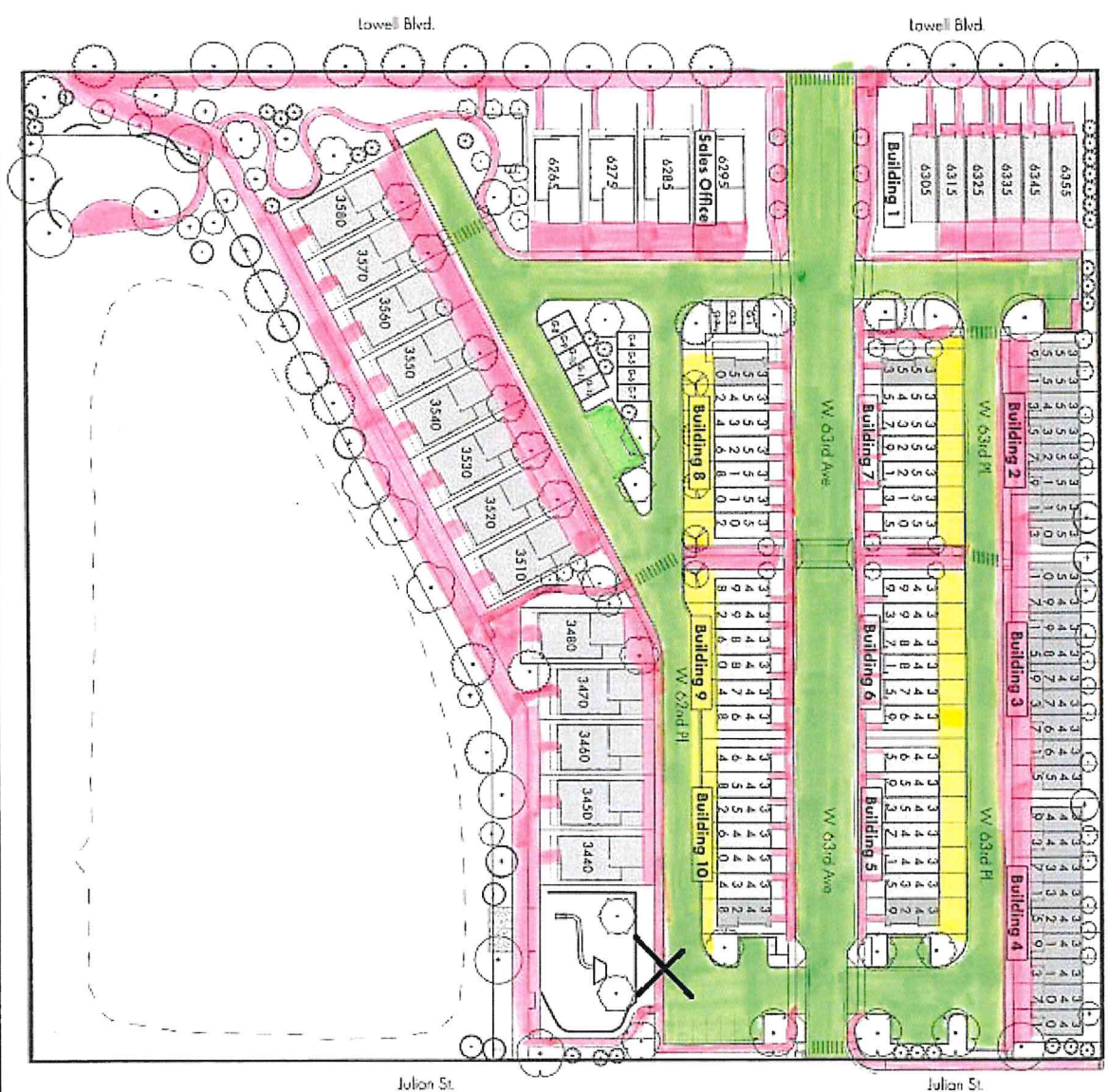
EXHIBIT A

SCOPE OF SERVICES

Contractor shall provide the following Services on the locations indicated on the attached map within the boundaries of the District:

- Snow plowing (using truck mounted plows, tractors, ATV's, etc.) when snow depth reaches two inches (2") of accumulation
- Ice slicing (to be performed only after snow plowing using granular magnesium chloride) upon District request
- Snow shoveling (using hand shoveling, ATV's, snow blowers, etc.) when snow depth reaches two inches (2") of accumulation
- Ice melting (to be performed only after snow shoveling using ice melt on walkways and stairs) upon District request

ADDRESSES



- District Maintained Walkways and Driveways.
- District Maintained Roads
- Covered Driveways (Do Not Service)
- ✕ Designated Snow Piles

EXHIBIT B

SERVICES RATE SCHEDULE

4X4 Pickup Truck with Wings	\$150.00/hour	1 Hour Minimum per trip
4X4 ATV with 48" Blade	\$110.00/hour	1 Hour Minimum per trip
Front End Loader, 2-1/2 yard bucket or larger	\$295.00/hour	2 Hour Minimum per trip
Skid Steer Tractor	\$195.00/hour	2 Hour Minimum per trip
Dump Truck	\$225.00/hour	2 Hour Minimum per trip
Snow Blower	\$95.00/hour	1 Hour Minimum per trip
Mini-Skid Steer with Broom/Plow/Blower/Bucket	\$160.00/hour	1 Hour Minimum per trip
Ride On Broom or UTV with Blade	\$195.00/hour	1 Hour Minimum per trip
Hand Shovel	\$75.00/hour	1 Hour Minimum per trip
Ice Slicer Truck (Parking Lots)	\$105.00/trip charge	
Site Inspections	\$75.00/Each Visit	
Snow Stakes and Site Protection	\$75.00/hour	Plus Materials
Ice Slicer	\$0.45/pound	250 Pound Minimum
Ice Melt	\$1.40/pound	50 Pound Minimum

The rates above may be increased by fifty percent (50%) if the District requests such Services during the following holidays: Thanksgiving Day, the day after Thanksgiving, Christmas Eve, Christmas Day, New Year's Eve, New Year's Day and Easter Sunday.

Title	Berkley Shores Metropolitan District Snow Removal Contract
File name	2023 Snow Removal...MD EDI Signed.pdf
Document ID	25dea98d4a921105547cbc24e566fdc639d66e92
Audit trail date format	MM / DD / YYYY
Status	● Signed

Document History



SENT

07 / 19 / 2023

21:23:07 UTC

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



VIEWED

07 / 19 / 2023

23:00:35 UTC

Viewed by Paul Malone (pmalone@highlanddevelopmentco.com)
IP: 38.42.20.246



SIGNED

07 / 19 / 2023

23:00:54 UTC

Signed by Paul Malone (pmalone@highlanddevelopmentco.com)
IP: 38.42.20.246



VIEWED

07 / 20 / 2023

02:22:10 UTC

Viewed by Natalie Satt (nsatt@highlanddevelopmentco.com)
IP: 76.149.220.133



SIGNED

07 / 20 / 2023

02:23:32 UTC

Signed by Natalie Satt (nsatt@highlanddevelopmentco.com)
IP: 76.149.220.133



COMPLETED

07 / 20 / 2023

02:23:32 UTC

The document has been completed.

**BERKLEY SHORES METROPOLITAN DISTRICT
LANDSCAPING SERVICES CONTRACT**

This **LANDSCAPING SERVICES CONTRACT** (“Contract”) is entered into effective as of April 1, 2023, by and between BERKLEY SHORES METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado organized pursuant to Title 32 of the Colorado Revised Statutes (the “District”), and ENVIRONMENTAL DESIGNS, INC. a Colorado corporation (the “Contractor”).

RECITALS

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

WHEREAS, pursuant to Section 32-1-1001(1)(d)(I), C.R.S., the District is permitted to enter into contracts affecting its affairs; and

WHEREAS, the District has determined that it requires the performance of various landscaping services; and

WHEREAS, the District desires to engage the Contractor to render these services; and

WHEREAS, the Contractor desires to render said services; and

WHEREAS, the parties desire to enter into this Contract to establish the terms and conditions by which the Contractor shall provide the services to the District.

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF SERVICES.

The Contractor shall provide the landscaping services, including any and all necessary documentation, materials and equipment, as described in **Exhibit A** attached hereto and incorporated herein by this reference (the “Services”). The Contractor shall be responsible for providing, at its cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Services as required by this Contract. If such a schedule is included, the Services shall be performed in accordance with the schedule set out in **Exhibit A**.

2. COMPENSATION.

2.1. Compensation for Services. The District shall compensate the Contractor for all

labor, equipment and material necessary to provide the Services according to the rate schedule attached hereto and incorporated herein in **Exhibit B**, subject to District annual appropriations and in accordance with and subject to all of the conditions in this Contract. In no event shall compensation for the Services exceed Seventeen Thousand Nine Hundred Dollars and Twenty-One Cents (\$17,900.21) (the "Compensation"). The Compensation is inclusive of all reimbursable expenses and shall not be exceeded without the written authorization of the District.

2.2. Additional Services. If the District provides Contractor with a written request for services in addition to those listed in Exhibit A ("Additional Services"), any Additional Services will be provided on a time and materials basis. Upon receipt of such a request, the District and the Contractor shall negotiate the scope of the relevant Additional Services, which shall be subject to the mutual written agreement of the District and the Contractor. If the Contractor performs any Additional Services prior to or without receiving such a request from the District, the Contractor shall not be entitled to any compensation for such Additional Services.

2.3. Payments. The Contractor shall submit monthly invoices to the District for Services satisfactorily performed during each month of the term of this Contract. The District's approval of invoices shall be a condition of payment. All invoices shall be addressed to the District as follows: Berkley Shores Metropolitan District c/o Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228.

2.3.1. Requirements for Payment.

a. Invoices. The Contractor's invoices shall be in a format acceptable to the District, shall be supported by cost information in such detail as may be required by the District and shall be sufficient to substantiate all items for a proper audit and post audit thereof.

b. Invoice Documentation. With each invoice, the Contractor shall submit a progress report providing the following: (1) a detailed description of the Services performed; (2) the name of the person who performed the Services; (3) the date and time when the Services were performed; (4) the results achieved; (5) receipts which document direct costs reflected in the invoice; (6) the status of deliverables; and (7) a certification that the Contractor is current in payment of all employees and subcontractors and vendors and, if not current, a description of the non-current items and reasons for such.

2.3.2. Unsatisfactory Invoices or Services. The District may return to the Contractor for revision of unsatisfactory invoices and may withhold payment thereof. The District may withhold payment for Services which are not completed as scheduled, or which are completed unsatisfactorily, until completed satisfactorily and may deny payment for such Services upon termination of this Contract.

2.3.3. Right of Set-off. Without prejudice to any other right or remedy it may have, the District reserves the right to set off at any time any amount owing to it by the Contractor against any amount payable by the District to the Contractor under this

Contract.

2.4. Time of Payments. The District shall render payment to the Contractor within thirty (30) days of receipt of the invoice for all approved invoiced Services not previously invoiced and which were performed no more than forty-five (45) days prior to the District's receipt of the invoice.

2.5. In compliance with Section 24-91-103.6, Colorado Revised Statutes, the following statements are included in this Contract:

2.5.1. The District has appropriated an amount of money equal to or in excess of the contract amount for the Services to be performed under this Contract.

2.5.2. The District is prohibited from issuing any change order or other form of order or directive requiring additional compensable work to be performed by the Contractor, if such directive causes the aggregate amount under the Contract to exceed the amount appropriated for the original Contract, unless the Contractor is given written assurance by the District that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision in the Contract. "Remedy-granting provision" means any contract clause which permits additional compensation in the event that a specific contingency or event occurs. Such term shall include, but not be limited to change clauses, differing site conditions clauses, variation in quantities clauses, and termination clauses.

2.5.3. Any form of order or directive issued by the District requiring additional compensable work to be performed by the Contractor shall be deemed to include a clause that requires the District to reimburse the Contractor for the Contractor's costs on a periodic basis for all additional directed work performed until such time as a change order is finalized. Provided, however, that in no instance shall the periodic reimbursement be required before the Contractor has submitted an estimate of cost to the District for the additional compensable work to be performed.

3. TERM.

The term of this Contract shall be from the date first set forth above and shall expire on December 31, 2023, or by the exercise of the termination provisions specified herein, whichever occurs first. Notwithstanding the foregoing, unless terminated, or unless the District determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew on January 1, 2024, and terminate on March 31, 2024; provided that, in the event the completion of Services occurs in a fiscal year following the effective date of this Agreement, such Services to be performed in the following fiscal year shall be subject to annual appropriations by the District as set forth in Section 13.4 hereof.

4. GENERAL PROVISIONS/REPRESENTATIONS.

4.1. Inspections/Services. The Contractor has familiarized itself with the nature and extent of the Contract and the proposed Services. To the extent the Contractor deems necessary, the Contractor has inspected the sites and all surrounding locations whereupon it may be called to perform its obligations under this Contract and is familiar with the requirements of the Services and accepts them for such performance.

4.2. Good Standing. The Contractor is validly organized and exists in good standing under the laws of the State of Colorado and has all requisite power to own its properties and assets and to carry on its business as now conducted or proposed to be conducted and it is duly qualified, registered to do business and in good standing in the State of Colorado.

4.3. Professional Standards. The Contractor will perform all Services in accordance with generally accepted standards of care, skill, diligence and professional competence applicable to contractors engaged in the Denver metropolitan area in providing similar services at the time and place that services are rendered.

4.4. Performance During Term. The Contractor will begin providing the Services on the first day of the term of this Contract and will thereafter continually and diligently perform the Services throughout the term of this Contract.

4.5. Compliance with the Law. The Contractor will, at its own expense, throughout the term of this Contract, comply with all federal, state, and local laws, statutes, ordinances, codes, guidelines, court rulings and orders of all governmental authorities applicable to services performed by the Contractor under this Contract, including but not limited to employee safety.

4.6. Personnel. The Contractor represents that all of its personnel who will perform any Services under this Contract have received the information, instructions and training required to provide such Services, including training to prevent harm to such personnel, residence and members of the public who may be in the vicinity.

4.7. Licenses. The Contractor represents that the Contractor and its personnel have all licenses required by applicable law to perform the Services required by this Contract and will, at Contractor's expense, maintain such licenses throughout the term of this Contract.

4.8. Mechanics' and Materialmen's Liens. The Contractor will (i) make timely payments to Contractor's employees, subcontractors and/or suppliers, and (ii) be responsible for satisfaction of any liens and encumbrances which are filed or asserted against the District and/or its property, which liens result from the Services performed by the Contractor under this Contract. If any lien is filed claiming by, through or under the Contractor or the Services performed by the Contractor, the Contractor will cause such lien to be discharged or bonded within ten (10) days after its filing. If the Contractor fails to cause such lien to be discharged or bonded within such ten (10) day period, the District, in addition to any other available remedy, may bond or discharge the lien and, at the District's discretion, deduct its costs incurred, including attorneys' fees and interest

at the rate of twelve (12%) percent per annum from the dates incurred, from any payments due the Contractor or invoice the Contractor for the amounts paid.

4.9. Authorized Execution. The execution, delivery and performance of this Contract and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action and do not and will not require any further consent or approval of the board of directors or any shareholders of the Contractor or any other person which has not been obtained.

5. INDEMNIFICATION.

Subject to the provisions of Section 13-50.5-102(8), Colorado Revised Statutes, to the extent applicable to this Contract, the Contractor shall indemnify, defend, and hold harmless the District and each of its directors, employees, agents, and consultants, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities, of, by, or with respect to third parties ("Any Claims") to the extent they arise from or may be alleged to arise, directly or indirectly, in whole or in part, from the intentional or negligent acts or omissions of the Contractor or any of its subcontractors, material suppliers, agents, representatives, or employees, or the agents, representatives, or employees of any subcontractors or material suppliers (collectively the "Contractor/Related Parties"), in connection with this Contract and/or the Contractor's Services hereunder, including, without limitation, Any Claims which cause or allow to continue a condition or event which deprives the District or any of its directors or employees of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes. Provided, however, that the Contractor shall not be liable for any claim, loss, damage, injury, or liability arising out of the negligence, willful acts, or intentional torts of the District, its directors, employees, agents, and consultants.

The obligations of the indemnifications extended by the Contractor to the District under this Section shall survive termination or expiration of this Contract.

The Contractor will promptly defend any action or actions filed in connection with Any Claims and will pay all judgments, costs, and expenses, including legal costs and attorneys' fees incurred in connection with Any Claim. The District may protect its interest in defending against Any Claims by selecting its own counsel with legal costs and attorneys' fees paid for by the Contractor. The Contractor's defense, indemnification, and insurance obligations shall be to the fullest extent permitted by law and nothing in this Contract shall be construed as requiring the Contractor to defend in litigation, indemnify, or insure the District against liability for damage arising out of the death or bodily injury to persons or damage to property caused by the negligence or fault of the District or any third party under the control or supervision of the District.

To the extent the terms of Section 13-50.5-102(8), Colorado Revised Statutes, are applicable to this Contract, the Contractor and the District hereby agree for the purposes of this Section that: (i) "the degree or percentage of negligence or fault attributable" to the Contractor/Related Parties as used in Section 13-50.5-102(8)(a), Colorado Revised Statutes, shall be conclusively determined by a trial court at the state level and (ii) the term "adjudication" used in Section 13-50.1-102(8)(c), Colorado Revised Statutes, shall mean a trial court order at the state level.

Insurance coverage requirements or limitations on damages specified in this Contract in no way lessen or limit the obligations of the Contractor under the terms of this Section. The Contractor shall obtain, at the Contractor's own expense, additional insurance, if any, required to satisfy the terms of this Section.

6. INSURANCE.

6.1. General Requirements. The Contractor shall acquire and maintain in full force and effect, during the entire term of the Contract, including any extensions thereof, and at any time thereafter necessary to protect the District, its directors, employees, agents, consultants and the Contractor from claims that arise out of or result from the operations under this Contract by the Contractor or by a subcontractor or a vendor or anyone acting on their behalf or for which they may be liable, the coverages set forth in subsection 6.2. All insurance is to be placed with insurance carriers licensed in the State of Colorado with an A.M. Best and Company rating of no less than A-(X) or as otherwise accepted by the District. The District and its respective directors, officers, employees and agents shall be named as an additional insured as provided in subsection 6.3. The Contractor shall request its insurer to amend or endorse its insurance policy to provide that the insurer will give the District sixty (60) days written notice prior to the cancellation, non-renewal or material modification of any policy of insurance obtained to comply with this Section. In addition, Contractor shall immediately upon receipt provide the District a copy of any notice of cancellation, non-renewal or material modification of any policy of insurance obtained to comply with this Section.

6.2. Minimum Insurance Coverages.

6.2.1. Workers' compensation insurance in accordance with applicable law, including employers' liability with minimum limits of One Hundred Thousand Dollars (\$100,000.00) each accident, Five Hundred Thousand Dollars (\$500,000.00) Disease-Policy Limit, One Hundred Thousand Dollars (\$100,000.00) Disease each employee.

6.2.2. Commercial general liability insurance in the amount of One Million Dollars (\$1,000,000.00) combined single limit bodily injury and property damage, each occurrence; Two Million Dollars (\$2,000,000.00) general aggregate, and One Million Dollars (\$1,000,000.00) products and completed operations aggregate. Coverage shall be on an ISO 1996 Form (CG 0001 or equivalent), include all major divisions of coverage and be on a comprehensive basis, including:

- a. Premises and operations;
- b. Personal injury liability;
- c. Contractual liability;
- d. Property damage;
- e. Products and completed operations;
- f. Independent contractors coverage;
- g. Explosion, collapse and underground (for contractors only);
- h. Contractors' limited pollution coverage (for contractors only); and
- i. Endorsement CG 2-503 or equivalent; general aggregate applies on a

per project basis (for contractors only).

6.2.3. Commercial automobile liability insurance in the amount of One Million Dollars (\$1,000,000.00) combined single limit bodily injury and property damage, each accident covering owned, leased, hired, non-owned and employee non-owned vehicles used at the project site.

6.2.4. Professional liability coverage in the amount of One Million Dollars (\$1,000,000.00) each claim and in the aggregate covering the negligent acts or omissions of the Contractor and/or its subcontractors in the performance of the Services.

6.2.5. Excess liability coverage, beyond that of the general liability, automobile liability and employers liability coverages required herein, in the amount of at least Two Million Dollars (\$2,000,000.00) combined single limit bodily injury and property damage, each occurrence, and Four Million Dollars (\$4,000,000.00) in the aggregate. Separate aggregates need to be structured as found in the underlying coverages.

6.2.6. All coverages specified herein shall waive any right of subrogation against the District and its directors, officers and employees.

6.3. Additional Insured Parties. The District and its respective directors, officers, employees and agents shall be named as an additional insured on all policies (with the exception of workers' compensation insurance and professional liability coverage). Professional liability coverage shall be endorsed to include contractual liability coverage, insured contract coverage or similar coverage for the professional services performed under this Contract.

6.4. Certificates of Insurance. Prior to commencing any Services under the Contract, the Contractor shall provide the District with a certificate or certificates evidencing the coverages identified on the face of the certificate with the contract number for this Contract, the name of the project and a copy of the additional insured endorsement. If the Contractor subcontracts any portion(s) of the Services, such subcontractor(s) shall be required to furnish certificates evidencing workers' compensation and employers' liability insurance, commercial general liability insurance coverage and automobile liability insurance in amounts satisfactory to the District and the Contractor and containing the "additional insured," "waiver of subrogation" and "cancellation" conditions found in this Section. If the coverage required expires during the term of this Contract, the Contractor and its subcontractor(s) shall provide replacement certificate(s) evidencing the continuation of the required policies at least fifteen (15) days prior to expiration.

6.5. Additional Provisions. Each liability policy including, where required, umbrella/excess liability policy is to contain, or be endorsed to contain, the following:

6.5.I. The Contractor's insurance coverage shall be primary insurance with respect to the District and its directors, officers and employees. Any insurance maintained by the District or its directors, officers and employees shall be in excess of the Contractor's insurance and shall not contribute to it.

6.5.2. The Contractor's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to limits of liability.

6.6. Compliance with Reporting Provisions. The Contractor shall comply with reporting provisions or other conditions of the policies required herein, and a failure to do so constitutes a breach of this Contract. Any failure on the part of the Contractor to comply with reporting provisions or other conditions of the policies shall not affect the obligation of the Contractor to provide the required coverage to the District (and its directors, officers and employees).

6.7. Claims-Made Policies. If any policy is a claims-made policy, the policy shall provide the Contractor the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two (2) years. The Contractor agrees to purchase such an extended reporting period if needed to ensure continuity of coverage. The Contractor's failure to purchase such an extended reporting period as required by this Section shall not relieve it of any liability under this Contract. If the policy is a claims-made policy, the retroactive date of any such policy shall be not later than the date this Contract is executed by the parties hereto. If the Contractor purchases a subsequent claims-made policy in place of any prior claims-made policy, the retroactive date of such subsequent policy shall be no later than the date this Contract is executed by the parties hereto.

6.8. No Limitation on Other Obligations. The procuring of required policies of insurance shall not be construed to limit the Contractor's liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. The Contractor shall be solely responsible for any deductible losses under the policy.

6.9. Additional Risks and Hazards. If the District requests in writing that insurance for risks other than those described herein or for other special hazards be included in property insurance policies, the Contractor shall obtain such insurance, if available, in a form and for a cost approved by the District, and the cost thereof shall be charged to the District.

6.10. Subcontractors. If the Contractor subcontracts any portion(s) of the Services, the Contractor shall require that each subcontractor retained by the Contractor acquire and maintain insurance coverage as set forth in this Section 6. The Contractor shall require each subcontractor to provide to the Contractor insurance certificates and endorsements, including necessary updates to the same, demonstrating compliance with this Section 6. The Contractor shall retain all subcontractor insurance certificates and endorsements for the duration of the Contract. The Contractor shall, upon District request, submit them to the District for review or audit. Failure to acquire and maintain subcontractor insurance certificates is a material breach of this Contract.

7. TERMINATION.

7.1. Types of Termination.

7.1.1. Events of Default and Termination For Cause. The Contractor shall be immediately in default hereunder (an "Event of Default") upon the occurrence of any of the events described below:

- a. Any breach of the terms and conditions of this Contract.
- b. Failure to perform the Services under this Contract, or significant delay or discontinuance of performance of the Services.
- c. Lack of financial responsibility (including failure to obtain and maintain insurance) for loss or damage to the District or its property.
- d. Dishonesty, embezzlement or false reporting of any material financial information, including but not limited to invoices.
- e. Insolvency, bankruptcy or commission of any act of bankruptcy or insolvency or assignment for the benefit of creditors.
- f. Any attempt by the Contractor to assign its performance of this Contract without the consent required by this Contract.
- g. Termination of any subcontract for any substantial Services without the prior written consent of the District.

In addition to any other rights provided herein, upon an Event of Default, the District shall have the right in its sole discretion to immediately terminate this Contract and further performance of the Services, in whole or in part, by delivery to the Contractor of written notice of termination specifying the extent of termination and the effective date of termination.

7.1.2. Termination for Convenience. In addition to any other rights provided herein, the District shall have the right in its sole discretion to terminate, upon thirty (30) days advance notice, for convenience, this Contract and further performance of the Services, in whole or in part, by delivery to the Contractor of written notice of termination specifying the extent of termination and the effective date of termination.

7.2. Any Other Remedies Allowed by Law. The District shall be entitled to any other remedies allowed by law in addition to the remedies provided in this Section.

7.3. Payment and Liabilities Upon Termination.

7.3.1. Termination For Cause. If an Event of Default has occurred, the Contractor shall be liable to the District for any actual damages for losses, including, but not limited to, any and all costs and expenses reasonably incurred by the District or any party acting on the District's behalf in completing the Services or having the Services completed (excluding changes in the Services by the District following such Event of Default). The District shall determine the total cost of the Services satisfactorily performed by the Contractor prior to the effective date of termination for cause. All reasonable damages, losses, costs and charges incurred by the District, including attorney's fees and costs, relating to obtaining and mobilizing another contractor, of completing the Services and of retaining another contractor's acceptance of full responsibility for all obligations of the Contractor under this Contract shall be deducted from any monies due or which may become due to the Contractor. The District shall determine the total amount due and shall notify the Contractor in writing of the amount the Contractor owes the District or the amount the District owes the Contractor.

7.3.2. Termination For Convenience. After termination for convenience, the Contractor shall submit a final termination settlement invoice to the District in a form and with a certification prescribed by the District. The Contractor shall submit the invoice promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the District upon written request of the Contractor within such thirty-day period. If the Contractor fails to submit the invoice within the time allowed, the District's payment obligations under this Contract shall be deemed satisfied and no further payment by the District to the Contractor shall be made.

7.4. Contractor's Obligations Upon Termination. After receipt of notice of termination, for cause or for convenience, and unless otherwise directed by the District, the Contractor shall immediately proceed as follows:

7.4.1. Stop work on the Services as specified in the notice of termination; and

7.4.2. Take any action that may be necessary, or that the District may direct, for the protection and preservation of the Services and property related to this Contract that is in the possession of the Contractor and in which the District has or may acquire an interest.

8. OWNERSHIP OF MATERIALS AND RISK OF LOSS.

All work product of the Contractor prepared pursuant to this Contract, including but not limited to all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall be, upon preparation, and remain the property of the District under all circumstances, whether or not the Services are completed. All work product shall be provided to the District at the time of completion of any of the discrete tasks specified herein or at the time of termination of this Contract, whichever event first occurs, and shall be provided to any subsequent owners only with the District's express permission. The Contractor shall maintain reproducible copies on file of any such work product involved in the Services for a period of five (5) years and shall make them available for the District's use and provide such copies to the District, upon request, at commercial printing rates. At any time, the District may obtain reproducible copies of the Contractor's work product by paying printing costs as set forth above.

9. CONTRACTOR'S TRADE SECRETS AND OPEN RECORDS REQUESTS.

9.1. Application of the Act. The Contractor acknowledges and agrees that all documents in the District's possession, including documents submitted by the Contractor, are subject to the provisions of the Colorado Open Records Act, Sections 24-72-200.1 *et seq.*, Colorado Revised Statutes, and the Contractor acknowledges that the District shall abide by the Colorado Open Records Act, including honoring all proper public records requests made thereunder. The Contractor shall be responsible for all costs incurred in connection with any determinations required to be made by a court, pursuant to the Colorado Open Records Act. The Contractor is advised to contact legal counsel concerning such acts in application of the Colorado Open Records Act to the Contractor.

9.2. Confidential or Proprietary Materials. If the Contractor deems any document(s) which it submits to the District to be confidential, proprietary, or otherwise protected from disclosure

under the Colorado Open Records Act, then it shall appropriately label such document(s), and submit such document to the District together with a written statement describing the material which is requested to remain protected from disclosure and the justification for such request. This request will either be approved or denied by the District; however, the District will make a good-faith effort to accommodate all reasonable requests, subject to the provisions of the Colorado Open Records Act.

9.3. Stakeholder. In the event of litigation concerning the disclosure of any document(s) submitted by the Contractor to the District, the District's sole involvement will be as stakeholder retaining the document(s) until otherwise ordered by the court, and the Contractor shall be fully responsible for otherwise prosecuting or defending any actions concerning the document(s) at its sole expense and risk.

10. INDEPENDENT CONTRACTOR.

It is the express intention of the parties that the Contractor is not employed by the District but is an independent contractor. An agent or employee of Contractor shall never be or deemed to be an employee or agent of the District. The District is concerned only with the results to be obtained. AS AN INDEPENDENT CONTRACTOR, THE CONTRACTOR ACKNOWLEDGES AND AGREES, PURSUANT TO SECTION 8-40-202(2)(b)(IV), C.R.S., THAT IT IS NOT ENTITLED TO WORKERS' COMPENSATION BENEFITS AND THAT THE CONTRACTOR, AS AN INDEPENDENT CONTRACTOR, IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON ANY MONEYS EARNED PURSUANT TO THIS CONTRACT RELATIONSHIP.

11. ASSIGNMENT.

Neither the District nor the Contractor may assign this Contract or parts hereof or its rights hereunder without the express written consent of the other party.

12. SUBCONTRACTORS.

To the extent that the Contractor engages subcontractors to perform, or otherwise provide support to assist the Contractor to perform any portion of the Services performed under this Contract (each a "Permitted Subcontractor"), then: (a) the Contractor shall remain responsible for the services, tasks, functions and responsibilities performed by Permitted Subcontractors to the same extent as if such services, tasks, functions and responsibilities were performed directly by the Contractor and, for purposes of this Contract, such Services shall be deemed Services performed by the Contractor; (b) the Contractor shall cause such Permitted Subcontractors to comply with the obligations and restrictions associated with the services, tasks, functions and responsibilities performed by such Permitted Subcontractors that are applicable to the Contractor under this Contract; and (c) the Contractor shall acquit its responsibilities as provided in subsection 6.10 of this Contract.

13. MISCELLANEOUS.

13.1. Time is of the Essence. The performance of the Services of the Contractor shall be undertaken and completed in accordance with this Contract and in such sequence as to assure its expeditious completion in light of the purposes of this Contract. It is agreed that time is of the essence in the performance of this Contract.

13.2. Notice. All notices must be in writing and (a) delivered personally, (b) sent by electronic mail, delivery receipt requested, (c) sent by United States certified mail, postage prepaid, return receipt requested ("US Mail"), or (d) placed in the custody of a nationally recognized overnight carrier for next day delivery ("Carrier"), and will be deemed given (i) when received, if delivered personally, (ii) on the day sent if sent during regular business hours (9 a.m. to 5 p.m.), otherwise on the next day at 9 a.m., if sent by electronic mail, (iii) 4 days after deposit, if sent by US Mail, or (iv) the next business day after deposited with a Carrier during business hours on a business day. All notices shall be delivered to the following addresses, or such other address as is provided by one party to the other in accordance with this section:

Notices to District:

Berkley Shores Metropolitan District
141 Union Blvd., Ste 150
Lakewood, CO 80228
Attn: Peggy Ripko
Email: pripko@sdmsi.com

With a copy to:

Icenogle Seaver Pogue, P.C.
4725 South Monaco Street, Suite 360
Denver, CO 80237
Attn: Jennifer L. Ivey, Esq.
Email: jivey@isp-law.com

Notices to Contractor:

Environmental Designs, Inc.
12511 E. 112th Avenue
Henderson, CO 80640
Attn: Eric VanLaren
Email: evanlarcn@environmentaldesigns.net

13.3. Governmental Immunity. Nothing in this Contract or in any action taken by the District pursuant to this Contract shall be construed to be a waiver, in whole or in part, of any right, privilege or protection afforded the District or its Board of Directors, officers, employees, servants, agents or authorized volunteers pursuant to the Colorado Governmental Immunity Act, Sections

24-10-101, et seq., C.R.S.

13.4. Annual Appropriations. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The District's payment obligations hereunder are subject to annual appropriation. The District has appropriated sufficient funds for this Contract for the current fiscal year.

13.5. Entire Contract. This Contract constitutes the entire agreement between the parties and sets forth the rights, duties and obligations of each to the other as of this date. Any prior agreements, promises, negotiations or representations not expressly set forth in this Contract are of no force and effect.

13.6. Contract Modification. The Contract may not be amended, altered or otherwise changed except by a written agreement signed by authorized representatives of the parties.

13.7. No Waiver. No waiver of any of the provisions of this Contract shall be deemed to constitute a waiver of any other of the provisions of this Contract, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

13.8. Choice of Law. This Contract and all related documents including all exhibits attached hereto, and all matters arising out of or relating to this Contract, are governed by and construed in accordance with the laws of the State of Colorado.

13.9. Venue. Each party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against any other party in any way arising from or relating to this Contract in any forum other than the state courts of the State of Colorado.

13.10. Binding Contract. This Contract shall inure to and be binding on the heirs, executors, administrators, successors and assigns of the parties hereto.

13.11. No Third Party Beneficiaries. This Contract is entered into for the sole benefit of the District and Contractor, and no other parties are intended to be direct or incidental beneficiaries of this Contract, and no third party shall have any right in, under or to this Contract.

13.12. Severability. If any term or provision of this Contract is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Contract; provided, however, that if any fundamental term or provision of this Contract is invalid, illegal, or unenforceable, the remainder of this Contract shall be unenforceable.

13.13. Rules of Construction. For purposes of this Contract, except as otherwise expressly provided or unless the context clearly requires otherwise (i) the terms defined herein include the plural as well as the singular and include any words based upon the root of such defined terms; (ii) words importing gender include all genders; (iii) the words "include," "includes," and "including" mean inclusion without limitation; (iv) the word "or" is not exclusive; (v) the words "herein," "hereof," and

“hereunder,” and other words of similar import, refer to this Contract as a whole and not to any particular Section or other subdivision; and (vi) the headings in the Contract are for convenience only and shall not affect the interpretation of this Contract. Unless the context otherwise requires, reference herein to: (A) Sections and Additional Services refer to the Sections of this Contract and Additional Services made pursuant to this Contract, as applicable; (B) an agreement, instrument, or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (C) a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulation promulgated thereunder. This Contract shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted.

13.14. Electronic Signatures. The parties consent to the use of electronic signatures pursuant to the Uniform Electronic Transactions Act, Sections 24-71.3-101, *et seq.*, Colorado Revised Statutes, as may be amended from time to time. The Contract, and any other documents requiring a signature hereunder, may be signed electronically by the parties in a manner acceptable to the District. The parties agree not to deny the legal effect or enforceability of the Contract solely because it is in electronic form or because an electronic record was used in its formation. The parties agree not to object to the admissibility of the Contract in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

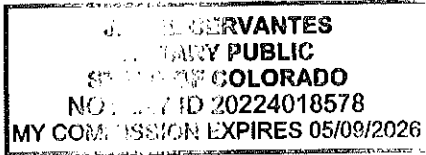
13.15. Counterpart Execution. This Contract may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.


[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have hereunto entered this Contract effective as of the date first written above.

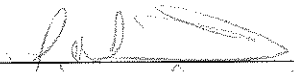
CONTRACTOR:

ENVIRONMENTAL DESIGNS, INC.




By: Eric Vahn Laren
Its: Account Manager

ATTEST:


By: Janel Cervantes
Its: Notary

DISTRICT:

BERKLEY SHORES
METROPOLITAN DISTRICT



By: Paul Malone
Its: President

ATTEST:

Natalie Satt

By: Natalie Satt
Its: Secretary

EXHIBIT A

SCOPE OF SERVICES

Contractor shall perform the following services at the locations within the District as identified on the attached map:

EXHIBIT A
Scope of Services (the "Work")

Weekly Services	Frequency Included in this Agreement	26
<p>Weekly Services shall include the weekly monitoring of landscape areas for loose trash and debris, trimming of turf areas where necessary, weed control in beds, blowing of grass clippings from walks, porches, and curb lines, and mowing of all turf areas to a height of 3"-4" from May to September and twice monthly in April and October. Steel-blade edging along sidewalks and curbs will be performed bi-weekly from April to October.</p> <p>The Contractor shall be selective in the chemical controls used so as to ensure against an improper application that may cause damage to turf, trees, or shrubs. The Contractor shall provide for the complete safety of the user(s), the public, residents, and their properties. The Contractor shall meet all Colorado State and Environmental Protection Agency (EPA) licensing requirements.</p> <p>Commercial Applicators are licensed by the Colorado Department of Agriculture.</p>		
Aeration - Spring	Frequency included in this Agreement	1
<p>A core aeration of all turf areas shall be performed in the Spring to minimize the compaction of the soil which will promote greater air movement within the ground and, in turn, promote a healthier, stronger root system for the turf.</p>		
Fertilization - Spring Turf	Frequency included in this Agreement	1
<p>Spring Fertilization consists of an application of granular fertilizer containing a slow-release nitrogen compound applied to all turf areas. This application is crucial to a strong "green up" during the spring, and with the slow-release nitrogen, the product not only benefits the turf for a longer period of time but also helps it to hold its color later into the season. The Spring Fertilization application of fertilizer is coupled with a granular pre-emergent weed control to mitigate germination of weeds in turf areas. Thus, reducing the overall volume of weeds to be controlled with a broadleaf herbicide.</p>		
Fertilization - Summer Turf	Frequency included in this Agreement	1
<p>Summer Fertilization consists of an application of granular fertilizer containing a slow-release nitrogen compound applied to all turf areas. This application is crucial to maintaining a strong green appearance through the hot summer season and with the slow-release nitrogen, the product not only benefits the turf for a longer period of time but also helps it to hold its color later into the season.</p>		
Spring Leaf & Debris Clean-up	Frequency included in this Agreement	1
<p>Spring Leaf & Debris Clean-up consists of the cleaning of any leftover leaves, bed maintenance, and edging along sidewalks and hardscape as needed.</p>		
Fall Leaf & Debris Clean-up	Frequency included in this Agreement	1
<p>Fall Leaf and Debris Clean-up includes the raking or blowing of leaves and removal from landscape areas after all of the leaves have fallen from the trees and shrubs on the property. All leaves and debris will be disposed of off site.</p>		
Prune / Cutback Grasses & Perennials	Frequency included in this Agreement	1
<p>Prune / Cutback Grasses & Perennials includes the late winter or early spring cutting of the Ornamental Grasses and Perennials to promote healthy growth in the next growing season.</p>		
Prune Trees & Shrubs	Frequency included in this Agreement	1
<p>This service includes the one-time pruning of all shrubs and ornamental trees (up to 12' in height and branches 2" or less in diameter) on site at the appropriate time during the growing season to accommodate normal growing habits. This includes the removal of nuisance growth and site restrictions. Large tree trimming and removal, rejuvenation pruning, full removal of dead and/or dying branches & limbs, and other major pruning projects are available upon request under separate bid.</p>		
Prune Trees & Shrubs - Touchup	Frequency included in this Agreement	3
<p>This service includes additional rounds of selective pruning of nuisance growth and site restrictions on shrubs and ornamental trees (up to 12' in height and branches 2" or less in diameter) on site.</p>		
Pruning / Deadhead Roses	Frequency included in this Agreement	Not Included
<p>This service includes the hand pruning and deadheading of roses on site.</p>		

EXHIBIT A
Scope of Services (the "Work")

Irrigation Checks - Bi-Weekly	Frequency included in this Agreement	14
<p>This service includes a full system check as necessary up to every other week during the growing season. This service includes checking the entire system for proper operation, the minor adjustment of irrigation heads, clearing plugged nozzles, and Irrigation Timer adjustments. In the event of a non-operable condition not caused by the Contractor's Mowing Operations, any Irrigation system repairs necessary will be corrected and billed at \$80.00 per man hour plus materials and machine if necessary. This includes raising and lowering irrigation heads, clearing of plugged lines, replacement of broken or missing irrigation heads, redesign work, additions, valve locating, Irrigation Timer repairs and replacements, toning or tracing wires, and anything that requires digging or excavation.</p> <p>Contractor provides 24-Hour Emergency Service with a two hour minimum billed as outlined above.</p>		
Irrigation Winterization	Frequency included in this Agreement	1
<p>This service includes a fully system shutdown and Winterization.</p>		
Pre-Emergent Application-Beds/Parking	Frequency included in this Agreement	1
<p>This service includes the spraying of a Pre-Emergent Weed Control Pesticide on all beds and cracks in the adjacent walks and parking areas.</p> <p>The Contractor shall be selective in the chemical controls used so as to ensure against an improper application that may cause damage to turf, trees, or shrubs. The Contractor shall provide for the complete safety the user(s), the public, residents, and their properties. The Contractor shall meet all Colorado State and Environmental Protection Agency (EPA) licensing requirements.</p> <p>Commercial Applicators are licensed by the Colorado Department of Agriculture.</p>		
Broadleaf Application Round 1	Frequency included in this Agreement	1
<p>This service includes one broadcast application of a Selective Post-Emergent Weed Control Pesticide to all turf areas.</p> <p>The Contractor shall be selective in the chemical controls used so as to ensure against an improper application that may cause damage to turf, trees, or shrubs. The Contractor shall provide for the complete safety the user(s), the public, residents, and their properties. The Contractor shall meet all Colorado State and Environmental Protection Agency (EPA) licensing requirements.</p> <p>Commercial Applicators are licensed by the Colorado Department of Agriculture.</p>		
Broadleaf Application Round 2	Frequency included in this Agreement	1
<p>This service includes one spot spray or full broadcast application of a Selective Post-Emergent Weed Control Pesticide to all turf areas as needed.</p> <p>The Contractor shall be selective in the chemical controls used so as to ensure against an improper application that may cause damage to turf, trees, or shrubs. The Contractor shall provide for the complete safety the user(s), the public, residents, and their properties. The Contractor shall meet all Colorado State and Environmental Protection Agency (EPA) licensing requirements.</p> <p>Commercial Applicators are licensed by the Colorado Department of Agriculture.</p>		
Broadleaf Application Round 3	Frequency included in this Agreement	1
<p>This service includes one additional spot spray or full broadcast application of a Selective Post-Emergent Weed Control Pesticide to all turf areas as needed.</p> <p>The Contractor shall be selective in the chemical controls used so as to ensure against an improper application that may cause damage to turf, trees, or shrubs. The Contractor shall provide for the complete safety the user(s), the public, residents, and their properties. The Contractor shall meet all Colorado State and Environmental Protection Agency (EPA) licensing requirements.</p> <p>Commercial Applicators are licensed by the Colorado Department of Agriculture.</p>		
Winter Services	Frequency included in this Agreement	24
<p>Winter Services are included under this agreement and shall consist of a weekly policing of the property for removal of loose trash & debris.</p>		
Native Mowing Round 1	Frequency included in this Agreement	1
<p>This service includes one round of mowing of the Native Areas associated with this agreement.</p>		

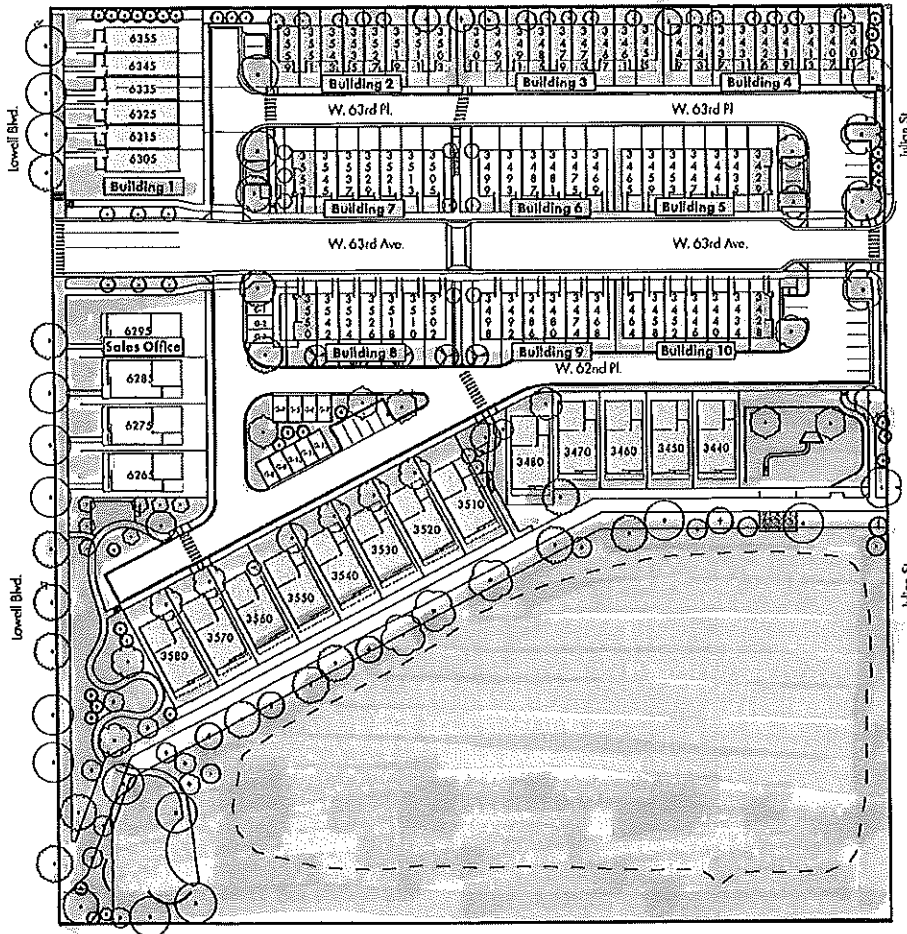
EXHIBIT A
Scope of Services (the "Work")

Native Mowing Round 2	Frequency included in this Agreement	1
This service Includes one round of mowing of the Native Areas associated with this agreement.		

Additional Services Addendums

In the event that any Additional Services are included in this agreement they shall be attached hereto as an Addendum to this Exhibit A and if executed properly shall be incorporated into the Scope of Services (the "Work") and any fees and terms shall be incorporated into this agreement.

ADDRESSES



MODEL **SQ. FT.**








-  TOWNHOUSE - ADA VERNON 940
-  TOWNHOUSE - 1 NIGHTBIRD 1,170
-  TOWNHOUSE - 2 RALSTON 1,310
-  TOWNHOUSE - 3 ZION 1,530
-  SINGLE FAMILY - LAKEFRONT APEX 1,920
-  SINGLE FAMILY FALCON 2,300
-  GARAGES

EXHIBIT B

SERVICES RATE SCHEDULE

12 Monthly Installments of:	\$1,491.68
Starting:	April 2023
Ending:	March 2024
Total Contract Price:	\$17,900.21



ENVIRONMENTAL DESIGNS, INC.

DENVER METRO
(303) 287-9113
12511 E. 112TH AVE.
BRIGHTON, CO 80640

NORTHERN COLORADO
(970) 237-6225
3950 PATTON AVE.
LOVELAND, CO 80538

WWW.ENVIRONMENTALDESIGNS.COM

LANDSCAPE ENHANCEMENT AGREEMENT

EDI Contact: Eric VanLaren
Project Name: Berkley Shores
Project Description: 2023 Enhancement
Project Address: 6330 Lowell Blvd
Lakewood, CO 80228

Agreement #: 108299
Date of Agreement: 3/28/2023
Client Phone Number: 303-987-0835 x 237
Client Email: pripko@sdmsi.com

THIS LANDSCAPE CONSTRUCTION AGREEMENT (the "Agreement") is made and entered into as of 3/28/2023 (the "Effective Date") by and between Environmental Designs, Inc. (the "Contractor") and Berkley Shores (the "Client"). The Client and Contractor, in consideration of the mutual covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, agree as follows:

1. SCOPE OF WORK

A. The Contractor agrees to perform the work and services under this Agreement at its sole expense for all labor, materials, services, equipment, tools, and taxes required to fulfill its obligations and to properly execute and complete the work as described more particularly on the attachment (the "Work") identified as Exhibit A.

2. SCHEDULE

A. The Client acknowledges that the Contractor cannot guarantee the date upon which commencement of the Work shall begin (the "Commencement Date") and that any date that is given is approximate and only a target date.

3. GENERAL PROVISIONS

A. Client shall be solely responsible to establish and provide property line locations at the Property. ["Rough Grade" shall mean the establishment of the initial grade, slope, soil composition and drainage of the Property, to +/- 1" of final grade.] Rough Grade establishment is the responsibility of the Client, unless otherwise outlined in "EXHIBIT A – Scope of Services (the "Work)". Contractor shall not be responsible for any cracking, buckling, marking or breaking of any concrete or paved surfaces or existing plant material on the Property during the Work. Contractor shall not be responsible for any damage to or moving of materials, equipment, or furniture that is not explicitly part of this Agreement, including but not limited to, BBQ appliances, patio furniture, statuary, garden art, play structures, etc.

B. This agreement shall supersede all prior agreements between the Parties, whether verbal or written. Any changes to this Agreement must be made in writing and evidenced by a Change Order (each a "Change Order" and collectively "Change Orders") executed by both the Client and the Contractor. All Change Orders shall be attached hereto and shall become part of this Agreement. Upon execution of each Change Order, Owner shall make payments as outlined within the Change Order. The charges for work covered by Change Orders shall be generated using then current pricing which may differ from the pricing of the original Work or other Change Orders.

C. Unless otherwise outlined in "EXHIBIT A – Scope of Services (the "Work)", any pricing and charges for permits, material changes to Work, underground obstructions, and erosion control are not included in the original pricing and must be addressed with the generation of a Change Order.

D. Consultation with Subcontractors or Other Contractors performing Work is not included in the pricing under this Agreement and shall be billed to the Client at \$150.00 per hour with a two-hour minimum: unless said Subcontractor or Other Contractor is hired directly by Contractor to perform the Work.

E. Unless accepted in writing, by Client and an authorized agent of Contractor, as evidenced by their signatures below, and the Contractor receives notice of acceptance within ten (10) calendar days of the date of the Agreement, Contractor reserves the right to withdraw or modify the proposal. If accepted this document shall become a binding Agreement between the Client and the Contractor.

F. Client agrees that they will not directly contract with, hire, or otherwise employ any employee or subcontractor of Contractor or Contractor's subcontractors for a period of one year after the completion of the project as outlined within this agreement and any subsequent change orders. Client further agrees that if Client were to directly contract with, hire, or otherwise employ any employee or subcontractor of Contractor or Contractor's subcontractors that Contractor will suffer damages and Client shall be liable to Contractor for said damages.

Award-Winning Landscape Architecture, Construction, & Maintenance since 1989

303.287.9113 Main 970.237.6225 Northern Colorado 12511 East 112th Avenue, Brighton, CO 80640 environmentaldesigns.com

4. TERMINATION

A. Either party may terminate this Agreement by written notice by certified mail to the other party. Notice to be given at least thirty (30) days prior to the effective date of such termination. Alternately this Agreement may be terminated by mutual agreement on a mutually agreed upon timeframe.

B. In the event that the Contractor cannot secure an adequate labor force to perform the work as outlined within this agreement, at the sole discretion of the Contractor, the Contractor may cancel this Agreement without penalty from Client subject to notification as outlined above.

5. INSURANCE

A. The Contractor shall at all times be covered by adequate liability and workers compensation insurance. Upon the Client's request, the Contractor shall provide proof of coverage.

6. WARRANTY

A. With the exception of the excluded plants listed below and unless otherwise outlined in "EXHIBIT A – Scope of Services (the "Work")", plant material #5 and greater in size, sod, irrigation and hardscapes installed by Contractor (collectively "installations") will carry a one year, one time replacement, warranty, provided they are properly maintained. The warranty period shall begin upon substantial completion of the Work. All warranties on sod, which is planted between September and April, and all warranties on plant material will be considered waived, voided, and null unless the Client agrees to have the Contractor perform winter watering services as needed during the winter months while irrigation systems are winterized, as outlined in "EXHIBIT A – Scope of Services (the "Work")". Deciduous trees more than three inches (3") caliper and evergreen trees in excess of nine feet (9') in height shall not be warranted unless access by machine is available, which access shall be determined by Contractor, in its sole discretion. If no access is available trees of this size may be replaced with a smaller tree. Reprogramming of irrigation controllers, Seed installation, night lighting bulbs, finished concrete, weeds, truck-spaded trees and reapplication of groundcover mulches (including rock) are not warranted. Weeds in your landscape areas are a natural occurrence and are considered a maintenance issue and Contractor does not guarantee a weed free landscape. Warranties on work performed by Subcontractors shall be passed through directly from the Subcontractor and no additional warranty or guaranty shall be made by Contractor. Any parts of the work that are damaged or die because of acts of God, fire, hail, flood, abuse, neglect, animal damage, insect damage, disease or fungal damage and freezing are not warranted. Excluded plant varieties include Redbuds, Arborvitae, Rhododendrons, Japanese Maples, Boxwoods, and Agave. All Warranties are non-transferable.

B. All warranties are void if all Payments are not made as outlined in this Agreement.

C. Client acknowledges that, if native seed is part of this agreement as outlined in EXHIBIT A, they have received and understand the information and limitations set forth in the Seed Installation Addendum.

7. PRICE AND TERMS

A. The Client shall pay the Contractor **\$682.82** for the Work as outlined in the EXHIBIT A - Scope of Services (the "Work")

B. This price is valid for ten (10) days from the date of this Agreement.

C. A surcharge fee of not less than 2% and not more than the fee paid by the Contractor to the Processor or Service Provider will be applied to all credit card payments. This fee may be charged as a separate transaction once these costs are known.

D. If the Contractor's Vendors charge additional freight or add fuel surcharges, these fees will be passed on to the client. Additionally, utilizing data from eia, the U.S. Energy Information Administration, https://www.eia.gov/dnav/pet/hist/LeaffHandler.ashx?n=PET&s=EMM_EPMRU_PTE_YDEN_DPG&f=W, for every \$0.50 increase in average fuel price, from the Weekly Denver, CO Regular Conventional Retail Gasoline Prices (Dollars per Gallon) correlating with the date of signing this agreement ("Benchmark Price"), a fuel surcharge of 0.5% will be applied to each invoice.

E. If the Contractor is unable to commence all or some parts of the work prior to 6 months from the date of this agreement, due to forces outside of Contractor's control, the Contractor reserves the right to re-price all or part of the work and present a new Agreement or Change Order for approval before moving forward. Additionally, if Contractor is required to leave the site, for reasons outside of the Contractor's control, once the Work has commenced and remobilize at a later date to complete the Work, Client will be responsible for additional mobilization fees.

F. Substantial Completion shall be defined as the moment the project is complete, including punch list items, and can be used for its intended purpose. Warranty items are not punch list items and shall not hold up final payment of all monies due. Any delay in making the final payment upon Substantial Completion shall result in all warranties being voided.

G. If any Payment is not made as required by this Agreement, a mechanic's lien may be placed on the Property for the entire balance due. Upon Final Payment, provided that all other Payments have been made, Contractor shall release any liens that Contractor has placed on the Property and, upon Client's written request, shall issue waivers of lien for all Work performed.

H. Payments thirty (30) days past due shall incur finance charge of 1.5% per month (18% per annum). Contractor and/or its assignee shall be entitled to collect all reasonable costs of collection, including but not limited to, collection agency fees and attorney fees.

8. ADDITIONAL SERVICES AVAILABLE

A. The Contractor offers the following services to complete their Landscape Maintenance & Construction Package:

1. Full Landscape Maintenance Services on Commercial and Residential Properties.
2. Landscape Design Services by in house Architects and Designers.
3. All sizes of landscape construction projects, both residential and commercial.
4. Irrigation system design, installation, and service.
5. Annual Floral Color design, installation, and maintenance including beds, pots, hanging pots, decks, etc.
6. Replacement of or addition of trees, shrubs, ornamental grasses, and perennial flowers.
7. Full Plant Health Care (PHC) including pest control, fertilization, and deep root watering.
8. Full Arbor Services including tree pruning, tree removal, and stump grinding.
9. Native Grass and Field Mowing
10. Holiday Lighting and Decoration

EXHIBIT A Scope of Services (the "Work")

The Client and the Contractor agree that the scope for the "Work" included in this Agreement is as follows:

Tree Wrap Removal

This service includes the removal and disposal of tree wrap in early Spring.

Description	Quantity	Unit
-------------	----------	------

Delivery / Disposal / Mobilization	1.00	EA
------------------------------------	------	----

Tree Wrap Removal	90.00	EA
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Group Total

\$682.82

_____ By initialing here, the Client agrees to have the services in this group performed as part of this Agreement. If all groups are not accepted by the Client, then the final price of this Agreement shall be adjusted accordingly.

WINTER WATERING

Evidenced by checking the appropriate box and signature below, the Client agrees to have the Contractor Winter Water all plant material and sod included in this agreement. Winter Watering services will be invoiced at \$85.00 per hour plus one way travel to the site with a one hour minimum each visit. The Client has been informed that if Winter Watering services are declined then all warranties on plant material and sod will be considered waived, voided, and null.

By Checking this box, Client Declines having Winter Watering Services Performed by the Contractor.

By Checking this box and Signing Below, Client Agrees to have Winter Watering Services performed by the Contractor.

Client: _____ Date: _____

TREE WRAP

Evidenced by checking the appropriate box and signature below, the Client agrees to have the Contractor wrap all soft-bark trees included in this agreement. Tree wrapping services will include application of tree wrap in the fall and removal in the spring. The first tree is \$150, each additional tree is \$25.

By Checking this box, Client Declines having Tree Wrapping Services Performed by the Contractor.

By Checking this box and Signing Below, Client Agrees to have Tree Wrapping Services performed by the Contractor.

Client: _____ Date: _____

An Act

SENATE BILL 23-178

BY SENATOR(S) Jaquez Lewis and Will, Marchman, Priola, Bridges, Buckner, Coleman, Cutter, Exum, Fields, Ginal, Gonzales, Hansen, Hinrichsen, Kolker, Moreno, Roberts, Sullivan, Fenberg;
also REPRESENTATIVE(S) McCormick and Lindsay, Amabile, Bird, Boesenecker, Brown, Dickson, Froelich, Hamrick, Herod, Jodeh, Kipp, Martinez, McLachlan, Michaelson Jenet, Ortiz, Parenti, Ricks, Sirota, Snyder, Titone, Valdez, Velasco, Weissman, Willford, Woodrow, McCluskie.

CONCERNING REMOVING BARRIERS TO WATER-WISE LANDSCAPING IN
COMMON INTEREST COMMUNITIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 38-33.3-106.5, **amend** (1)(i)(I)(A); and **add** (1)(i.5) as follows:

38-33.3-106.5. Prohibitions contrary to public policy - patriotic, political, or religious expression - public rights-of-way - fire prevention - renewable energy generation devices - affordable housing - drought prevention measures - child care - definitions. (1) Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

association to the contrary, an association shall not prohibit any of the following:

(i) (I) (A) The use of xeriscape, nonvegetative turf grass, or drought-tolerant vegetative landscapes to provide ground covering to property for which a unit owner is responsible, including a limited common element or property owned by the unit owner. Associations may adopt and enforce design or aesthetic guidelines or rules that apply to nonvegetative turf grass and drought-tolerant vegetative landscapes or regulate the type, number, and placement of drought-tolerant plantings and hardscapes that may be installed on a unit owner's property or on a limited common element or other property for which the unit owner is responsible. An association may restrict the installation of nonvegetative turf grass to rear yard locations only. THIS SUBSECTION (1)(i)(I)(A), AS AMENDED BY SENATE BILL 23-178, ENACTED IN 2023, APPLIES ONLY TO A UNIT THAT IS A SINGLE-FAMILY HOME THAT SHARES ONE OR MORE WALLS WITH ANOTHER UNIT AND DOES NOT APPLY TO A UNIT THAT IS A DETACHED SINGLE-FAMILY HOME.

(i.5) (I) THE USE OF XERISCAPE, NONVEGETATIVE TURF GRASS, OR DROUGHT-TOLERANT OR NONVEGETATIVE LANDSCAPES TO PROVIDE GROUND COVERING TO PROPERTY FOR WHICH A UNIT OWNER IS RESPONSIBLE, INCLUDING A LIMITED COMMON ELEMENT OR PROPERTY OWNED BY THE UNIT OWNER AND ANY RIGHT-OF-WAY OR TREE LAWN THAT IS THE UNIT OWNER'S RESPONSIBILITY TO MAINTAIN. ASSOCIATIONS MAY ADOPT AND ENFORCE DESIGN OR AESTHETIC GUIDELINES OR RULES THAT APPLY TO DROUGHT-TOLERANT VEGETATIVE OR NONVEGETATIVE LANDSCAPES OR TO VEGETABLE GARDENS OR THAT REGULATE THE TYPE, NUMBER, AND PLACEMENT OF DROUGHT-TOLERANT PLANTINGS AND HARDSCAPES THAT MAY BE INSTALLED ON PROPERTY THAT IS SUBJECT TO THE GUIDELINES OR RULES; EXCEPT THAT THE GUIDELINES OR RULES MUST:

(A) NOT PROHIBIT THE USE OF NONVEGETATIVE TURF GRASS IN THE BACKYARD OF A UNIT OWNER'S PROPERTY;

(B) NOT UNREASONABLY REQUIRE THE USE OF HARDSCAPE ON MORE THAN TWENTY PERCENT OF THE LANDSCAPING AREA OF A UNIT OWNER'S PROPERTY;

(C) ALLOW A UNIT OWNER AN OPTION THAT CONSISTS OF AT LEAST EIGHTY PERCENT DROUGHT-TOLERANT PLANTINGS; AND

(D) NOT PROHIBIT VEGETABLE GARDENS IN THE FRONT, BACK, OR SIDE YARD OF A UNIT OWNER'S PROPERTY. AS USED IN THIS SUBSECTION (1)(i.5), "VEGETABLE GARDEN" MEANS A PLOT OF GROUND OR AN ELEVATED SOIL BED IN WHICH POLLINATOR PLANTS, FLOWERS, OR VEGETABLES OR HERBS, FRUITS, LEAFY GREENS, OR OTHER EDIBLE PLANTS ARE CULTIVATED.

(II) FOR THE PURPOSES OF THIS SUBSECTION (1)(i.5), EACH ASSOCIATION SHALL SELECT AT LEAST THREE PREPLANNED WATER-WISE GARDEN DESIGNS THAT ARE PREAPPROVED FOR INSTALLATION IN FRONT YARDS WITHIN THE COMMON INTEREST COMMUNITY. TO BE PREAPPROVED, A GARDEN DESIGN MUST ADHERE TO THE PRINCIPLES OF WATER-WISE LANDSCAPING, AS DEFINED IN SECTION 37-60-135 (2)(1), WHICH EMPHASIZE DROUGHT-TOLERANT AND NATIVE PLANTS, OR BE PART OF A WATER CONSERVATION PROGRAM OPERATED BY A LOCAL WATER PROVIDER. EACH GARDEN DESIGN MAY BE SELECTED FROM THE COLORADO STATE UNIVERSITY EXTENSION PLANT SELECT ORGANIZATION'S "DOWNLOADABLE DESIGNS" LIST OR FROM A MUNICIPALITY, UTILITY, OR OTHER ENTITY THAT CREATES SUCH GARDEN DESIGNS. AN ASSOCIATION SHALL CONSIDER A UNIT OWNER'S USE OF ONE OF THE GARDEN DESIGNS SELECTED BY THE ASSOCIATION TO BE PREAPPROVED AS COMPLYING WITH THE ASSOCIATION'S AESTHETIC GUIDELINES AND SHALL ALLOW A UNIT OWNER TO USE REASONABLE SUBSTITUTE PLANTS WHEN A PLANT IN A DESIGN ISN'T AVAILABLE. EACH ASSOCIATION SHALL POST ON ITS PUBLIC WEBSITE, IF ANY, INFORMATION CONCERNING PREAPPROVALS OF GARDEN DESIGNS.

(III) EXCEPT AS DESCRIBED IN SUBSECTION (1)(i.5)(IV) OF THIS SECTION, IF AN ASSOCIATION KNOWINGLY VIOLATES THIS SUBSECTION (1)(i.5), A UNIT OWNER WHO IS AFFECTED BY THE VIOLATION MAY BRING A CIVIL ACTION TO RESTRAIN FURTHER VIOLATION AND TO RECOVER UP TO A MAXIMUM OF FIVE HUNDRED DOLLARS OR THE UNIT OWNER'S ACTUAL DAMAGES, WHICHEVER IS GREATER.

(IV) BEFORE A UNIT OWNER COMMENCES A CIVIL ACTION AS DESCRIBED IN SUBSECTION (1)(i.5)(III) OF THIS SECTION, THE UNIT OWNER SHALL NOTIFY THE ASSOCIATION IN WRITING OF THE VIOLATION AND ALLOW THE ASSOCIATION FORTY-FIVE DAYS AFTER RECEIPT OF THE NOTICE TO CURE THE VIOLATION.

(V) NOTHING IN THIS SUBSECTION (1)(i.5) SHALL BE CONSTRUED TO PROHIBIT OR RESTRICT THE AUTHORITY OF ASSOCIATIONS TO:

(A) ADOPT BONA FIDE SAFETY REQUIREMENTS CONSISTENT WITH APPLICABLE LANDSCAPE CODES OR RECOGNIZED SAFETY STANDARDS FOR THE PROTECTION OF PERSONS AND PROPERTY;

(B) PROHIBIT OR RESTRICT CHANGES THAT INTERFERE WITH THE ESTABLISHMENT AND MAINTENANCE OF FIRE BUFFERS OR DEFENSIBLE SPACES; OR

(C) PROHIBIT OR RESTRICT CHANGES TO EXISTING GRADING, DRAINAGE, OR OTHER STRUCTURAL LANDSCAPE ELEMENTS NECESSARY FOR THE PROTECTION OF PERSONS AND PROPERTY.

(VI) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THIS SUBSECTION (1)(i.5) APPLIES ONLY TO A UNIT THAT IS A SINGLE-FAMILY DETACHED HOME AND DOES NOT APPLY TO:

(A) A UNIT THAT IS A SINGLE-FAMILY ATTACHED HOME THAT SHARES ONE OR MORE WALLS WITH ANOTHER UNIT; OR

(B) A CONDOMINIUM.

SECTION 2. In Colorado Revised Statutes, 37-60-126, amend (11)(b)(IV); and add (11)(a)(III) and (11)(a.5) as follows:

37-60-126. Water conservation and drought mitigation planning - programs - relationship to state assistance for water facilities - guidelines - water efficiency grant program - definitions - repeal.
(11) (a) (III) THIS SUBSECTION (11)(a), AS AMENDED BY SENATE BILL 23-178, ENACTED IN 2023, APPLIES ONLY TO A UNIT THAT IS A SINGLE-FAMILY HOME THAT SHARES ONE OR MORE WALLS WITH ANOTHER UNIT AND DOES NOT APPLY TO A UNIT THAT IS A DETACHED SINGLE-FAMILY HOME.

(a.5) (I) ANY SECTION OF A RESTRICTIVE COVENANT OR OF THE DECLARATION, BYLAWS, OR RULES AND REGULATIONS OF A COMMON INTEREST COMMUNITY, ALL AS DEFINED IN SECTION 38-33.3-103, AND ANY RULE OR POLICY OF A SPECIAL DISTRICT, AS DEFINED IN SECTION 32-1-103 (20), THAT PROHIBITS OR LIMITS XERISCAPE, PROHIBITS OR LIMITS THE INSTALLATION OR USE OF DROUGHT-TOLERANT VEGETATIVE OR NONVEGETATIVE LANDSCAPES, REQUIRES CULTIVATED VEGETATION TO

CONSIST WHOLLY OR PARTIALLY OF TURF GRASS, OR PROHIBITS THE USE OF NONVEGETATIVE TURF GRASS IN THE BACKYARD OF A RESIDENTIAL PROPERTY IS HEREBY DECLARED CONTRARY TO PUBLIC POLICY AND, ON THAT BASIS, IS UNENFORCEABLE. THIS SUBSECTION (11)(a.5) DOES NOT PROHIBIT COMMON INTEREST COMMUNITIES OR SPECIAL DISTRICTS FROM ADOPTING AND ENFORCING DESIGN OR AESTHETIC GUIDELINES OR RULES THAT APPLY TO DROUGHT-TOLERANT VEGETATIVE OR NONVEGETATIVE LANDSCAPES OR REGULATE THE TYPE, NUMBER, AND PLACEMENT OF DROUGHT-TOLERANT PLANTINGS AND HARDSCAPES THAT MAY BE INSTALLED ON PROPERTY THAT IS SUBJECT TO THE GUIDELINES OR RULES; EXCEPT THAT THE GUIDELINES OR RULES MUST:

(A) NOT PROHIBIT THE USE OF NONVEGETATIVE TURF GRASS IN THE BACKYARD OF A RESIDENTIAL PROPERTY;

(B) NOT UNREASONABLY REQUIRE THE USE OF HARDSCAPE ON MORE THAN TWENTY PERCENT OF THE LANDSCAPING AREA OF A UNIT OF A COMMON INTEREST COMMUNITY, AS THOSE TERMS ARE DEFINED IN SECTION 38-33.3-103 (8) AND (30);

(C) ALLOW A UNIT OWNER, AS DEFINED IN SECTION 38-33.3-103 (31), AN OPTION THAT CONSISTS OF AT LEAST EIGHTY PERCENT DROUGHT-TOLERANT PLANTINGS; AND

(D) NOT PROHIBIT VEGETABLE GARDENS IN THE FRONT, BACK, OR SIDE YARD OF A UNIT OWNER'S PROPERTY. AS USED IN THIS SUBSECTION (11)(a.5)(I)(D), "VEGETABLE GARDEN" MEANS A PLOT OF GROUND OR AN ELEVATED SOIL BED IN WHICH POLLINATOR PLANTS, FLOWERS, OR VEGETABLES OR HERBS, FRUITS, LEAFY GREENS, OR OTHER EDIBLE PLANTS ARE CULTIVATED.

(II) THIS SUBSECTION (11)(a.5) DOES NOT APPLY TO:

(A) A UNIT OWNERS' ASSOCIATION, AS DEFINED IN SECTION 38-33.3-103 (3), THAT INCLUDES TIME SHARE UNITS, AS DEFINED IN SECTION 38-33-110 (7); OR

(B) A UNIT, AS DEFINED IN SECTION 38-33.3-103 (30), THAT IS A SINGLE-FAMILY HOME THAT SHARES ONE OR MORE WALLS WITH ANOTHER UNIT.

(b) As used in this subsection (11):

(IV) ~~"Xeriscape" means the application of the principles of landscape planning and design, soil analysis and improvement, appropriate plant selection, limitation of turf area, use of mulches, irrigation efficiency, and appropriate maintenance that results in water use efficiency and water-saving practices~~ HAS THE MEANING SET FORTH IN SECTION 38-33.3-103 (33).

SECTION 3. In Colorado Revised Statutes, 37-60-115, **amend** (6)(e) as follows:

37-60-115. Water studies - rules - repeal. (6) **Precipitation harvesting pilot projects.** (e) (I) This subsection (6) is repealed, effective July 1, 2026.

(II) THIS REPEAL DOES NOT AFFECT OR OTHERWISE PRECLUDE WATER COURTS FROM ADJUDICATING ANY APPLICATION FOR AN AUGMENTATION PLAN PURSUANT TO THIS SUBSECTION (6) THAT IS FILED PRIOR TO JULY 1, 2026.

SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in

November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.



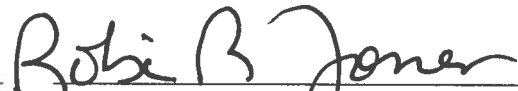
Steve Fenberg
PRESIDENT OF
THE SENATE



Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

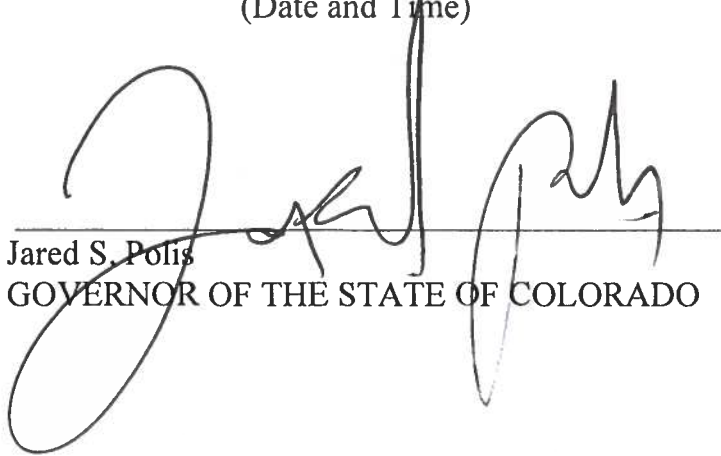


Cindi L. Markwell
SECRETARY OF
THE SENATE



Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

APPROVED Wednesday, May 17th, 2023 at 9:55am
(Date and Time)



Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO

RULES AND REGULATIONS
OF
BERKLEY SHORES

Amended 11-06-2023

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 barbecue grills are permitted; charcoal grills are not permitted. All barbecue grills, smokers, etc. must be stored in the Owner's garage or on a rear balcony or in a rear yard.

3.10 Basketball Backboards

Not permitted, whether portable or affixed

3.11 Birdbaths

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

See Section 3.52, Statues or Fountains.

3.12 Birdhouses and Bird Feeders

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

3.13 Clothes Lines and Hangers

Exterior clotheslines and hangers are not permitted.

3.14 Decks

See Section 3.8, Balconies and Decks.

3.15 Dog Houses

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

3.16 Doors

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

A. Storm Doors. Approval is required.

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

3.17 Drainage

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

3.18 Evaporative Coolers

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

See Section 3.5, Air Conditioning Equipment.

3.19 Exterior Lighting

See Section 3.29, Lights and Lighting.

3.20 Fences

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

3.21 Fire Pits

Fire pits are not permitted.

3.22 Firewood Storage

Storage of firewood is not permitted.

3.23 Flags/Flagpoles

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 for single-family homes that share one or more walls with another unit. 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 AMENDED RULES AND REGULATIONS OF
BERKLEY SHORES**

At a regular meeting of the Board of Directors of the Berkley Shores Metropolitan District, Adams County, Colorado, held at 10:00 A.M., on Monday, November 6, 2023 online meeting at <https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUIZZc1VMWTJFZjFHdz09> and via telephone at (719) 359-4580, Meeting ID: 862 6755 0643, Password: 987572, 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 (the “Original Rules and Regulations”); and

WHEREAS, the Original Rules and Regulations were amended and restated pursuant to that certain Resolution Adopting Amended Rules and Regulations of Berkley Shores dated November 1, 2021 (the “Amended Rules and Regulations”); and

WHEREAS, due to recent legislative changes, the District has determined it is necessary to adopt further revisions to the Amended Rules and Regulations to provide for the efficient operation, governance, and management of the District.

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 revised Rules and Regulations of Berkley Shores Amended 11-06-2023 as described in Exhibit A (the “Revised Rules and Regulations”), attached hereto and incorporated herein by this reference.

2. Superseding Effect. The Revised Rules and Regulations supersede in full the Original Rules and Regulations, the Amended Rules and Regulations, and any other rules or regulations on the same subject matter.

3. Binding Effect. The Revised Rules and Regulations are effective as of the date of this Resolution and shall hereinafter be binding upon the Property encumbered by the Covenants.

[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 6th DAY OF NOVEMBER 2023.

**BERKLEY SHORES METROPOLITAN
DISTRICT**

Paul Malone, President

ATTEST:

Natalie Satt, Secretary

EXHIBIT A

RULES AND REGULATIONS OF BERKLEY SHORES
AMENDED 11-06-2023



141 Union Boulevard, Suite 150
Lakewood, CO 80228-1898
303-987-0835 • Fax: 303-987-2032

MEMORANDUM

TO: Board of Directors

FROM: Christel Gemski
Executive Vice-President

DATE: October 12, 2023

RE: Notice of 2024 Rate Increase

A rectangular box containing a handwritten signature in blue ink that reads "Christel Gemski".

In accordance with the Management Agreement (“Agreement”) between the District and Special District Management Services, Inc. (“SDMS”), at the time of the annual renewal of the Agreement, the hourly rate described in Article III for management and all services shall increase by (6.0%) per hour.

We hope you will understand that it is necessary to increase our rates due to increasing gas and operating costs along with new laws and rules implemented by our legislature.



2024 NOTICE OF LEGAL SERVICES AND FEE SUMMARY

The following is a summary of fees and charges for legal services being offered by Altitude Community Law P.C. for 2024. For more details, contact your Primary Attorney or email us today at hoalaw@altitude.law.

No signature is required at this time, as this is a notice only. Existing clients will be billed at our new 2024 rates effective with their January billing. Please note: We do not accept credit card payments for legal services. Clients remain on their current billing structure (retainer/non-retainer, etc.) until we are notified otherwise.

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

RETAINER SERVICES AND BENEFITS

For a monthly fee of \$250, retainer clients receive the following legal services and benefits without further charges:

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

Reduced Hourly Rates. For legal services billed hourly beyond what is included in the retainer, we will provide those services at \$20 per hour less than our non-retainer rates for attorneys, \$10 per hour less than our non-retainer rates for paralegals, and \$5 per hour less than our non-retainer rates for legal assistants.

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

Attendance at Board Meeting. At your request, we will attend one board meeting per twelve-month period for up to one hour. While our attendance at said board

meeting is provided at no charge to retainer clients, we will bill you at our reduced hourly rates for our travel time to and from the attorney's primary office location if in-person attendance is requested instead of virtually. As a retainer client, we will prioritize attending the board meeting of your choosing. If our attendance exceeds one hour, you will be billed at our reduced hourly rates.

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

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

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

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

RETAINER PLUS SERVICES AND BENEFITS

For a monthly fee of \$320, we will provide the following legal services and benefits without further charges:

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

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

PREMIUM RETAINER SERVICES AND BENEFITS

For a monthly fee of \$570, we will provide the following legal services and benefits without further charges:

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

Email Exchanges. We will communicate with your designated board member and the association's manager via email up to 90 minutes every month which includes minor research at no additional charge exclusive of litigation, foreclosure, covenant enforcement, and document amendment matters.

Attendance at One Additional Board Meeting per Year. At your request, we will attend a total of two board meetings per twelve-month period for up to one hour each. While our attendance at said board meetings is provided at no charge to retainer clients, we will bill you at our reduced hourly rates for our travel time to

and from the attorney's primary office location if in-person attendance is requested instead of virtually. If our attendance exceeds one hour, you will be billed at our reduced hourly rates.

RETAINER SERVICES GENERALLY

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

FIXED FEE SERVICES

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

NON-RETAINER SERVICES AND BILLING TERMS

If you desire representation on a non-retainer basis, you will be billed hourly for all work performed unless a fixed fee (such as collection matters or amendment of documents) has been agreed to in advance. Our hourly rates for 2024 non-retainer clients are \$120 - \$160 for legal assistants/paralegals, \$330 - \$370 for attorneys. Non-retainer clients are billed hourly for all phone calls. Our attendance at meetings will be billed hourly. Our travel time to and from the attorney's primary office location will also be billed hourly if in-person attendance is requested instead of remote or virtual attendance.

TERMINATION OF REPRESENTATION

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

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

PRIVACY POLICY

Attorneys, like other professionals who provide certain financial services, are now required by federal and state laws to inform their clients of their policies regarding privacy of client information. Attorneys have been and continue to be bound by professional standards of

confidentiality that are even more stringent than those required by this new law. Thus, we have always protected the privacy of your confidential information.

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

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

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

GENERAL TERMS FOR ALL CLIENTS

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

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

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

Please see Exhibit A to Legal Services and Fee Summary Agreement for 2024 Legal Collection Services.

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

EXHIBIT A TO LEGAL SERVICES AND FEE SUMMARY AGREEMENT FOR 2024
LEGAL COLLECTION SERVICES

Fee Structure

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

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

Case Intake, Review and Assessment - No charge

We do not charge you to review new collection cases and make recommendations. However, if we receive open collection files from another attorney, there will be a \$100 set-up and review fee per file

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

Demand Letter - \$195

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

Super Lien Demand Letter - \$110

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

Assessment Lien Package - \$110

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

Lien Review - \$70

If your management company prepares and files liens, we will, on your behalf, review the lien to verify validity, compliance with law, and handle the recording and release of the lien in order to protect your association from liability.

Lawsuit: - \$455 plus costs

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

Lawsuit: Trial - Hourly rates apply

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

Interrogatories - \$130

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

Contempt Citation - \$155

If an owner fails to answer the interrogatories as ordered by the court, we will prepare and file all the necessary paperwork to require the owner to appear before the judge to explain why the questions were not answered. Appearances at court, including the Contempt Citation hearing and any continuances thereof, as well as bond return hearings will be billed on an hourly basis.

Garnishments - \$155 (each)

We will identify entities (usually banks, employers or tenants) which owe or have money of the owner and prepare documentation to be filed with the court to order the entity to release all or a portion of the money they hold for or are obligated to pay the owner to the association. We will arrange for service of the necessary documentation and will monitor for responses. Appearances at Court, including any hearings regarding the garnishment, will be billed on an hourly basis.

Payment Plans - \$135 - \$225 (each)

We will charge a fee depending upon the length of the payment plan to prepare the necessary documentation, monitor and process payments and close the file. Unless we are instructed

otherwise, we may agree to payment plans of up to 24 months with any homeowner. We request that interest and late fees not be added to the ledger during payment plans, as long as the homeowner pays as agreed. Monthly payments amounts are calculated based on no additional interest or late fees being incurred during the payment plan.

Motions and Responses - Hourly rates apply

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

Outbound Phone Calls - \$55

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

Payoff Calculations - \$130

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

Monitoring Lender Foreclosure - \$220 (one-time charge)

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

Monitoring Bankruptcy - \$230 Chapter 7; \$495 Chapter 13 (one-time charge)

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

Additional Proof of Claim: \$160

Motion to Dismiss: \$595

Motion for Relief from Stay: \$795

Objection to Plan: \$395

Objections to Confirmation: \$205 for Motion, then hourly if we proceed to an evidentiary hearing

Post-Petition Demand Letters to the bankruptcy attorney and owners: \$50

Motion for Late Filed Claim: \$395

Post-Petition Fees Notice: \$395

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

Assessment Increase Notice - \$395

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

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

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

Receiverships (County Court) - \$450 initial, then hourly. Costs are approximately \$250

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

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

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

Lien Sales - \$1,000

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

Intent to Redeem - \$1,500 plus costs

We prepare all documents necessary to file and execute an Intent to Redeem with Public Trustee.

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

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

Asset/Person Locations - \$25 - \$100

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

Entry of Judgment - \$150 each

We will prepare Motion and Affidavit to obtain judgment on a stipulation if owner fails to complete it successfully.



ICENOGLE SEAVER POGUE

2024 BILLING RATES

T. Edward Icenogle	Of Counsel	\$360.00 per hour
Tamara K. Seaver	Shareholder	\$485.00 per hour
Alan D. Pogue	Shareholder	\$485.00 per hour
Jennifer L. Ivey	Shareholder	\$425.00 per hour
Deborah A. Early	Shareholder	\$405.00 per hour
Anna C. Wool	Shareholder	\$305.00 per hour
Shannon Smith Johnson	Shareholder	\$305.00 per hour
Alicia J. Corley	Associate	\$290.00 per hour
Karlie R. Ogden	Associate	\$275.00 per hour
Alexandra L. Moore	Associate	\$250.00 per hour
Kayla M. Enriquez	Associate	\$250.00 per hour
Hannah E. Huval	Associate	\$250.00 per hour
Stacie L. Pacheco	Paralegal	\$205.00 per hour
Donette B. Hunter	Paralegal	\$205.00 per hour
Megan Liesmaki	Paralegal	\$205.00 per hour
L. Noel Nail	Paralegal	\$205.00 per hour
Hannah Pogue	Legal Administrator	\$ 55.00 per hour
T. Max Gilida	Legal Administrator	\$ 55.00 per hour