

# 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
Philip Clow	Treasurer	2023/May 2023
Natalie Satt	Secretary	2025/May 2025
Michael Martines	Assistant Secretary	2025/May 2025
Victoria Almagno	Assistant Secretary	2023/May 2023

DATE: November 7, 2022 (Monday)

TIME: 10:00 A.M.

LOCATION: Zoom Meeting

<https://us02web.zoom.us/j/86267550643?pwd=V3RnRGRtWkRyUjZZc1VMWTJFZjFHdz09>

**Telephone Number:** 1 (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.

\_\_\_\_\_

C. Consider approval of Minutes from August 17, 2022 Special Meeting (enclosure).

\_\_\_\_\_

### III. FINANCIAL MATTERS

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

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
<b>Total</b>	<b>\$ 7,515.33</b>	<b>\$ 10,379.86</b>	<b>\$ 15,239.80</b>

- B. Review and accept the Unaudited Financial Statements through the period ending September 30, 2022 and Schedule of Cash Position updated as of September 30, 2022 (enclosure).
- C. Consider engagement of Simmons & Wheeler, PC for preparation of 2022 Audit, in the amount of \$\_\_\_\_\_ (to be distributed).
- D. Conduct Public Hearing on the Proposed Amendment to 2022 Budget (if necessary) and Consider Approval of Resolution to Amend the 2022 Budget and Appropriate Sums of Money.
- E. Conduct Public Hearing on the Proposed 2023 Budget and Consider Approval of Resolution to Adopt the 2023 Budget and Appropriate Sums of Money and Set Mill Levies for General Fund \_\_\_\_\_, Debt Service Fund \_\_\_\_\_, and Other Fund(s) \_\_\_\_\_ for a total mill levy of \_\_\_\_\_ (enclosures – preliminary AV, draft 2023 Budget, and Resolution).

### IV. LEGAL MATTERS

- A. Consider Approval of Election Resolution (enclosure). Self-Nomination forms are due by February 24, 2023. Discuss the need for ballot issues and/or questions.
- B. Consider Adoption of Annual Resolution (enclosure).
1. Election of Officers.

2. Regular Meeting Date/Location.
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3. Discuss §32-1-809, C.R.S., Transparency Notice reporting requirements and mode of eligible elector notification (2023 SDA Website).
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- C. 2022 Legislative Report (enclosure).

1. Update on SB 21-262 Website Compliance.
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- D. Consider approval of Amendment to Advance and Reimbursement Agreement for Operations and Maintenance Expenses (enclosure).
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- E. 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 trash service.
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#### V. COVENANT ENFORCEMENT MATTERS

- A. Update on Landscape Maintenance.
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- B. Discuss fencing requests submitted for Architectural Review.
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- C. Discuss the Districts Covenant, Conditions and Restrictions.
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1. Discuss lot lines, fencing matters, and landscape maintenance options.
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#### VI. CONSTRUCTION MATTERS

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

- A. Discuss the status of the Agreement with Waste Management.
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VIII. ADJOURNMENT: ***THERE ARE NO MORE REGULAR MEETINGS SCHEDULED FOR 2022.***

Additional Enclosure:

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

## RECORD OF PROCEEDINGS

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### MINUTES OF THE SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE BERKLEY SHORES METROPOLITAN DISTRICT (THE “DISTRICT”) HELD AUGUST 17, 2022

A special meeting of the Board of Directors of the Berkley Shores Metropolitan District (referred to hereafter as the “Board”) was convened on Wednesday, August 17, 2022, at 10:00 a.m., via Zoom. The meeting was open to the public.

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Directors In Attendance Were:

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

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

Also In Attendance Were:

David Solin, Peggy Ripko and James Ruthven (for a portion of the meeting);  
Special District Services, Inc. (“SDMS”)

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

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**DISCLOSURE OF  
POTENTIAL  
CONFLICTS OF  
INTEREST**

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

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**PUBLIC  
COMMENTS**

There were no public comments at this time.

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## RECORD OF PROCEEDINGS

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### **ADMINISTRATIVE MATTERS**

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

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

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

**Minutes:** The Board reviewed the Minutes of the November 1, 2021 Special Meeting.

Following discussion, upon motion duly made by Director Malone, seconded by Director Clow and, upon vote, unanimously carried, the Minutes of the November 1, 2021 Special Meeting were approved, as presented.

**Results of May 3, 2022 Cancelled Regular Directors' Elections:** Mr. Solin discussed with the Board the results of the May 3, 2022 Regular Special District Election for Directors ("Election"). It was noted the Election had been cancelled, as allowed under the statute, as there were not more candidates than seats available. Directors Malone, Martines and Satt were deemed elected to three-year terms ending May 2025.

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

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

### **FINANCIAL MATTERS**

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

## RECORD OF PROCEEDINGS

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

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

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

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

**Unaudited Financial Statements and Schedule of Cash Position:** Mr. Solin 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 June 30, 2022.

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

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

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

## RECORD OF PROCEEDINGS

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Following review and discussion, Director Malone moved to adopt the Resolution to Amend 2021 Budget, Director Almagno seconded the motion and, upon vote, unanimously carried, the Board adopted Resolution No. 2021-08-01 to Amend the 2021 Budget and appropriate sums of money. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

**2021 Audit:** The Board discussed the request for an extension of time to file the 2021 Audit.

Following review and discussion, upon motion duly made by Director Malone, seconded by Director Almagno and, upon vote, unanimously carried, the Board ratified approval of filing an extension for 2021 Audit.

**2021 Audit:** The Board reviewed the 2021 Audit.

Following review and discussion, upon motion duly made by Director Malone, seconded by Director Almagno and, upon vote, unanimously carried, the Board approved the 2021 Audit and authorization of execution of the Audit Representations Letter.

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### **LEGAL MATTERS**

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

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

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### **COVENANT ENFORCEMENT MATTERS**

**Landscape Maintenance:** The Board discussed the update to the landscape maintenance. The Board directed the Manager to obtain a proposal for 2023 landscape maintenance from Bolsillo Brothers.

**Agreement between the District and Altitude Community Law:** The Board discussed the Agreement between the District and Altitude Community Law for Covenant-Related Legal Services.

Following discussion, upon motion duly made by Director Malone, seconded by Director Almagno and, upon vote, unanimously carried, the Board ratified the approval of the Agreement between the District and Altitude Community Law for Covenant-Related Legal Services.



## RECORD OF PROCEEDINGS

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**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. The Board directed that the District continue maintaining all areas of the District as is presently being done.

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**CONSTRUCTION  
MATTERS**

**Development:** The Board entered into discussion regarding the status of the development. It was noted the project is expected to be completed in two weeks.

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**OTHER BUSINESS**

Attorney Ivey is reviewing the agreement with Waste Management and will report back to the Board at the November meeting if there are any issues requiring the Board's attention.

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**ADJOURNMENT**

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

Respectfully submitted,

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

**Berkley Shores Metropolitan District**  
**August-22**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Crestview Water & Sanitation District	1494	7/28/2022	8/21/2022	\$2,387.45	Utilities	1762
Icenogle Seaver Pogue, P.C.	22026	7/31/2022	7/31/2022	\$1,023.00	Legal	1675
Pet Scoop	422599	7/31/2022	8/15/2022	\$ 191.20	Property Management	1710
Special District Management Services	Jul-22	7/31/2022	7/31/2022	\$ 230.88	Management	3614
Special District Management Services	Jul-22	7/31/2022	7/31/2022	\$ 44.40	Election	1635
Special District Management Services	Jul-22	7/31/2022	7/31/2022	\$ 624.60	Miscellaneous	1685
Special District Management Services	Jul-22	7/31/2022	7/31/2022	\$ 630.48	Accounting	3612
Special District Management Services	Jul-22	7/31/2022	7/31/2022	\$ 790.00	Property Management	1710
Special District Management Services	Jul-22	7/31/2022	7/31/2022	\$ 420.32	Accounting	1612
Special District Management Services	Jul-22	7/31/2022	7/31/2022	\$ 153.92	Management	1614
Waste Management of Colorado, Inc.	7752404-2514-7	8/1/2022	8/31/2022	\$ 816.76	Miscellaneous	1685
Xcel Energy	786534144	7/5/2022	7/25/2022	\$ 143.06	Utilities	1762
Xcel Energy	790639153	8/3/2022	8/23/2022	\$ 59.26	Utilities	1762
				\$7,515.33		

**Berkley Shores Metropolitan District  
August-22**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	\$ 6,653.97		\$ 861.36	\$ 7,515.33
<b>Total Disbursements from Checking Acct</b>	<b>\$6,653.97</b>	<b>\$0.00</b>	<b>\$861.36</b>	<b>\$7,515.33</b>

**Berkley Shores Metropolitan District**  
**September-22**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024M 08/2022	8/24/2022	8/24/2022	\$ 24.00	Legal	1675
Colorado Community Media	63961	8/12/2022	9/11/2022	\$ 21.28	Miscellaneous	1685
Colorado Special District Property & Liability Pool	23WC-87-0083	8/26/2022	8/26/2022	\$ 450.00	Pre-Paid Insurance	1143
Crestview Water & Sanitation District	1514	8/25/2022	9/21/2022	\$ 2,289.43	Utilities	1762
Icenogle Seaver Pogue, P.C.	22180	9/9/2022	9/9/2022	\$ 1,839.00	Legal	1675
Pet Scoop	427095	8/31/2022	9/15/2022	\$ 239.00	Property Management	1710
Special District Management Services	Aug-22	8/31/2022	8/31/2022	\$ 1,181.76	Management	3614
Special District Management Services	Aug-22	8/31/2022	8/31/2022	\$ 149.40	Miscellaneous	1685
Special District Management Services	Aug-22	8/31/2022	8/31/2022	\$ 523.92	Accounting	3612
Special District Management Services	Aug-22	8/31/2022	8/31/2022	\$ 1,510.00	Property Management	1710
Special District Management Services	Aug-22	8/31/2022	8/31/2022	\$ 349.28	Accounting	1612
Special District Management Services	Aug-22	8/31/2022	8/31/2022	\$ 787.84	Management	1614
Waste Management of Colorado, Inc.	7797619-2514-7	9/1/2022	10/1/2022	\$ 1,014.95	Miscellaneous	1685
Xcel Energy	794670541	9/1/2022	9/22/2022	\$ -	Utilities	1762
				\$10,379.86		

**Berkley Shores Metropolitan District  
September-22**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	<b>\$ 8,674.18</b>		<b>\$ 1,705.68</b>	<b>\$ 10,379.86</b>
<b>Total Disbursements from Checking Acct</b>	<b>\$8,674.18</b>	<b>\$0.00</b>	<b>\$1,705.68</b>	<b>\$10,379.86</b>

**Berkley Shores Metropolitan District**  
**October-22**

Vendor	Invoice #	Date	Due Date	Amount	Expense Account	Account Number
Altitude Community Law P.C.	2024 09/2022	9/22/2022	9/22/2022	\$ 534.00	Legal	1675
Colorado Special District Property & Liability Poo	23PL-87-1529	9/6/2022	9/30/2022	\$ 2,708.00	Pre-Paid Insurance	1143
Crestview Water & Sanitation District	1515	9/22/2022	10/21/2022	\$ 1,452.49	Utilities	1762
Icenogle Seaver Pogue, P.C.	22327	9/30/2022	9/30/2022	\$ 347.00	Legal	1675
Pet Scoop	434723	9/30/2022	10/15/2022	\$ 191.20	Property Management	1710
RLI Surety	1310219	10/10/2022	10/11/2022	\$ 250.00	Insurance/SDA Dues	1670
Simmons Wheeler P.C.	33875	9/22/2022	9/22/2022	\$ 6,500.00	Audit	1615
Special District Management Services	Sep-22	9/30/2022	9/30/2022	\$ 230.88	Management	3614
Special District Management Services	Sep-22	9/30/2022	9/30/2022	\$ 59.93	Miscellaneous	1685
Special District Management Services	Sep-22	9/30/2022	9/30/2022	\$ 586.08	Accounting	3612
Special District Management Services	Sep-22	9/30/2022	9/30/2022	\$ 300.00	Property Management	1710
Special District Management Services	Sep-22	9/30/2022	9/30/2022	\$ 390.72	Accounting	1612
Special District Management Services	Sep-22	9/30/2022	9/30/2022	\$ 153.92	Management	1614
T. Charles Wilson	11477	9/28/2022	10/10/2022	\$ 495.00	Pre-Paid Insurance	1143
Waste Management of Colorado, Inc.	7844295-2514-9	10/3/2022	11/2/2022	\$ 1,040.58	Miscellaneous	1685
				\$ 15,239.80		

**Berkley Shores Metropolitan District  
October-22**

	<b>General</b>	<b>Debt</b>	<b>Capital</b>	<b>Totals</b>
<b>Disbursements</b>	<b>\$ 14,422.84</b>		<b>\$ 816.96</b>	<b>\$ 15,239.80</b>
<b>Total Disbursements from Checking Acct</b>	<b>\$14,422.84</b>	<b>\$0.00</b>	<b>\$816.96</b>	<b>\$15,239.80</b>

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

	<u>Rate</u>	<u>Operating</u>	<u>Debt Service</u>	<u>Total</u>
<b>Checking:</b>				
First Bank		\$ 13,741.58	\$ 10,336.62	\$ 24,078.20
<b>Trustee:</b>				
UMB Bond Fund		-	136,785.93	136,785.93
UMB Reserve Fund		-	219,060.29	219,060.29
<b>Total Funds</b>		<u><u>\$ 13,741.58</u></u>	<u><u>\$ 366,182.84</u></u>	<u><u>\$ 379,924.42</u></u>

**2022 Mill Levy Information**

General Fund	25.000
Debt Service Fund	35.000
Refunds & Abatements	<u>0.230</u>
Total	<u><u>60.230</u></u>

**Board of Directors**

**Board Members**

- \* Paul Malone
- \* Philip Clow
- \* Natalie Satt
- \* Michael Martines
- \* Victoria Almagno

\* authorized signer on checking account



**BERKLEY SHORES METROPOLITAN DISTRICT**

**FINANCIAL STATEMENTS**

**September 30, 2022**

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

	<b>GENERAL</b>	<b>DEBT SERVICE</b>	<b>CAPITAL PROJECTS</b>	<b>FIXED ASSETS</b>	<b>LONG-TERM DEBT</b>	<b>TOTAL MEMO ONLY</b>
<b><u>Assets and Other Debits</u></b>						
<b>Assets</b>						
Cash in Bank - FirstBank	\$ 13,742	\$ 10,337	\$ -	\$ -	\$ -	\$ 24,078
UMB Bond Fund	-	136,786	-	-	-	136,786
UMB Reserve Fund	-	219,060	-	-	-	219,060
Property Taxes Receivable	79	-	-	-	-	79
Prepaid	450	-	-	-	-	450
Total Current Assets	<u>14,271</u>	<u>366,183</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>380,453</u>
<b>Other Debits</b>						
Amount in Debt Service Fund	-	-	-	-	366,183	366,183
Amount to be Provided for Debt	-	-	-	-	2,390,177	2,390,177
Total Other Debits	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>2,756,360</u>	<u>2,756,360</u>
<b>Capital Assets</b>						
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>
<b>Total Assets</b>	<b><u>\$ 14,271</u></b>	<b><u>\$ 366,183</u></b>	<b><u>\$ -</u></b>	<b><u>\$ 1,771,027</u></b>	<b><u>\$ 2,756,360</u></b>	<b><u>\$ 4,907,840</u></b>
<b>Liabilities</b>						
Accounts Payable	\$ -	\$ -	\$ 664	\$ -	\$ -	\$ 664
2020A Bonds Payable	-	-	-	-	2,312,000	2,312,000
Op Funding - Due Developer	-	-	-	-	107,919	107,919
Op Funding - Accrued Interest	-	-	-	-	6,771	6,771
Cap Funding - Due Developer	-	-	-	-	290,988	290,988
Cap Funding - Accrued Interest	-	-	-	-	38,682	38,682
Total Liabilities	<u>-</u>	<u>-</u>	<u>664</u>	<u>-</u>	<u>2,756,360</u>	<u>2,757,024</u>
<b>Deferred Inflows of Resources</b>						
Deferred Property taxes	79	-	-	-	-	79
Total Deferred Inflows of Resources	<u>79</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>79</u>
<b>Fund Balance</b>						
Investment in Fixed Assets	-	-	-	1,771,027	-	1,771,027
Fund Balance	1	407,370	(1)	-	-	407,369
Current Year Earnings	14,191	(41,187)	(663)	-	-	(27,659)
Total Fund Balances	<u>14,192</u>	<u>366,183</u>	<u>(664)</u>	<u>1,771,027</u>	<u>-</u>	<u>2,150,737</u>
<b>Total Liabilities, Deferred Inflows of Resources and Fund Balance</b>	<b><u>\$ 14,271</u></b>	<b><u>\$ 366,183</u></b>	<b><u>\$ -</u></b>	<b><u>\$ 1,771,027</u></b>	<b><u>\$ 2,756,360</u></b>	<b><u>\$ 4,907,840</u></b>

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Statement of Revenues, Expenditures and**  
**Change in Fund Balance - Budget and Actual**  
**For the 9 Months Ending**  
**September 30, 2022**  
**General Fund**

<b>Account Description</b>	<b>Period Actual</b>	<b>YTD Actual</b>	<b>Budget</b>	<b>Favorable (Unfavorable) Variance</b>	<b>% of Budget</b>
<b>Revenues</b>					
Developer Advance	\$ 20,574	\$ 52,515	\$ 175,000	\$ (122,485)	30.0%
Miscellaneous income	-	50	-	(50)	-
Property Tax Revenue	1,490	14,843	14,922	(79)	99.5%
Specific Ownership Taxes	-	-	895	(895)	0.0%
<b>Total Revenues</b>	<b>22,064</b>	<b>67,408</b>	<b>190,817</b>	<b>(123,509)</b>	<b>35.3%</b>
<b>Expenditures</b>					
Accounting	1,220	3,552	15,000	11,448	23.7%
Management	2,032	4,151	20,000	15,849	20.8%
Audit	-	-	5,500	5,500	0.0%
Billing	-	-	6,000	6,000	0.0%
Election	44	728	3,000	2,272	24.3%
Insurance/SDA Dues	-	4,047	5,500	1,453	73.6%
Utilities	7,073	11,384	20,000	8,616	56.9%
Legal	4,402	8,912	18,000	9,088	49.5%
Miscellaneous	3,852	7,520	2,000	(5,520)	376.0%
Treasurer's Fees	-	-	224	224	0.0%
Property Management	4,629	8,188	14,400	6,212	56.9%
Snow Removal	-	3,808	13,000	9,193	29.3%
Landscape Improvements	-	927	-	(927)	-
Landscape Maintenance	-	-	20,000	20,000	0.0%
Irrigation Repair	-	-	2,000	2,000	0.0%
Detention Pond Maintenance	-	-	5,000	5,000	0.0%
Operations & Maintenance Res.	-	-	5,000	5,000	0.0%
Repairs & Maintenance	-	-	4,000	4,000	0.0%
Fence Repairs	-	-	2,500	2,500	0.0%
Contingency	-	-	10,000	10,000	0.0%
Emergency Reserve	-	-	5,725	5,725	0.0%
<b>Total Expenditures</b>	<b>23,251</b>	<b>53,217</b>	<b>176,849</b>	<b>123,632</b>	<b>30.1%</b>
Excess (Deficiency) of Revenues Over Expenditures	(1,188)	14,191	13,968	223	
Beginning Fund Balance	15,379	1	4,608	(4,607)	
<b>Ending Fund Balance</b>	<b>\$ 14,192</b>	<b>\$ 14,192</b>	<b>\$ 18,576</b>	<b>\$ (4,484)</b>	

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Statement of Revenues, Expenditures and**  
**Change in Fund Balance - Budget and Actual**  
**For the 9 Months Ending**  
**September 30, 2022**  
**Debt Service Fund**

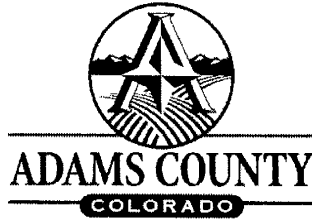
<b>Account Description</b>	<b>Period Actual</b>	<b>YTD Actual</b>	<b>Budget</b>	<b>Favorable (Unfavorable) Variance</b>	<b>% of Budget</b>
<b>Revenues</b>					
Property Tax Revenue	\$ 2,086	\$ 20,780	\$ 20,700	\$ 80	100.4%
Specific Ownership Tax	-	-	1,242	(1,242)	0.0%
Interest Income	1,942	2,836	200	2,636	1418.2%
<b>Total Revenues</b>	<b>4,028</b>	<b>23,616</b>	<b>22,142</b>	<b>1,474</b>	<b>106.7%</b>
<b>Expenditures</b>					
Bond Interest	-	60,690	121,380	60,690	50.0%
Paying Agent/Trustee Fees	4,089	4,113	5,500	1,387	74.8%
Miscellaneous	-	-	250	250	0.0%
Treasurer's Fees	-	-	1,242	1,242	0.0%
Contingency	-	-	10,000	10,000	0.0%
<b>Total Expenditures</b>	<b>4,089</b>	<b>64,803</b>	<b>138,372</b>	<b>73,569</b>	<b>46.8%</b>
Excess (Deficiency) of Revenues Over Expenditures	(62)	(41,187)	(116,230)	75,043	
Beginning Fund Balance	366,244	407,370	401,780	5,590	
<b>Ending Fund Balance</b>	<b>\$ 366,183</b>	<b>\$ 366,183</b>	<b>\$ 285,550</b>	<b>\$ 80,633</b>	

**BERKLEY SHORES METROPOLITAN DISTRICT**  
**Statement of Revenues, Expenditures and**  
**Change in Fund Balance - Budget and Actual**  
**For the 9 Months Ending,**  
**September 30, 2022**  
**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>
<b>Revenues</b>					
Developer Advance	\$ 4,872	\$ 10,892	\$ 37,400	\$ (26,508)	29.1%
<b>Total Revenues</b>	<u>4,872</u>	<u>10,892</u>	<u>37,400</u>	<u>(26,508)</u>	<u>29.1%</u>
<b>Expenditures</b>					
Accounting	1,829	5,328	12,000	6,672	44.4%
Management	3,048	6,227	8,000	1,773	77.8%
Legal	-	-	12,000	12,000	0.0%
Engineering	-	-	5,400	5,400	0.0%
<b>Total Expenditures</b>	<u>4,877</u>	<u>11,555</u>	<u>37,400</u>	<u>25,845</u>	<u>30.9%</u>
Excess (Deficiency) of Revenues Over Expenditures	(5)	(663)	-	(663)	
Beginning Fund Balance	(659)	(1)	-	(1)	
<b>Ending Fund Balance</b>	<u>\$ (664)</u>	<u>\$ (664)</u>	<u>\$ -</u>	<u>\$ (664)</u>	

Ken Musso  
ASSESSOR

AUG 27 2022



Assessor's Office  
4430 South Adams County Parkway  
2nd Floor, Suite C2100  
Brighton, CO 80601-8201  
PHONE 720.523.6038  
FAX 720.523.6037  
[www.adcogov.org](http://www.adcogov.org)

August 25, 2022

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

To Whom it May Concern:

Enclosed is the 2022 preliminary valuation. This valuation along with all other statutory requirements is on the enclosed form. A final certification of value will be sent out on or before December 10, 2022.

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

Sincerely,

Ken Musso  
Adams County Assessor  
KM/rmb

# CERTIFICATION OF VALUATION BY ADAMS COUNTY ASSESSOR

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

IN ADAMS COUNTY ON 8/25/2022

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 'TABOR' LOCAL GROWTH CALCULATIONS ONLY

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

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): \*\*

\*\* 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.

Data Date: 8/23/2022

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

	2021 Actual		2022 Adopted Budget		2023 Preliminary 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		35.000
Refunds and Abatements		-		0.230		-
Total Mill Levy		60.000		60.230		60.000
Property Taxes						
General Fund	\$	4,900	\$	14,786	\$	41,731
Debt Service Fund		6,859		20,700		58,423
Refunds and Abatements		-		136		-
Actual/Budgeted Property Taxes	\$	11,759	\$	35,622	\$	100,154



# BERKLEY SHORES METROPOLITAN DISTRICT

## GENERAL FUND 2023 Preliminary Budget with 2021 Actual, 2022 Adopted Budget, and 2022 Estimated

	2021 Actual	01/22-07/22 YTD Actual	2022 Adopted Budget	2022 Estimated	2023 Preliminary Budget
<b>BEGINNING FUND BALANCE</b>	\$ -	\$ 0	\$ 4,608	\$ 0	\$ 17,219
<b>REVENUE</b>					
Property Tax Revenue	4,121	14,843	14,922	14,922	41,731
Specific Ownership Taxes	722	-	895	895	2,504
Developer Advance	41,857	37,749	175,000	175,000	135,000
Miscellaneous income	-	50	-	-	-
<b>Total Revenue</b>	46,700	52,642	190,817	190,817	179,235
<b>Total Funds Available</b>	46,700	52,642	195,425	190,817	196,454
<b>EXPENDITURES</b>					
Accounting	4,861	2,782	15,000	15,000	16,200
Audit	6,500	-	5,500	5,500	6,000
Insurance/SDA Dues	3,068	4,047	5,500	4,047	4,500
Legal	12,328	6,026	18,000	18,000	18,000
Election	-	684	3,000	3,000	1,000
Management	3,017	3,210	20,000	20,000	21,600
Miscellaneous	2,120	4,718	2,000	5,000	2,000
Treasurer's Fees	-	-	224	224	626
Property Management	1,319	5,457	14,400	14,400	15,600
Billing	-	-	6,000	6,000	6,500
Landscape Maintenance	-	-	20,000	20,000	20,000
Landscape Improvements	-	927	-	927	-
Irrigation Repair	-	-	2,000	2,000	2,000
Snow Removal	-	3,808	13,000	13,000	13,000
Detention Pond Maintenance	-	-	5,000	5,000	5,000
Operations & Maintenance Res.	-	-	5,000	5,000	5,000
Repairs & Maintenance	-	-	4,000	4,000	4,000
Fence Repairs	-	-	2,500	2,500	2,500
Utilities	8,123	6,505	20,000	20,000	20,000
Contingency	-	-	10,000	10,000	10,000
<b>Total Expenditures</b>	41,337	38,164	171,124	173,598	173,526
<b>Transfers and Other Sources (Uses)</b>					
Emergency Reserve	-	-	(5,725)	-	(5,377)
Transfer to Debt Service	(4,000)	-	-	-	-
Transfer to Capital Projects	(1,363)	-	-	-	-
<b>Total Expenditures Requiring Appropriation</b>	46,699	38,164	176,849	173,598	178,903
<b>ENDING FUND BALANCE</b>	\$ 0	\$ 14,478	\$ 18,577	\$ 17,219	\$ 17,551

# BERKLEY SHORES METROPOLITAN DISTRICT

## DEBT SERVICE FUND 2023 Preliminary Budget with 2021 Actual, 2022 Adopted Budget, and 2022 Estimated

	2021 Actual	01/22-07/22 YTD Actual	2022 Adopted Budget	2022 Estimated	2023 Preliminary Budget
BEGINNING FUND BALANCE	\$ 521,751	\$ 407,370	\$ 401,780	\$ 407,370	\$ 293,871
<b>REVENUE</b>					
Property Tax Revenue	5,769	20,780	20,700	20,700	58,423
Specific Ownership Tax	1,010	-	1,242	1,242	3,505
Interest Income	271	1,353	200	2,000	2,000
<b>Total Revenue</b>	7,050	22,132	22,142	23,942	63,928
<b>Total Funds Available</b>	528,801	429,502	423,922	431,312	357,800
<b>EXPENDITURES</b>					
Bond Interest	121,380	60,690	121,380	121,380	121,380
Paying Agent/Trustee Fees	4,082	38	5,500	5,500	5,500
Miscellaneous	-	-	250	250	250
Treasurer's Fees	-	-	1,242	311	876
Contingency	-	-	10,000	10,000	10,000
<b>Total Expenditures</b>	125,462	60,728	138,372	137,441	138,006
<b>Transfers and Other Sources (Uses)</b>					
Transfer from General Fund	4,000	-	-	-	-
Transfer from Capital Projects	31	-	-	-	-
<b>Total Expenditures Requiring Appropriation</b>	125,462	60,728	138,372	137,441	138,006
<b>ENDING FUND BALANCE</b>	\$ 407,370	\$ 368,774	\$ 285,550	\$ 293,871	\$ 219,793

# BERKLEY SHORES METROPOLITAN DISTRICT

## CAPITAL PROJECTS FUND

### 2023 Preliminary Budget

with 2021 Actual, 2022 Adopted Budget, and 2022 Estimated

	2021 YTD Actual	01/22-07/22 YTD Actual	2022 Adopted Budget	2022 Estimated	2023 Preliminary Budget
BEGINNING FUND BALANCE	\$ 1,031,073	\$ (0)	\$ -	\$ (0)	\$ (0)
<b>REVENUE</b>					
Developer Advance	1,305,118	7,721	37,400	37,400	37,400
Interest Income	43	-	-	-	-
<b>Total Revenue</b>	1,305,161	7,721	37,400	37,400	37,400
<b>Total Funds Available</b>	2,336,234	7,721	37,400	37,400	37,400
<b>EXPENDITURES</b>					
Accounting	7,291	4,174	12,000	12,000	13,000
Legal	5,714	-	12,000	12,000	12,000
Management	4,526	4,815	8,000	8,000	8,600
Miscellaneous	24	-	-	-	-
Engineering	4,725	-	5,400	5,400	5,400
Capital Outlay	1,277,147	-	-	-	-
<b>Total Expenditures</b>	1,299,427	8,988	37,400	37,400	39,000
<b>Transfers and Other Sources (Uses)</b>					
Transfer to Debt Service Fund	(31)	-	-	-	-
Transfer from General Fund	1,363	-	-	-	-
Reimburse Developer Advances	(1,038,139)	-	-	-	-
<b>Total Expenditures Requiring Appropriation</b>	2,337,597	8,988	37,400	37,400	39,000
ENDING FUND BALANCE	\$ (0)	\$ (1,267)	\$ -	\$ (0)	\$ (1,600)

STATE OF COLORADO  
COUNTY OF ADAMS  
BERKLEY SHORES METROPOLITAN DISTRICT  
2023 BUDGET RESOLUTION

The Board of Directors of the Berkley Shores Metropolitan District, Adams County, Colorado held a regular meeting on Monday, November 7, 2022, at the hour of 10:00 A.M., via video conference at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> and via telephone conference at Dial-In: 1-253-215-8782, Meeting ID: 546 911 9353, Passcode: 912873.

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 2023 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://berkleyshoresmd.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 2023 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 2023 AND ENDING ON THE LAST DAY OF DECEMBER 2023.

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, 2022; and

WHEREAS, the proposed budget is more than fifty thousand dollars (\$50,000.00), due and proper notice was published on Thursday, November 3, 2022, 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 7, 2022 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 2023 Revenues and 2023 Expenditures. That the estimated revenues and expenditures for each fund for fiscal year 2023, 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 2023. 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. Appropriations. That the amounts set forth as expenditures and balances remaining, as specifically allocated in the budget attached, are hereby appropriated from the revenue of each fund, to each fund, for the purposes stated and no other.

Section 4. Budget Certification. That the budget shall be certified by 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 5. 2023 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 \$41,731 and that the 2022 valuation for assessment, as certified by the Adams County Assessor, is \$1,669,230. That for the purposes of meeting all general operating expenses of the District during the 2023 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 2023.

Section 6. 2023 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 \$58,423 and that the 2022 valuation for assessment, as certified by the Adams County Assessor, is \$1,669,230. That for the purposes of meeting all debt retirement expenses of the District during the 2023 budget year, there is hereby levied a tax of 35.000 mills upon each dollar of the total valuation of assessment of all taxable property within the District for the year 2023.

Section 7. 2023 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 Section 2 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, 2022, for collection in 2023.

Section 8. 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 7TH DAY OF NOVEMBER 2022.

BERKLEY SHORES METROPOLITAN DISTRICT

By: \_\_\_\_\_  
Its: Paul T. Malone  
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 on Monday, November 7, 2022 via video conference at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> and via telephone conference at Dial-In: 1-253-215-8782, Meeting ID: 546 911 9353, Passcode: 912873, as recorded in the official record of the proceedings of the District, insofar as said proceedings relate to the budget hearing for fiscal year 2023; 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 7th day of November 2022.

---

Natalie Satt, Secretary

[SEAL]

**EXHIBIT A**

Affidavit  
Notice as to Proposed 2023 Budget

## Public Notice

### **NOTICE AS TO PROPOSED 2023 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 2023. A copy of such proposed budget has been filed at 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 7, 2022.** The meeting will be held via video conference at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> and via telephone conference at Dial-In: 1-253-215-8782, Meeting ID: 546 911 9353, Passcode: 912873. 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 2023 budget.

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

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

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**NOTICE AS TO PROPOSED 2023 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 2023. A copy of such proposed budget has been filed at 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 7, 2022. The meeting will be held via video conference at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> and via telephone conference at Dial-In: 1-253-215-8782, Meeting ID: 546 911 9353, Passcode: 912873. 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 2023 budget.

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

By: /s/ ICENOGLE | SEAYER | POGUE  
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Publish In: *Northglenn/Thornton Sentinel/Westminster Window*  
Publish On: Thursday, October 27, 2022

## **EXHIBIT B**

Budget Document  
Budget Message

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

	2021 Actual		2022 Adopted Budget		2023 Preliminary 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		35.000
Refunds and Abatements		-		0.230		-
Total Mill Levy		60.000		60.230		60.000
Property Taxes						
General Fund	\$	4,900	\$	14,786	\$	41,731
Debt Service Fund		6,859		20,700		58,423
Refunds and Abatements		-		136		-
Actual/Budgeted Property Taxes	\$	11,759	\$	35,622	\$	100,154

# BERKLEY SHORES METROPOLITAN DISTRICT

## GENERAL FUND 2023 Preliminary Budget with 2021 Actual, 2022 Adopted Budget, and 2022 Estimated

	2021 Actual	01/22-07/22 YTD Actual	2022 Adopted Budget	2022 Estimated	2023 Preliminary Budget
<b>BEGINNING FUND BALANCE</b>	\$ -	\$ 0	\$ 4,608	\$ 0	\$ 17,219
<b>REVENUE</b>					
Property Tax Revenue	4,121	14,843	14,922	14,922	41,731
Specific Ownership Taxes	722	-	895	895	2,504
Developer Advance	41,857	37,749	175,000	175,000	135,000
Miscellaneous income	-	50	-	-	-
<b>Total Revenue</b>	46,700	52,642	190,817	190,817	179,235
<b>Total Funds Available</b>	46,700	52,642	195,425	190,817	196,454
<b>EXPENDITURES</b>					
Accounting	4,861	2,782	15,000	15,000	16,200
Audit	6,500	-	5,500	5,500	6,000
Insurance/SDA Dues	3,068	4,047	5,500	4,047	4,500
Legal	12,328	6,026	18,000	18,000	18,000
Election	-	684	3,000	3,000	1,000
Management	3,017	3,210	20,000	20,000	21,600
Miscellaneous	2,120	4,718	2,000	5,000	2,000
Treasurer's Fees	-	-	224	224	626
Property Management	1,319	5,457	14,400	14,400	15,600
Billing	-	-	6,000	6,000	6,500
Landscape Maintenance	-	-	20,000	20,000	20,000
Landscape Improvements	-	927	-	927	-
Irrigation Repair	-	-	2,000	2,000	2,000
Snow Removal	-	3,808	13,000	13,000	13,000
Detention Pond Maintenance	-	-	5,000	5,000	5,000
Operations & Maintenance Res.	-	-	5,000	5,000	5,000
Repairs & Maintenance	-	-	4,000	4,000	4,000
Fence Repairs	-	-	2,500	2,500	2,500
Utilities	8,123	6,505	20,000	20,000	20,000
Contingency	-	-	10,000	10,000	10,000
<b>Total Expenditures</b>	41,337	38,164	171,124	173,598	173,526
<b>Transfers and Other Sources (Uses)</b>					
Emergency Reserve	-	-	(5,725)	-	(5,377)
Transfer to Debt Service	(4,000)	-	-	-	-
Transfer to Capital Projects	(1,363)	-	-	-	-
<b>Total Expenditures Requiring Appropriation</b>	46,699	38,164	176,849	173,598	178,903
<b>ENDING FUND BALANCE</b>	\$ 0	\$ 14,478	\$ 18,577	\$ 17,219	\$ 17,551

# BERKLEY SHORES METROPOLITAN DISTRICT

## DEBT SERVICE FUND 2023 Preliminary Budget with 2021 Actual, 2022 Adopted Budget, and 2022 Estimated

	2021 Actual	01/22-07/22 YTD Actual	2022 Adopted Budget	2022 Estimated	2023 Preliminary Budget
BEGINNING FUND BALANCE	\$ 521,751	\$ 407,370	\$ 401,780	\$ 407,370	\$ 293,871
<b>REVENUE</b>					
Property Tax Revenue	5,769	20,780	20,700	20,700	58,423
Specific Ownership Tax	1,010	-	1,242	1,242	3,505
Interest Income	271	1,353	200	2,000	2,000
<b>Total Revenue</b>	7,050	22,132	22,142	23,942	63,928
<b>Total Funds Available</b>	528,801	429,502	423,922	431,312	357,800
<b>EXPENDITURES</b>					
Bond Interest	121,380	60,690	121,380	121,380	121,380
Paying Agent/Trustee Fees	4,082	38	5,500	5,500	5,500
Miscellaneous	-	-	250	250	250
Treasurer's Fees	-	-	1,242	311	876
Contingency	-	-	10,000	10,000	10,000
<b>Total Expenditures</b>	125,462	60,728	138,372	137,441	138,006
<b>Transfers and Other Sources (Uses)</b>					
Transfer from General Fund	4,000	-	-	-	-
Transfer from Capital Projects	31	-	-	-	-
<b>Total Expenditures Requiring Appropriation</b>	125,462	60,728	138,372	137,441	138,006
ENDING FUND BALANCE	\$ 407,370	\$ 368,774	\$ 285,550	\$ 293,871	\$ 219,793



# BERKLEY SHORES METROPOLITAN DISTRICT

## CAPITAL PROJECTS FUND

### 2023 Preliminary Budget

with 2021 Actual, 2022 Adopted Budget, and 2022 Estimated

	2021 YTD Actual	01/22-07/22 YTD Actual	2022 Adopted Budget	2022 Estimated	2023 Preliminary Budget
BEGINNING FUND BALANCE	\$ 1,031,073	\$ (0)	\$ -	\$ (0)	\$ (0)
<b>REVENUE</b>					
Developer Advance	1,305,118	7,721	37,400	37,400	37,400
Interest Income	43	-	-	-	-
<b>Total Revenue</b>	1,305,161	7,721	37,400	37,400	37,400
<b>Total Funds Available</b>	2,336,234	7,721	37,400	37,400	37,400
<b>EXPENDITURES</b>					
Accounting	7,291	4,174	12,000	12,000	13,000
Legal	5,714	-	12,000	12,000	12,000
Management	4,526	4,815	8,000	8,000	8,600
Miscellaneous	24	-	-	-	-
Engineering	4,725	-	5,400	5,400	5,400
Capital Outlay	1,277,147	-	-	-	-
<b>Total Expenditures</b>	1,299,427	8,988	37,400	37,400	39,000
<b>Transfers and Other Sources (Uses)</b>					
Transfer to Debt Service Fund	(31)	-	-	-	-
Transfer from General Fund	1,363	-	-	-	-
Reimburse Developer Advances	(1,038,139)	-	-	-	-
<b>Total Expenditures Requiring Appropriation</b>	2,337,597	8,988	37,400	37,400	39,000
ENDING FUND BALANCE	\$ (0)	\$ (1,267)	\$ -	\$ (0)	\$ (1,600)

## **EXHIBIT C**

### Certification of Tax Levy

**CERTIFICATION OF TAX LEVIES for NON-SCHOOL Governments****TO:** County Commissioners<sup>1</sup> of \_\_\_\_\_, Colorado.On behalf of the \_\_\_\_\_,  
(taxing entity)<sup>A</sup>the \_\_\_\_\_,  
(governing body)<sup>B</sup>of the \_\_\_\_\_,  
(local government)<sup>C</sup>**Hereby** officially certifies the following mills  
to be levied against the taxing entity's GROSS \$ \_\_\_\_\_  
assessed valuation of: (GROSS<sup>D</sup> assessed valuation, Line 2 of the Certification of Valuation Form DLG 57<sup>E</sup>)**Note:** If the assessor certified a NET assessed valuation  
(AV) different than the GROSS AV due to a Tax  
Increment Financing (TIF) Area<sup>F</sup> 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<sup>G</sup> 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)**LEVY<sup>2</sup>****REVENUE<sup>2</sup>**

1. General Operating Expenses <sup>H</sup>	_____ mills	\$ _____
2. <Minus> Temporary General Property Tax Credit/ Temporary Mill Levy Rate Reduction <sup>I</sup>	< _____ > mills	\$ < _____ >
<b>SUBTOTAL FOR GENERAL OPERATING:</b>	<div style="border: 1px solid black; display: inline-block; width: 100px; height: 20px;"></div> mills	<div style="border: 1px solid black; display: inline-block; width: 100px; height: 20px;"></div> \$
3. General Obligation Bonds and Interest <sup>J</sup>	_____ mills	\$ _____
4. Contractual Obligations <sup>K</sup>	_____ mills	\$ _____
5. Capital Expenditures <sup>L</sup>	_____ mills	\$ _____
6. Refunds/Abatements <sup>M</sup>	_____ mills	\$ _____
7. Other <sup>N</sup> (specify): _____	_____ mills	\$ _____
	_____ mills	\$ _____
<b>TOTAL:</b> [ Sum of General Operating Subtotal and Lines 3 to 7 ]	<div style="border: 1px solid black; display: inline-block; width: 100px; height: 20px;"></div> mills	<div style="border: 1px solid black; display: inline-block; width: 100px; height: 20px;"></div> \$

Contact person: \_\_\_\_\_ Daytime  
(print) phone: ( ) \_\_\_\_\_

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.*<sup>1</sup> 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.<sup>2</sup> 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<sup>J</sup>:**

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<sup>K</sup>:**

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 7th day of November 2022.

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Natalie Satt, Secretary

S E A L

**RESOLUTION OF  
THE BOARD OF DIRECTORS OF  
BERKLEY SHORES METROPOLITAN DISTRICT  
2023 REGULAR SPECIAL DISTRICT ELECTION RESOLUTION**

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 7, 2022, via video conference at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> and via telephone conference at Dial-In: 1-253-215-8782, Meeting ID: 546 911 9353, Passcode: 912873, at which a quorum was present, the following resolution (the “Resolution”) was adopted:

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

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

**WHEREAS**, pursuant to Section 32-1-305.5(3)(a), C.R.S., the term of office of members of the Board of Directors for the District (the “Board”) elected in a regular special district election is four (4) years; and

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

**WHEREAS**, the term of office for two (2) members of the Board for the District shall expire after their successors are elected at the next regular election for the District scheduled to be held on the Tuesday succeeding the first Monday of May in accordance with Section 1-13.5-111(1), C.R.S.: May 2, 2023; and

**WHEREAS**, in accordance with the Election Laws, an election must be conducted to elect to the Board of the District two (2) Directors to serve for terms of four years and zero (0) Directors to serve terms of two years; and

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

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

**WHEREAS**, 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 for the conduct of regular and special elections, including making all initial decisions as to controversies or other matters arising in the operation of the Local Government Election Code, may be exercised by a “Designated Election Official” designated by the Board; and

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

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

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

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

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

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

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

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

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

1. The Board hereby calls a regular election of the eligible electors of the District to be held between the hours of 7:00 A.M. and 7:00 P.M. on the Tuesday succeeding the first Monday of May pursuant to and in accordance with Section 1-13.5-111(1), C.R.S., the Election Laws, and other applicable laws (May 2, 2023), for the purpose of electing two (2) Directors to serve a four-year term and zero (0) Directors to serve a two-year term on the Board (the “Election”), as such numbers may change due to one or more vacancies arising on the Board after the adoption of this Resolution and prior to the Election. The Election shall be conducted as an independent mail ballot election, pursuant to Part 11 of the Local Government Election Code.

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

3. The Board hereby directs the Designated Election Official to provide public notice of a call for nominations for the Election in accordance with the requirements of Section 1-13.5-501, C.R.S., which shall include information regarding the director offices to be voted upon at the Election, where a self-nomination and acceptance form or letter may be obtained, the deadline for submitting the self-nomination and acceptance form or letter to the Designated Election Official, and information on obtaining an absentee ballot. The notice shall be emailed to each active registered elector of the District as specified in the registration list provided by the Adams County Clerk and Recorder as of the date that is one hundred fifty (150) days prior to the date of the Election or, if no email address



is on file, by mail as provided in Section 1-13.5-501(1.7), C.R.S. In addition, public notice shall be provided by posting the information on the official website of the District.

4. The Board deems it expedient for the convenience of the electors that it shall establish a polling place & drop-off location for all regular and special elections of the District. There shall be one (1) polling place & drop-off location for the elections. This polling place & drop-off location shall be used for any regular or special elections to be held in 2023 and in each year thereafter until such polling place & drop-off location is changed by duly adopted resolution of the Board. Such polling place & drop-off location shall be located at Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228. All voters for the District, including handicapped and nonresident voters unless otherwise permitted by law, shall return their ballots to the designated polling place & drop-off location by mail or delivery. All eligible electors may also obtain a replacement ballot from the polling place & drop-off location until 7:00 P.M. on election day in accordance with Section 1-13.5-1105(4), C.R.S. A map showing the District's boundaries is on file at the offices of Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228 and is available for examination by all interested persons.

5. Applications for an absentee voter's ballot or for permanent absentee voter status may be filed with the Designated Election Official, Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228, between the hours of 8:00 a.m. and 5:00 p.m., until the close of business on the Tuesday immediately preceding the Election (April 25, 2023).

6. Pursuant to Section 1-13.5-303, C.R.S., all candidates must file a self-nomination and acceptance form or letter signed by the candidate and by an eligible elector of the District as a witness to the signature of the candidate with the Designated Election Official no later than 5:00 P.M. on the day that is sixty-seven (67) days prior to the Election (February 24, 2023). Self-nomination and acceptance forms are available at the Designated Election Official's office located at the above address.

7. Pursuant to Section 1-13.5-513, C.R.S., the Board hereby authorizes and directs the Designated Election Official to cancel the Election and declare the candidates elected if, at or after the close of business on the sixty-third (63<sup>rd</sup>) day before the Election (February 28, 2023), there are not more candidates for director than offices to be filled, including candidates filing affidavits of intent to be write-in candidates, and so long as the only matter before the electors is the election of persons to office. Under these circumstances, the Board further authorizes and directs the Designated Election Official to provide notice of the cancellation by publication in accordance with Section 1-13.5-501, C.R.S. and to post notice of the cancellation at each polling location, the office of the Designated Election Official, the Adams County Clerk and Recorder's Office, and with the Division. The Designated Election Official shall also file notice and a copy of this Resolution authorizing the cancellation of the Election with the Division pursuant to Section 1-11-103(3), C.R.S. The Designated Election Official shall also notify the candidates that the Election was canceled and they were elected by acclamation.

8. In accordance with Sections 1-11-103(3) & 32-1-104(1), C.R.S., the District directs the Designated Election Official to notify the Division of the results of any elections held by the

District, including the District's business address, telephone number, and contact person within thirty (30) days after the Election (June 1, 2023).

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

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

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

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

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

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

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

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

**ADOPTED AND APPROVED THIS 7TH DAY OF NOVEMBER, 2022.**

**BERKLEY SHORES METROPOLITAN  
DISTRICT**

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Paul Malone, President

ATTEST:

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Natalie Satt, Secretary

**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 7, 2022, via video conference at <https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09> and via telephone conference at Dial-In: 1-253-215-8782, Meeting ID: 546 911 9353, Passcode: 912873, at which a quorum was present, the following resolution was adopted:

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

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

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

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

**WHEREAS**, 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**, 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, commencing in 2023 for the 2022 calendar year, any special district created after July 1, 2000, must electronically file an annual report for the preceding calendar year by October 1<sup>st</sup> with the governing body that approved the service plan or, if the jurisdiction has changed due to the annexation into a municipality, the current governing body with jurisdiction over the District, the Division, the State Auditor, and the County Clerk and Recorder, and make the same available on the website of the District; and

**WHEREAS**, in accordance with the Colorado Governmental Immunity Act, 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 to file the approved budgets and amendments thereto with the proper governmental entities not later than thirty (30) days after the beginning of the fiscal year of the budget adopted, in accordance with the Local Government Budget Law of Colorado.

5. The Board directs management to prepare and file a current list of all contracts in effect with other political subdivisions with the Division within thirty (30) days of receiving a request therefor from the Division, if applicable.
6. The Board directs legal counsel and/or the accountant to prepare and file the annual public securities report for nonrated public securities issued by the District with the Department within sixty (60) days following the end of the District's fiscal year, if applicable.
7. The Board directs the accountant to file either an application for exemption from audit with the State Auditor within three (3) months after the close of the District's fiscal year, or that an audit of the financial statements is prepared and submitted to the Board within six (6) months after the close of the District's fiscal year. Further, the Board directs that the audit report be filed with the State Auditor within thirty (30) days after the Board's receipt of the audit report from the auditor.
8. The Board directs legal counsel to prepare the Unclaimed Property Act report and forward to the State Treasurer by November 1, if applicable.
9. The Board designates the *Northglenn/Thornton Sentinel/Westminster Window* as a newspaper of general circulation within the boundaries of the District or in the vicinity of the District if none is circulated within the District, and directs that all legal notices shall be published in accordance with applicable statutes in the *Northglenn/Thornton Sentinel/Westminster Window*.
10. The Board designates the URL Domain <https://berkeleyshoresmd.colorado.gov/>, as the District's official website and posting place for notices of meetings pursuant to 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 a post within the boundaries of the District, as the public place within the boundaries of the District at which it may post notices of meetings if it is unable to post a notice on the District's official website.
11. 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 June 5, 2023 and November 6, 2023, at 10:00 A.M. via online meeting at \_\_\_\_\_ and via telephone at \_\_\_\_\_. 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. 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, 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228.
15. 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.
16. The Board hereby elects the following officers for the District:

President/Chairman:	Paul Malone
Treasurer:	Philip Clow
Secretary:	Natalie Satt
Assistant Secretary:	Michael Martines
Assistant Secretary:	Victoria Almagno
17. 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.
18. 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.

19. 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.
20. 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.
21. 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.
22. 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.
23. The Board directs legal counsel 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.
24. The District is currently a member of the Special District Association ("SDA") and insured through the Colorado Special Districts Property and Liability Pool. The Board directs the District's accountant to pay the annual SDA membership dues and insurance premiums in a timely manner and complete all necessary conditions of the third-party insurance agent, as applicable. The Board will review all insurance policies and coverage in effect to determine appropriate insurance coverage is maintained, at least biannually.
25. The Board directs the custodian of all electronic recordings of executive sessions to retain all electronic recordings of executive sessions for purposes of the Colorado

Open Meetings Law for ninety (90) days after the date of the executive session. The Board further directs the custodian to systematically delete all recordings of executive sessions made for purposes of the Colorado Open Meetings Law at its earliest convenience after the ninetieth (90<sup>th</sup>) day after the date of the executive session.

26. 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.
27. 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.
28. 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 2023 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.
29. 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 7TH DAY OF NOVEMBER 2022.**

BERKLEY SHORES METROPOLITAN DISTRICT

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Paul Malone, President

ATTEST:

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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 7th day of November 2022.

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Natalie Satt, Secretary

[SEAL]



## ICENOGL SEAVR POGUE

### MEMORANDUM

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

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

**DATE:** July 22, 2022

**RE:** Summary of 2022 Legislation

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### INTRODUCTION

The Second Regular Session of the Seventy-Third General Assembly of the State of Colorado (the “General Assembly”) convened on January 12, 2022 and adjourned on May 11, 2022. This memorandum summarizes certain bills enacted into law in 2022 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

#### **Concerning Special District Director Retirement Benefits**

**HB 22-1087**

House Bill (“HB”) 22-1087 excludes a special district director who began his or her service on or after July 1, 2022 from becoming eligible for membership in the Public Employees’ Retirement Association due to the director’s service as a director. HB 22-1087 took effect on March 24, 2022.

#### **Dissolution of Special Districts**

**HB 22-1097**

Current law allows for municipalities and regional service authorities to file an application for dissolution with a special district’s board of directors. HB 22-1079 expands current law to allow for the board of county commissioners to file with a special district’s board of directors an application for dissolution of the special district if the special district is wholly located in the boundaries of one county. If the special district is located within two or more counties, the board of county commissioners of each county may jointly file the application. After receiving the application, the board of directors are to promptly and in good faith, take the necessary steps to dissolve the district. In addition, HB 22-1079 allows for a board of county commissioners and a special district that is wholly within the county’s boundaries and that has no financial obligations or outstanding debt to mutually consent to dissolution of the special district via court order dissolving the special district without an election. Finally, if more than eighty-five percent (85%) of the special district lies within one or more municipalities, the governing bodies of all such

municipalities also must consent to dissolution via court order without an election. HB 22-1097 will take effect on August 9, 2022, assuming no referendum petition is filed.

## **TAXATION**

### **Correction Property Tax Disclosure Info**

**SB 22-164**

Senate Bill 22-164 corrects an incorrect statutory reference in the current law by substituting county assessor with county treasurer as the entity that issues property tax certificates. No other changes were made other than correcting the proper entity. Senate Bill 22-164 took effect on May 6, 2022.

### **2023 and 2024 Property Tax**

**SB 22-238**

Senate Bill (“SB”) 22-238 reduces certain property tax assessment rates and taxable valuations for the 2023 and 2024 tax years and requires that the state government reimburse local governments for a portion of the resulting property tax revenue reductions. The impact of SB 22-238 on a special district will depend on (i) the type of special district, (ii) the district’s existing authority to adjust its mill levy to account for the changes set forth in SB 22-238, and (iii) the county where the special district is located. Below is an illustration of the changes set forth in SB 22-238:

#### **Defined Terms For Purposes of this Illustration:**

- Adjusted Actual Value =
  - Non-residential = Actual Value – (lesser of \$30,000 OR amount necessary to reduce assessed valuation to \$1,000)<sup>1</sup>
  - Residential = Actual Value – (lesser of \$15,000 OR amount necessary to reduce assessed valuation to \$1,000)
- Assessed Valuation = Assessment rate \* Actual Value (or Adjusted Actual Value, if applicable)
- Additional State Revenue = lesser of \$240M or total amount of state revenues exceeding TABOR limits which must be refunded to taxpayers (including projected refunding amounts for state fiscal year commencing July 1, 2022 and then for property tax year commencing January 1, 2023)

Taxable Category	Tax Year 2022	SB 22-238 Rate	Tax Year
Nonresidential (Lodging)	29%	27.9% of Non-Residential Adjusted Actual Value	2023
		29% of the Actual Value	2024 and thereafter

<sup>1</sup> The bill directs assessors to apply assessment rates to the actual value of residential property, less \$15,000, and to the actual value of certain nonresidential property, less \$30,000, so long as these subtractions do not cause the valuation for assessment of the property to fall below \$1,000.



Nonresidential (Agriculture or Renewable Energy)	26.4% <sup>2</sup>	26.4% of Actual Value 29% of Actual Value	2022, 2023, and 2024 2025 and thereafter
Nonresidential (Improved Commercial)	N/A (this is a new taxable category)	27.9% of Nonresidential Adjusted Actual Value 29% of Actual Value	2023 2024 and thereafter
Nonresidential – Other (non-specified <sup>3</sup> )	29%	27.9% of Actual Value 29% of Actual Value	2023 2024 and thereafter
Residential (Multifamily)	6.8% <sup>4</sup>	6.765% of Residential Adjusted Actual Value <sup>5</sup>  6.8% of Actual Value 7.15 of Actual Value	2023  2024 2025 and thereafter
Residential (Other)	6.95%	6.765% of Residential Adjusted Actual Value <sup>6</sup> % calculated per Section 39-1-104.4 (% necessary to equal local government property tax reductions of \$700M in 2023 and 2024) <sup>7</sup>  7.15% of Actual Value	2023 2024  2025

The following excerpts are from the SB 22-238 Revised Fiscal Note, dated May 5, 2022 (“Fiscal Note”):

- The bill requires each county treasurer calculate the 2023 property tax revenue reduction to local governments in their county, other than school districts, as a result of the changes to property tax assessment in the bill. Calculations are submitted to the property tax administrator, who may request additional information to verify their accuracy. Upon receipt of the correct amount for each county, the state treasurer will reimburse local governments as follows:
  - For municipalities, water districts, fire protection districts, sanitation districts, and library districts in counties with over 300,000 people:
    - for jurisdictions where total assessed values for property taxation grew

<sup>2</sup> This rate was historically 29% but was decreased to 26.4% by SB 21-293.

<sup>3</sup> Applies to all other nonresidential property not specified in §§ 39-1-104(1), (1.8)(a), and (1.8)(b)(I), C.R.S. (*i.e.*, all nonresidential other than lodging, agriculture or renewable energy, and improved commercial)

<sup>4</sup> This rate was 7.15% but was decreased to 6.8% for tax year 2022 by SB 21-293.

<sup>5</sup> §39-1-104.3, C.R.S.

<sup>6</sup> §39-1-104.3, C.R.S.

<sup>7</sup> On or before March 31, 2024, the State Property Tax Administrator must provide a report to the legislature with the required calculation equaling \$700M.

- by at least 10 percent between 2022 and 2023, 90 percent of the revenue reduction; and
- for jurisdictions where total assessed values for property taxation grew by less than 10 percent between 2022 and 2023, 100 percent of the revenue reduction; and
- For county government and special districts other than water districts, fire protection districts, sanitation districts, and library districts in counties with over 300,000 people, 65 percent of the revenue reduction.
- Nine counties are projected to have populations over 300,000, including: Adams; Arapahoe; Boulder; Denver; Douglas; El Paso; Jefferson; Larimer; and Weld.

This bill took effect on May 16, 2022.

## **Modifications to Severance Tax**

**HB 22-1391**

The State imposes a severance tax on nonrenewable natural resources that are removed from land including metallic minerals, molybdenum, oil, gas, and coal. The majority of all severance tax collections is from oil and gas production. Current law allows a credit against the severance tax on oil and gas equal to 87.5% of all ad valorem taxes paid to local governments, including special districts, on oil and gas leaseholds and lands, except those imposed on equipment and facilities used for production, transportation, and storage and those paid on stripper wells. Because the credit is a function of property taxes paid, there is generally at least a one-year lag between when production actually occurs and the when the credit is claimed. To address this issue, HB 22-1391 modifies the ad valorem credit allowed on the State's severance tax on oil and gas. Effective January 1, 2025, the ad valorem tax credit will be calculated on a per-well basis using the following formula:

$$0.7656 \times \text{Gross Income}^8 \times \text{Total Mill Levy}^9$$

In 2021, the Governor signed SB 21-281 into law which requires new metropolitan districts organized on or after July 1, 2021, to pay the State an amount equivalent to the total oil and gas severance tax credits associated with property taxes collected from oil and gas. The impact of the revised severance tax credit calculation on metropolitan districts required to pay the State for oil and gas severance tax credits is still being evaluated.

In addition, HB 22-1391 established a working group consisting of several directors of different departments (including the Office of State Planning and Budgeting, Department of Revenue, Natural Resources, Education and Local Affairs) to develop an implementation plan concerning additional changes to the state severance tax through July 1, 2024. HB 22-1391 takes effect on August 9, 2022, assuming no referendum petition is filed.

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<sup>8</sup> Gross income attributable to the well for the current taxable year.

<sup>9</sup> Total of all mill levies, fixed not later than December 22 of the preceding calendar year pursuant to Section 39-1-111, C.R.S., by all local governments for property at the well's location.

## **ELECTIONS**

### **Ballot Measure Campaign Finance**

**SB 22-237**

SB 22-237 makes changes to the laws governing issue committees and contribution limits under the Fair Campaign Practices Act (“FCPA”). More specifically, SB 22-237 modifies the definition of “major purpose” which is used to determine if an organization has acted as an issue committee and made financial contributions in support or opposition of a ballot issue. SB 22-237 further amends the FCPA by expanding the definition of “earmark” to include an independent expenditure that supports or opposes a candidate, is used for electioneering communication, or is an expenditure greater than \$1,000. Finally, SB 22-237 requires individuals who contribute over \$5,000 in support or opposition of ballot issues to disclose the amount and purpose of the expenditure to the Secretary of State within 48 hours. SB 22-237 took effect on June 7, 2022.

### **The Vote Without Fear Act**

**HB 22-1086**

Subject to certain exceptions, HB 22-1086 makes it illegal for any person to openly carry a firearm within a polling location, within 100 feet of a drop box, or within 100 feet of any building in which a polling location is located. This prohibition applies to the day of an election, as well as during the time when voting is permitted for any election. Additionally, HB 22-1086 requires that the designated election official visibly place a sign notifying persons of the 100 foot no open carry zone for firearms. HB 22-1086 also extends this prohibition to a central count facility during any ongoing election administration activity. Finally, HB 22-1086 makes clear that a person who violates the prohibition is guilty of a misdemeanor and upon conviction is subject to a fine, imprisonment in county jail, or both. HB 22-1086 took effect on March 30, 2022.

### **Public Official Reporting Requirements Modification**

**HB 22-1156**

HB 22-1156 modifies the deadline for political candidates to file a campaign expenditure report to 35 days instead of the current 30-day deadline. In addition, HB 22-1156 also exempts candidates seeking reelection from filing an additional disclosure statement if the incumbent has filed an annual report as required by Section 24-6-202(2), C.R.S. HB 22-1156 will take effect on August 9, 2022, provided no referendum petition is filed.

## **EMPLOYMENT**

### **Workers’ Compensation Injury Notices**

**HB 22-1112**

HB 22-1112 extends the timeframe for an employee to notify their employer about an on-the-job injury from 4 days to 10 days and updates the public signage regarding workers’ compensation that must be displayed. HB 22-1112 will take effect on August 9, 2022, provided no referendum petition is filed.

## MISCELLANEOUS

### **Resources for Volunteer Firefighters**

**SB 22-002**

SB 22-002 allows for the economic support of local fire departments, including fire protection districts and metropolitan districts that provides fire protection, through reimbursements, a grant program, and a health benefit trust. The funds provided are to be used for wildland fire suppression activity reimbursements, including replacement equipment costs and volunteer firefighter compensation, as well as to fund the replacement or disposal of equipment and a behavioral benefits trust for firefighters. SB 22-002 took effect on June 3, 2022.

### **State Entity Authority for Public-Private Partnerships**

**SB 22-130**

SB 22-130 allows certain state public entities<sup>10</sup> to enter into public-private partnerships with private partners to develop or operate a “public project”<sup>11</sup> subject to oversight and approval by the Department of Personnel and Administration. “Private partners” as defined in SB 22-130 includes “local governments” but does not further define this term.<sup>12</sup> Various other sections of Title 24 include special districts within the definition of “local governments.” Therefore, it is arguable that special districts fall within the scope of the definition “local governments” as used in SB 22-130. This may allow for greater coordination between special districts and state public entities but will also add additional administrative barriers and state oversight to coordinated public projects. This bill took effect on May 26, 2022.

### **Municipal Bond Supervision Advisory Board**

**SB 22-142**

In 1991, the Colorado Municipal Bond Supervision Advisory Board was created to provide expertise and advice to the State’s Securities Commissioner regarding the State’s regulation and oversight of municipal bonds issuance. SB 22-142 repeals the Municipal Bond Supervision Advisory Board, effective August 9, 2022, assuming no referendum petition is filed.

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<sup>10</sup> “State public entity” means any department, agency, or subdivision of the executive branch of state government; except that state public entity does not include certain state entities that already have specific statutory authority to enter into public private partnerships. *See* C.R.S. § 24-94-102(10).

<sup>11</sup> “Public project” means any construction, alteration, repair, demolition, or improvement of any *state-owned* land, building, structure, facility, asset, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety, and any maintenance programs for the upkeep of such projects. The definition specifically includes but is not limited to a project to civic, child care, utility, telecommunication, cultural, recreational, or educational facilities or services. C.R.S. § 24-94-102(9) (emphasis added).

<sup>12</sup> “Private Partner” means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, *local government*, other private business entity, or any combination thereof. C.R.S. § 24-94-102(6) (emphasis added).

SB 22-169 permits the custodian of public records to deny inspection of records containing data or information that reveals the specific location or could be used to determine the specific location of (i) a plant species as a Colorado plant of greatest conservation need in Colorado's state wildlife action plan; (ii) an individual animal or a group of animals; or an individual animal's or group of animal's breeding or nesting habitat. SB 22-169 will take effect on August 9, 2022, assuming no referendum petition is filed.

**Homeowners Associations Prohibited from Regulating Use of Public Rights-of-way  
HB 22-1139**

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Section 38-33.3-106.5 of the Colorado Common Interest Ownership Act ("CCIOA") prohibits homeowners' associations from adopting certain rules and regulations that are contrary to public policy. HB 22-1139 amends this section of CCIOA and provides that an association shall not prohibit the use of a public right-of-way in accordance with a local government's ordinance, resolution, rule, franchise, license, or charter regarding use of the public right-of-way. HB 22-1139 also prohibits an association from requiring that a public right-of-way be used in a certain manner. Because many metropolitan districts provide covenant enforcement services for associations, covenants should be reviewed for any provisions that may violate HB22-1139. HB 22-1139 will take effect on August 9, 2022, assuming no referendum petition is filed.

**Local Firefighter Safety Resources****HB 22-1194**

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HB 22-1194 makes a transfer of \$5 million to the Local Firefighter Safety and Disease Prevention Fund. The transfer allows the department to purchase protective equipment, fund training, and reimburse local governments, including fire protection districts and metropolitan districts that provides fire protection, and volunteer firefighters for the cost of protective equipment and training. There is no requirement for a grant application nor a peer review process for funds to be distributed. In the event that the Department of Public Safety ("DPS") is unable to spend all of the funds, the department may use funds for any currently authorized purpose of the firefighter safety grant program. HB 22-1194 took effect on March 1, 2022.

**State Grants Investments Local Affordable Housing****HB 22-1304**

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HB 22-1304 creates two housing-related grant programs in the Department of Local Affairs ("DOLA"): the Local Investments in Transformational Affordable Housing Grant Program ("LITAH") and Infrastructure and Strong Communities Grant Program ("ISC").

The LITAH program provides grants to certain governmental entities (including special districts) or nonprofit organizations for affordable housing initiatives. These initiatives include the development and integration of infrastructure tied to an affordable housing development inclusive of funding for capital constructive and infrastructure design. DOLA must establish policies and procedures for the LITAH program by September 1, 2022.

The ISC program requires that the Division of Local Government within DOLA, the Colorado Energy Office, and the Department of Transportation develop a list of sustainable land use practices and provide grants to local governments for investments in infill infrastructure projects that support affordable housing. HB 22-1304 took effect on June 1, 2022.

#### **Towing Carrier Nonconsensual Tows**

**HB 22-1314**

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HB 22-1314 generally imposes limitations and obligations on towing companies and owners of private property that must be followed prior to the nonconsensual towing of a vehicle from private property. Because HB 22-1314 applies to private property there is likely no impact on most special districts. However, private property is not defined for purposes of HB 22-1314 and some special districts may be providing covenant enforcement on property that is privately owned, as such, special districts that are or may in the future engage in towing are encouraged to discuss this bill and other legal considerations related to towing with legal counsel. HB 22-1314 goes into effect on August 9, 2022, assuming no referendum petition is filed.

### THIRD AMENDMENT TO OPERATION FUNDING AGREEMENT

This **THIRD AMENDMENT TO OPERATION FUNDING AGREEMENT** (“**Third Amendment**”) is made and entered into effective this 7<sup>th</sup> day of November 2022 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, and that Second Amendment to Operation Funding Agreement dated December 31, 2021 (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 \$285,000.

C. Pursuant to the Agreement, the obligation of the Developer to fund the Shortfall Amount expires on December 31, 2022.

D. The District anticipates that it will not have sufficient revenues to make payment of its operations and maintenance expenses through fiscal year 2023.

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

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

#### COVENANTS AND AGREEMENTS

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

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

“1. Acknowledgement of Anticipated Shortfalls. The District anticipates a shortfall in revenues available for operations and maintenance expenses to be incurred for fiscal years 2020, 2021, 2022 and 2023 in an aggregate amount of Three Hundred Sixty Three Thousand and Two Hundred Thirty Six Dollars (\$363,236) (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 2023. Any obligation of District to reimburse Developer shall expire on December 31, 2023. 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, 2063, 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 2023”.

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 THIRD AMENDMENT TO OPERATION FUNDING  
AGREEMENT**

IN WITNESS WHEREOF, the Parties have executed this Third 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: \_\_\_\_\_



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: September 2, 2022

RE: Notice of 2023 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 the CPI (8.5%) 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.



## ICENOGL SEAVR POGUE

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### 2023 BILLING RATES

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T. Edward Icenogle	Of Counsel	\$360.00 per hour
Tamara K. Seaver	Shareholder	\$460.00 per hour
Alan D. Pogue	Shareholder	\$460.00 per hour
Deborah A. Early	Shareholder	\$385.00 per hour
Jennifer L. Ivey	Shareholder	\$385.00 per hour
Anna C. Wool	Shareholder	\$290.00 per hour
Shannon Smith Johnson	Shareholder	\$290.00 per hour
Alicia J. Corley	Associate	\$280.00 per hour
Karlie R. Ogden	Associate	\$250.00 per hour
Alexandra L. Moore	Associate	\$235.00 per hour
Kayla M. Enriquez	Associate	\$235.00 per hour
Stacie L. Pacheco	Paralegal	\$195.00 per hour
Donette B. Hunter	Paralegal	\$195.00 per hour
Megan Liesmaki	Paralegal	\$190.00 per hour
Kimberly L. Vernon	Legal Administrator	\$ 50.00 per hour
Daniel T. Shed	Legal Administrator	\$ 50.00 per hour



## 2023 NOTICE OF LEGAL SERVICES AND FEE SUMMARY

The following is a summary of fees and charges for legal services being offered by Altitude Community Law for 2023. For more details, contact your Primary Attorney or email us today at [hoalaw@altitude.law](mailto:hoalaw@altitude.law).

**No signature is required at this time, as this is a notice only.**

**Existing clients will be billed at our new 2023 rates effective with their January billing. 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 \$230, 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 and \$10 per hour less than our non-retainer rates for paralegals. No rate change for legal assistants.

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

Attendance at Board Meeting. At your request, we will attend one board meeting per twelve-month period for up to one hour. 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.

#### RETAINER PLUS SERVICES AND BENEFITS

For a monthly fee of \$300, we will provide the following legal services and benefits without further charges:

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

Email Consultations. We will engage in 30 (thirty) minutes of email consultations every month with a designated board member and the 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.

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

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

#### PREMIUM RETAINER SERVICES AND BENEFITS

For a monthly fee of \$550, 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 60 (sixty) additional minutes every month which includes minor research.

Attendance at One Additional Board Meeting per Year. At your request, we will attend a total of two board meetings per twelve-month period for up to one hour each. 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.

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

#### RETAINER SERVICES GENERALLY

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

#### FIXED FEE SERVICES

Altitude Community Law offers fixed fee services. The 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 2023 non-retainer clients are \$115 - \$155 for legal assistants/paralegals, \$330 - \$350 for attorneys. Non-retainer clients are billed hourly for all phone calls.

### TERMINATION OF REPRESENTATION

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

If you so request, we will send to you your files 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 ten (10) years, after which it may retain, destroy or otherwise dispose of them.

### PRIVACY POLICY

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

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

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

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

### GENERAL TERMS FOR ALL CLIENTS

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

Clients are required to reimburse us for cost advances and other out-of-pocket expenses. Reimbursement is made at actual cost for outside charges such as court recording fees, filing fees, service of process charges, computerized legal research, expert witness fees, title searches, deposition reporting and transcription fees, outside photocopying, etc. Typically, we do not charge for internal photocopies, faxes, postage and long-distance telephone calls unless these charges are extraordinary. We provide monthly statements for services and 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 costs. In order to provide you with the most efficient and effective service we will, at all times, unless otherwise directed, work through your manager if appropriate.

Please see Exhibit A to Legal Services and Fee Summary Agreement for 2023 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 2023 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 \$25 set-up and review fee per file. This fee will be waived if you are a retainer client.

At the rates set here in, upon receiving a new turnover, we will perform the following work for due diligence and to put the 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 - \$155**

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

### **Super Lien Demand Letter - \$110**

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

lender after the letter are billed hourly.

#### Assessment Lien Package - \$110

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

#### Lawsuit: - \$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. Our fee also includes our appearance at court, subsequent appearance if the owner fails to appear initially and review and evaluation of the answers once received from the owner.

#### Garnishments - \$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.

#### Payment Plans - \$125 - \$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 - \$150 - \$200

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; \$360 Chapter 13 (one-time charge)

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

Motion to Dismiss: \$595

Motion for Relief from Stay: \$795

Objection to Plan: \$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 - \$500

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

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

We provide online access to each 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.