

**THE COMMONS AT EAST CREEK
METROPOLITAN DISTRICT**

141 Union Boulevard, Suite 150

Lakewood, Colorado 80228

Phone: 303-987-0835

NOTICE OF SPECIAL MEETING AND AGENDA

DATE: October 12, 2020

TIME: 1:00 p.m.

LOCATION: Meritage Homes of Colorado
8400 E. Crescent Parkway, Suite 200
Greenwood Village, CO 80111

DUE TO CONCERNS REGARDING THE SPREAD OF THE CORONAVIRUS (COVID-19) AND THE BENEFITS TO THE CONTROL OF THE SPREAD OF THE VIRUS BY LIMITING IN-PERSON CONTACT, THIS DISTRICT BOARD MEETING WILL BE ACCESSIBLE BY CONFERENCE CALL. THERE WILL BE ONE PERSON PRESENT AT THE PHYSICAL LOCATION POSTED ON THIS NOTICE AND ALL OTHER ATTENDEES WILL BE VIA TELEPHONE.

ACCESS: **1-888-875-1833 – Guest Code 619715**

<u>Board of Directors</u>	<u>Office</u>	<u>Term Expires</u>
Glenn Nier	President	May 2022
Michele Trujillo	Treasurer	May 2022
Gary Fantasky	Assistant Secretary	May 2023
Matthew Larsen	Assistant Secretary	May 2023
Vacant		May 2022
Jennifer S. Henry, McGeady Becher	Secretary	

I. ADMINISTRATIVE MATTERS

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

B. Approve agenda; confirm location of meeting and posting of meeting notice.

C. Public comment.

- D. Discuss results of May 5, 2020 Cancelled Regular Directors' Election (enclosure).
Acknowledge the resignation of Mike Bird effective May 8, 2020.
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- E. Consider appointment of officers:

President: _____

Secretary: _____

Treasurer: _____

Assistant Secretaries: _____

- F. Review and consider approval of minutes from the February 10, 2020
organizational meeting (enclosure).
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- G. Ratify Management Agreement with Special District Management Services, Inc.
for District Management Services.
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- H. Ratify Engagement Agreement with Simmons & Wheeler, P.C. for District
Accounting Services.
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-

II. FINANCIAL MATTERS

- A. Discuss status of Cost Certification Report from Independent District Engineering
Services, LLC and acceptance of District Reimbursable Costs and authorize
necessary actions in conjunction therewith.
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- B. Discuss status of Requisitions (under the Series 2020A Bonds) authorizing
reimbursement to Meritage Homes of Colorado, Inc. and authorize necessary
actions in conjunction therewith.
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- C. Conduct Public Hearing on the proposed 2020 Budget Amendment and consider
adoption of Resolution to Amend the 2020 Budget (enclosure).
-
-

III. LEGAL MATTERS

- A. Ratify approval of the Service Agreement for Cost Verification Services between the District and Independent District Engineering Services, LLC.

- B. Ratify adoption of Resolution Regarding the Imposition of District Fees (enclosure).

- C. Consider adoption of a Resolution authorizing the issuance of the District's General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds, Series 2020A(3), in the maximum principal amount of \$2,000,000, (the "Bonds") for the purpose of paying or reimbursing the costs of public improvements for the District; authorize approval of the Preliminary Limited Offering Memorandum and the use thereof by the underwriter in connection with the offering of the Bonds; authorize the preparation of the final Limited Offering Memorandum; authorize the execution and delivery of and performance by the District thereunder of an indenture of trust, a bond purchase agreement, and any such other documents, certificates, and instruments as may be necessary or required to effect the issuance of the Bonds (to be distributed).

- D. Discuss and consider adoption of Resolution Regarding Continuing Disclosure Policies and Procedures (enclosure).

IV. COVENANT ENFORCEMENT / DESIGN REVIEW

- A. Discuss Covenants, Conditions and Restrictions of The Commons at East Creek.

- B. Discuss and consider adoption of Resolution Adopting the Rules and Regulations of The Commons at East Creek (enclosure).

- C. Discuss and consider adoption of Resolution Acknowledging and Adopting the Declaration of Covenants, Conditions and Restrictions of The Commons at East Creek (enclosure).

- D. Discuss and consider adoption of Resolution Adopting the Policies and Procedures Governing the Enforcement of the Covenants, Conditions and Restrictions of The Commons at East Creek (enclosure).

V. CONSTRUCTION MATTERS

- A. Discuss 2020 development / construction outlook.

VI. OTHER BUSINESS

- A. Discuss budget meeting scheduled for Monday, October 26, 2020 at 1:00 p.m. and confirm quorum for same.

VII. ADJOURNMENT

**The next meeting is scheduled for Monday, October 26, 2020 at 1:00 p.m.
to be conducted via conference call.**

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

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

The following candidates for each district are declared elected:

Gary Fantasky	until the second regular election (May 2, 2023)
Matthew Larsen	until the second regular election (May 2, 2023)

DATED: March 3, 2020

/s/ Jennifer S. Henry

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

Published In: Aurora Sentinel
Published On: March 19, 2020

RECORD OF PROCEEDINGS

MINUTES OF THE ORGANIZATIONAL MEETING OF
THE BOARD OF DIRECTORS OF THE
COMMONS AT EAST CREEK METROPOLITAN DISTRICT
(THE "DISTRICT")
HELD
February 10, 2020

An organizational meeting of the Board of Directors of The Commons at East Creek Metropolitan District (referred to hereafter as the "Board") was convened on Monday, February 10, 2020, at 1:30 p.m., at the offices of Meritage Homes of Colorado, 8400 E. Crescent Parkway, Suite 200, Greenwood Village, Colorado 80111. The meeting was open to the public.

Directors In Attendance Were:

Glenn Nier
Gary Fantasky
Matthew Larsen

Also In Attendance Was:

Paula Williams and Jennifer S. Henry; McGeady Becher P.C.

DISCLOSURE OF
POTENTIAL
CONFLICTS OF
INTEREST

The Board noted that disclosures of potential conflict of interest statements for each of the Directors were filed with the Secretary of State seventy-two hours in advance of the meeting. Attorney Williams requested that the Directors consider whether they had any additional conflicts of interest to disclose. Attorney Williams 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. It was noted that disclosure statements had been filed for all Directors.

ADMINISTRATIVE
MATTERS

Agenda: The Board reviewed the distributed Agenda for the District's organizational meeting. Following discussion, upon motion duly made by Director Nier, seconded by Director Larsen and, upon vote unanimously carried, the Agenda was approved. The absences of Director Trujillo and Bird were excused.

Approval of Meeting Location: The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District's Board meeting. Following discussion, and upon motion duly made by

RECORD OF PROCEEDINGS

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

Method of Delivery of Meeting Packets: The Board directed that electronic meeting packets be emailed to the Board prior to meetings and one hard copy of the full meeting packet and hard copies of the Agenda be brought to meetings.

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

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

President:	Glenn Nier
Treasurer:	Michele Trujillo
Assistant Secretary:	Michael Bird, Matthew Larsen and Gary Fantasky
Secretary:	Jennifer S. Henry, McGeady Becher P.C.

Public comment: There was no public comment.

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

Engagement of District Manager and District Accountant: Discussion deferred.

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

Engagement of Sherman & Howard L.L.C. as District Bond Counsel: The Board considered the engagement of Sherman & Howard L.L.C. as District Bond Counsel. Following discussion, upon a motion duly made by Director Nier, seconded by Director Larsen and, upon vote, unanimously carried, the Board

RECORD OF PROCEEDINGS

engaged Sherman & Howard L.L.C. as District Bond Counsel.

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

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

Resolution No. 2020-02-02; Establishing Regular Meeting Dates, Time and Location, Establishing District Website and Designating Location for Posting of 24-Hour Notices: Following discussion, upon a motion duly made by Director Nier, seconded by Director Larsen and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-02-02; Establishing Regular Meeting Dates, Times and Location, Establishing District Website and Designating Location for Posting of 24-Hour Notices and schedules a regular meeting in 2020 for October 26, 2020 at 1:00 p.m., at the offices of Meritage Homes of Colorado, 8400 E. Crescent Parkway, Suite 200, Greenwood Village, Colorado 80111.

FINANCIAL MATTERS

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

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

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

RECORD OF PROCEEDINGS

state statutes.

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

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

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

Following review and discussion, upon a motion made by Director Nier, seconded by Director Larsen and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-02-03 to Adopt the 2020 Budget and Appropriating Sums of Money.

Establishment of District Bank Account: Following discussion, upon motion duly made by Director Nier, seconded by Director Larsen and, upon vote, unanimously carried, the Board approved the establishment of the District's bank account and authorized all Board members to be signers on the account and adopted a policy requiring two signatures on all checks.

2020 Bond Issuance: It was noted that the Board expects to close on the bonds in April or May.

LEGAL MATTERS

Service Plan Intergovernmental Agreement with the City of Aurora, Colorado: The Board reviewed the Service Plan Intergovernmental Agreement with the City of Aurora, Colorado ("Service Plan IGA"). Following discussion, upon motion duly made by Director Nier, seconded by Director Larsen and, upon vote, unanimously carried, the Board approved the Service Plan IGA.

Operation Funding Agreement: The Board reviewed the proposed Operation Funding Agreement by and between the District and Meritage Homes of Colorado, Inc. Following discussion, upon motion duly made by Director Nier, seconded by Director Larsen and, upon vote, unanimously carried, the Board approved the Operation Funding Agreement by and between the District and Meritage Homes of Colorado, Inc.

Facilities Funding and Acquisition Agreement: The Board reviewed the proposed Facilities Funding and Acquisition Agreement by and between the District and Meritage Homes of Colorado, Inc. Following discussion, upon motion duly made

RECORD OF PROCEEDINGS

by Director Nier, seconded by Director Larsen and, upon vote unanimously carried, the Board approved the Facilities Funding and Acquisition Agreement by and between the District and Meritage Homes of Colorado, Inc.

Imposition of District Fees: The Board noted that the District will be imposing operations fees and they are working on operating calculations. No action taken.

Cost Verification Services: The Board discussed the need for cost verification services. No action taken.

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

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

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

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

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

RECORD OF PROCEEDINGS

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

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

COVENANT ENFORCEMENT / DESIGN REVIEW

Declaration of Covenants and Design Review Committee: Director Nier reported that the Covenants are in the process of being prepared.

CONSTRUCTION MATTERS

Development / Construction Outlook: Director Nier provided an update to the Board regarding the status of construction, noting that site development is under way and they expect to open for sales in April or May.

OTHER BUSINESS

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

ADJOURNMENT

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

Respectfully submitted,

By _____
Secretary for the Meeting

—

The Commons at East Creek Metropolitan District Cost Certification



Report 1
October 2020

The Commons at East Creek Metropolitan District Cost Certification 1

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Cost Certification Report

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October 1, 2020

The Commons at East Creek Metropolitan District
c/o McGeady Becher, PC
450 E. 17th Avenue, Suite 400
Denver, CO 80203

THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT COST CERTIFICATION 1

INTRODUCTION

Independent District Engineering Services, LLC (Engineer) was hired by the Commons at East Creek Metropolitan District (District) to provide review of expenditures paid by Meritage Homes of Colorado, Inc. (Developer). This is to summarize and report the expenditures for the Commons at East Creek at Tower Landing, Filing 1 development located in the City of Aurora, Colorado (Project). This Cost Certification report summarizes the Engineer's approach and findings for the Project.

The expenditures for public improvements discussed in this report were paid for by the Developer and are being certified as District eligible in the amount of **\$1,187,398.95**.

This report generally covers the areas shown on Attachment A.

GOVERNING DOCUMENTS

The following governing documents were used in determining recommendations for District eligible expenses:

- Service Plan for The Commons at East Creek Metropolitan District, prepared by McGeady Becher, PC, dated August 5, 2019
- Board of Canvassers Certificate of Election Results for the Special Election Held November 5, 2019
- Facilities Funding and Acquisition Agreement between the Commons at East Creek Metropolitan District and Meritage Homes of Colorado, Inc., dated February 3, 2020

The Engineer used the above governing documents only as a general guideline for eligibility in certification of costs.

ACTIVITIES CONDUCTED

For this report, the following activities were performed:

- Governing documents provided by the District and the Developer were reviewed as the basis for recommendation for this report.
- Invoices provided by the Developer were reviewed. A summary was created and is attached as Attachment C.
- A site visit was conducted. Project improvements were photographed.
- Contact was made with Developer to verify knowledge of the work or services performed.
- Some contract unit items were compared to other projects constructed in the Denver Metropolitan Area.
- The plat was reviewed. Property was listed as Private, but it is understood that this property will be owned and maintained by the District, so it is therefore Public.

ASSUMPTIONS

Due to the specific scope authorized for this report, the following assumptions were made.

- It is assumed that geotechnical pavement designs have been performed and followed. It is assumed materials testing was performed during construction.

- It is our understanding that the Developer will be responsible for all Storm Water Management Practice (SWMP) activities until the conditions of State and Local permits are met. No SWMP inspections or recommendations were conducted as part of this report.
- It is assumed that the contractors have obtained all SWMP permitting in the name of the Developer.
- It is our understanding that all local jurisdiction acceptances will be completed by the Developer as required by the Facilities Funding and Acquisition Agreement. The District shall have no obligations for local jurisdiction acceptance of infrastructure acquired by the District.
- It is assumed that the Developer has obtained or will obtain final unconditional lien waivers from all contractors performing work or consultants providing services for the Project. It is our recommendation these lien waivers be provided to the District.
- Costs presented do not represent the entire contract value, but rather a portion of the costs that are attributable to public improvements as defined in the Service Plan. Expenditures that pertain to both District land and private lots are based on land percentage area for the project area. See Attachment C for the percentages. These percentages were used for work such as earthwork, SWMP activities, and planning.
- Nothing in this report shall be construed as acceptance of any public infrastructure by any governmental entity, including but not limited to the District. The Developer remains responsible for completing public improvements according to plan and obtaining the proper acceptance by any applicable governmental entity.
- This report was prepared with a specific scope and an elaborate analysis was not performed, but rather a realistic and reasonable analysis to estimate the public expenditures for the invoices provided. A more detailed analysis or submission of additional expenditures may result in adjustments to our cost certification.

DISCUSSION

This report consists of expenditures provided between February of 2018 and August of 2020. The improvements reviewed are generally represented in Attachments A and C.

Vendor Participation

All contractors, consultants, and vendors whose invoice information was submitted, were evaluated for their participation on the Project and services performed, materials provided, or work completed. A summary of vendor participation is included as Attachment B.

Review of Invoices and Summary of Expenditures

To provide a cost certification of District improvements, invoices provided by the Developer were reviewed. Invoice costs were allocated as District or Non-District and a summary is included as Attachment C. Invoices provided were reviewed to determine that the work and cost value were appropriated correctly, and that proof of payment was provided.

SUMMARY OF EXPENDITURES BY CATEGORY AND SERVICE PLAN DIVISION

The table below provides a summary of expenditures by category as outlined in the Service Plan and Election Results. The major elements of the improvements were allocated across these specific categories.

Election Results Ballot Issue	Category	Public Expenditures	Percentage of Total
5I	Sanitary Sewer and Drainage	\$627,563.07	34.53%
5H	Water	\$126,935.87	6.98%
5F	Streets	\$878,701.44	48.35%
5L	Traffic and Safety	\$0.00	0.00%
5G	Parks and Recreation	\$184,198.56	10.14%
5P	Operation and Maintenance	\$0.00	0.00%
Total		\$1,817,398.95	100.00%

FIELD INVESTIGATION RESULTS

A field investigation was conducted in September 2020. Photos were taken of the Project to memorialize the construction of infrastructure and are included in Attachment D. From our visual inspection, it appears the completed improvements were constructed in a quality manner consistent with other similar projects and meeting generally accepted construction requirements.

RECOMMENDATION

In our professional opinion the expenditures for the improvements were reviewed and found to be reasonable. The costs of improvements are comparable to other similar projects in Denver Metropolitan Area. At this time and based on the information provided, the Engineer certifies the expenditures provided by the Developer as District eligible expenditures as shown in Attachment C and subject to the level of review presented in this report. These expenditures are certified in the amount of **\$1,817,398.95**.

Should you have any questions or require further information please feel free to contact me.

Respectfully Submitted,
Independent District Engineering Services, LLC


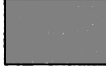
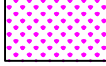




Kim Fiore, P.E.

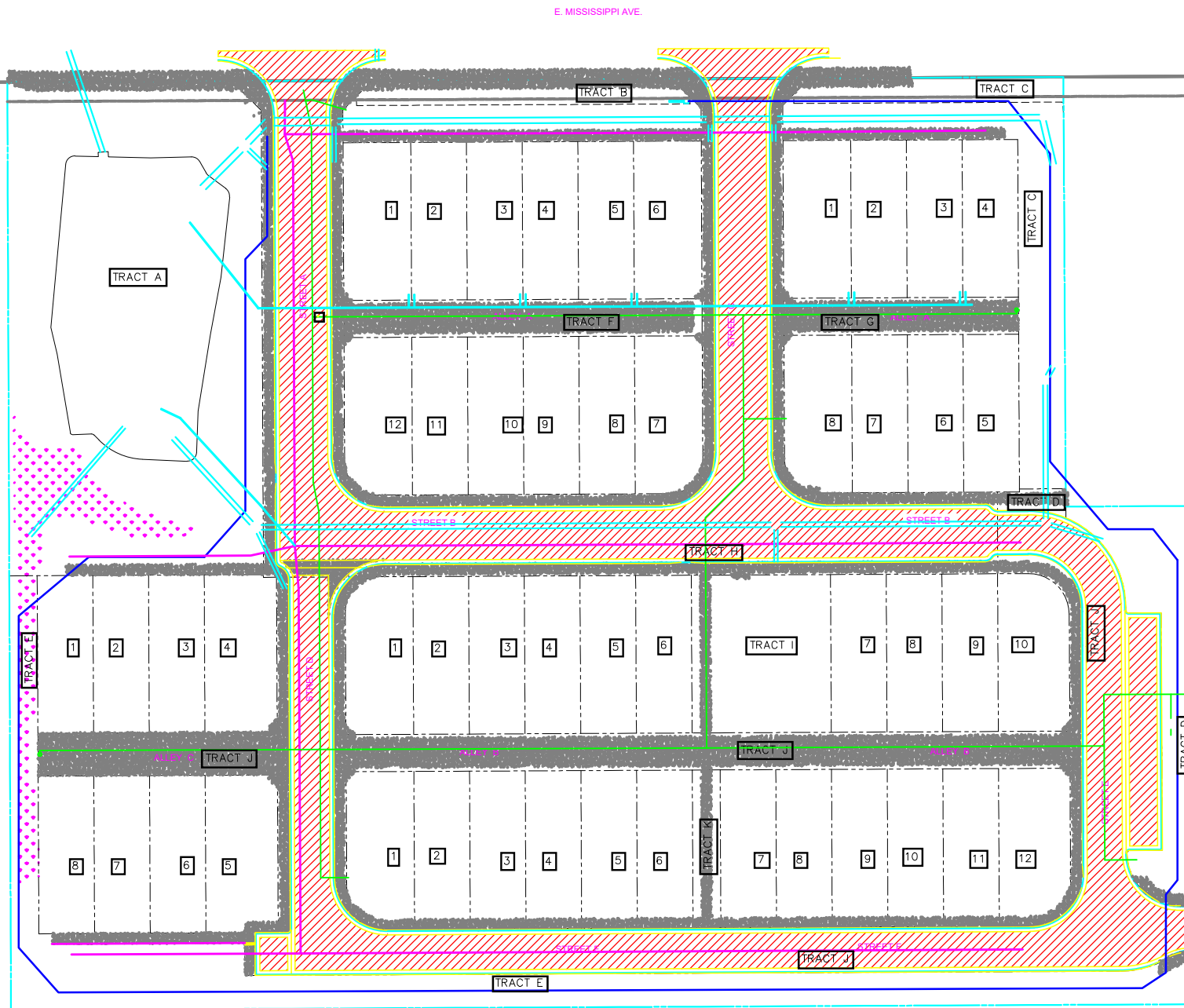
Attachments

Attachment A

Site Map

LEGEND

-  PAVING IMPROVEMENTS
-  CONCRETE IMPROVEMENTS
-  LANDSCAPE IMPROVEMENTS
-  IRRIGATION IMPROVEMENTS
-  WATER IMPROVEMENTS
-  SANITARY SEWER IMPROVEMENTS
-  STORM SEWER IMPROVEMENTS



Attachment B

Vendor Participation

Attachment B

Vendor Participation

Following is a summary of the contractors, consultants and vendor participation in work and services for the report.

AG Wassenaar, Inc. Provided material testing and a pavement study. They also did a lot soil and foundation study which is not public.

Bemas Provided earthwork services. Earthwork is for both public and private areas so the site percentage was used to determine the District eligible amount.

City of Aurora A security deposit was paid for to guarantee a streetlight would be built. Although this is a public cost, it is assumed this security will be returned when the streetlight is built. So this cost was not included as District eligible in this report.

Hirschfeld Backhoe and Pipeline, Inc. Provided construction of the sanitary sewer, water and storm improvements. Services to the lots and work for dry utilities are not public.

KT Engineering, LLC Provided staking for property pins and as-builts. Lot staking is not public. It was not clear what as-builts were being worked on so the site percentage was used. Two invoices provided were not readable so these were not included. They can be included in a future report if new information becomes available.

Lawson Construction Company Provided concrete construction.

Martin Marietta Materials, Inc. Provided paving construction

Metco Landscape, Inc. Provided landscape and irrigation construction. Quantities and unit costs were not provided in Metco's pay applications or contract so it is not possible to verify that their costs are reasonable without a separate cost estimate based off plan quantities. If unit costs and quantities become available, these pay applications can be included in a future cost certification report. If unit costs and quantities are not available, the Engineer can do a comparison based on plan quantities and include that in a future report.

Rick Engineering Company Provided engineering, survey and entitlement services. Work related to dry utilities is not considered District eligible. For work for earthwork or for items that cannot be broken into categories the site percentage was used.

The Henry Design Group, Inc. Provided planning and entitlement services. Work related to lots and architectural is not considered District eligible. For work for earthwork or for items that cannot be broken into categories the site percentage was used. One invoice was excluded because the detail portion of the invoice was not provided. This can be included in a future cost certification report.

Attachment C

Expenditure Data

Attachment C

The Commons at East Creek Metropolitan District

Engineer's Summary for Cost Certification 1

Invoice #	Invoice Date	Invoice Provided	Check #	Check Date	Description	Invoiced Amount	District Eligible Expenses	Non- Eligible Expenses	Notes
AG Wassenaar, Inc									
312097	12/31/19	Yes	10242502	2/25/20	Materials Testing	\$14,540.00	\$8,593.95	\$5,946.05	Earthwork at Site %
312481	1/20/20	Yes	10242502	2/25/20	Lot Soil and Foundation Study	\$11,750.00	\$0.00	\$11,750.00	Not District eligible
312754	1/29/20	Yes	10242502	2/25/20	Pavement Study	\$6,600.00	\$6,600.00	\$0.00	
Subtotal AG Wassenaar, Inc						\$32,890.00	\$15,193.95	\$17,696.05	
Bemas Construction, Inc.									
1936-1	8/27/19	Yes	10239049	9/25/19	Earthwork	\$51,601.68	\$28,690.53	\$22,911.15	Site %
1936-2	9/25/19	Yes	10239707	10/25/19	Earthwork	\$186,622.56	\$89,251.22	\$97,371.34	Lots not District; Remainder at Site %
1936-3A	10/25/19	Yes	10240404	11/25/19	Earthwork	\$142,727.40	\$63,261.57	\$79,465.83	Lots not District; Remainder at Site %
1936-4A	11/25/19	Yes	10441141	12/25/19	Earthwork	\$162,685.53	\$82,840.03	\$79,845.50	Lots not District; Remainder at Site %
1936-5A	12/24/19	Yes	10241788	1/24/20	Earthwork	\$65,970.00	\$36,679.32	\$29,290.68	Site %
1936-6A	1/28/20	Yes	40242505	2/25/20	Earthwork	\$51,769.57	\$28,783.88	\$22,985.69	Site %
1936-7A	2/26/20	Yes	10243181	3/5/20	Earthwork - Retainage Release	\$73,486.31	\$36,611.84	\$36,874.47	Retainage on District amount
Subtotal Bemas Construction, Inc.						\$734,863.05	\$366,118.39	\$368,744.66	
City of Aurora									
Email Request	9/1/20	Yes	10246338	9/8/20	Streetlight Security	\$20,200.00	\$0.00	\$20,200.00	Will be reimbursed
Subtotal City of Aurora						\$20,200.00	\$0.00	\$20,200.00	
Hirschfeld Backhoe and Pipeline, Inc.									
910 - Pay Application 1	9/27/19	Yes	10239719	10/25/19	Utilities	\$139,061.70	\$128,576.70	\$10,485.00	Services not District eligible
931 - Pay Application 2	11/5/19	Yes	10241152	12/25/19	Utilities	\$137,462.40	\$137,462.40	\$0.00	
936 - Pay Application 3	12/6/19	Yes	10241774	1/24/20	Utilities	\$152,811.00	\$152,811.00	\$0.00	
948 - Pay Application 3	1/22/20	Yes	10242516	2/25/20	Utilities	\$356,325.30	\$294,667.67	\$61,657.63	Services and Dry Utilities not District eligible
987 - Pay Application 5	5/28/20	Yes	10244713	6/25/20	Utilities	\$58,050.00	\$0.00	\$58,050.00	Services not District eligible
Subtotal Hirschfeld Backhoe and Pipeline, Inc.						\$843,710.40	\$713,517.77	\$130,192.63	
KT Engineering, LLC									
2132	10/3/19	Yes	10239722	10/25/19	Staking - Construction	\$9,200.00	\$5,825.60	\$3,374.40	Earthwork and General Staking at Site %
2169	2/3/20	Yes	10242518	2/25/20	Invoice is not Readable	\$32,070.00	\$0.00	\$32,070.00	Invoice is not readable
2210	5/1/20	Yes	10244263	5/22/20	Invoice is not Readable	\$4,330.00	\$0.00	\$4,330.00	Invoice is not readable
2245	8/3/20	Yes	10246014	8/25/20	Staking - Property Pins and As-Builts	\$5,250.00	\$556.00	\$4,694.00	Property pins not District eligible; As-builts at Site%
Subtotal KT Engineering, LLC						\$50,850.00	\$6,381.60	\$44,468.40	
Lawson Construction Company									
7230 - Pay Application 1	1/21/20	Yes	10242519	2/25/20	Concrete	\$45,155.71	\$45,155.71	\$0.00	
Pay Application 2	4/2/20	Yes	10243752	4/24/20	Concrete	\$100,015.00	\$100,015.00	\$0.00	
Pay Application 3	4/27/20	Yes	10244264	5/22/20	Concrete	\$286,325.14	\$286,325.14	\$0.00	
Subtotal Lawson Construction Company						\$431,495.85	\$431,495.85	\$0.00	
Martin Marietta Materials, Inc									
28876431	5/25/20	Yes	10244715	6/25/20	Paving	\$166,174.20	\$166,174.20	\$0.00	
Subtotal Martin Marietta Materials, Inc						\$166,174.20	\$166,174.20	\$0.00	
Metco Landscape, Inc.									
548785 Draw 1	5/28/20	Yes	10244716	6/25/20	Landscape and Irrigation	\$43,771.86	\$0.00	\$43,771.86	Unit Costs could not be verified
850495 Draw 3	6/30/20	Yes	10246016	8/25/20	Irrigation	\$41,286.42	\$0.00	\$41,286.42	Unit Costs could not be verified
551796 Draw 4	7/31/20	Yes	10246016	8/25/20	Landscape and Irrigation	\$45,600.74	\$0.00	\$45,600.74	Unit Costs could not be verified
552912 Draw 5	8/25/20	Yes	10246677	9/25/20	Landscape and Irrigation	\$130,427.29	\$0.00	\$130,427.29	Unit Costs could not be verified
Subtotal Metco Landscape, Inc.						\$261,086.31	\$0.00	\$261,086.31	
Rick Engineering Company									
553	3/29/18	Yes	10228892	5/29/18	Engineering, Survey, Entitlement	\$6,569.20	\$3,876.70	\$2,692.50	General items at Site %
686	4/27/18	Yes	10229335	6/25/18	Engineering, Survey, Entitlement	\$8,175.35	\$5,775.93	\$2,399.42	General items at Site %
749	5/24/18	Yes	10229996	7/25/18	Engineering, Survey, Entitlement	\$12,339.62	\$10,244.66	\$2,094.96	General items and Earthwork at Site %

Attachment C

The Commons at East Creek Metropolitan District

Engineer's Summary for Cost Certification 1

Invoice #	Invoice Date	Invoice Provided	Check #	Check Date	Description	Invoiced Amount	District Eligible Expenses	Non- Eligible Expenses	Notes
837	6/19/18	Yes	10229996	7/25/18	Engineering, Survey, Entitlement	\$3,920.40	\$2,029.62	\$1,890.78	Dry Util not District; Remainder at Site %
928	7/12/18	Yes	10230637	8/24/18	Engineering, Survey, Entitlement	\$17,256.82	\$10,309.63	\$6,947.19	General items at Site %
1017	8/14/18	Yes	10231322	9/25/18	Engineering, Survey, Entitlement	\$29,985.54	\$21,646.35	\$8,339.19	Dry Util not District; General items at Site %
1116	9/19/18	Yes	10231909	10/25/18	Engineering, Survey, Entitlement	\$7,161.70	\$4,658.20	\$2,503.50	Dry Util not District; General items at Site %
1195	10/18/18	Yes	10232480	11/21/18	Engineering, Survey, Entitlement	\$9,645.38	\$5,759.13	\$3,886.25	Dry Util not District; General items at Site %
1275	11/16/18	Yes	10233041	12/21/18	Engineering, Survey, Entitlement	\$40,853.45	\$29,472.75	\$11,380.70	General items and Earthwork at Site %
Subtotal Rick Engineering Company						\$135,907.46	\$93,772.97	\$42,134.49	
The Henry Design Group, In.									
20433	2/28/18	Yes	10228081	4/25/18	Planniing and Entitlement	\$516.50	\$287.17	\$229.33	Site %
20506	4/4/18	Yes	10228081	4/25/18	Planniing and Entitlement	\$592.25	\$329.29	\$262.96	Site %
20574	5/8/18	Yes	10229326	6/25/18	Planniing and Entitlement	\$920.00	\$511.52	\$408.48	Site %
20645	5/31/18	Yes	10229326	6/25/18	Planniing and Entitlement	\$6,178.25	\$2,461.51	\$3,716.74	General items at Site %; Lots not District
20718	6/29/18	Yes	10229988	7/25/18	Planniing and Entitlement	\$939.25	\$417.97	\$521.28	General items at Site %; Lots not District
20794	7/31/18	Yes	10230623	8/24/18	Planniing and Entitlement	\$3,142.91	\$1,539.60	\$1,603.31	General items at Site %; Lots not District
20876	8/30/18	Yes	10231309	9/25/18	Planniing and Entitlement	\$12,294.01	\$6,737.68	\$5,556.33	General items at Site %; Lots not District
20962	9/28/18	Yes	10231896	10/25/18	Planniing and Entitlement	\$1,012.50	\$562.95	\$449.55	Site %
21055	10/31/18	Yes	10232466	11/21/18	Planniing and Entitlement	\$10,497.98	\$6,670.76	\$3,827.22	General items at Site %; Lots not District
21135	11/30/18	No	10233028	12/21/18	Planniing and Entitlement	\$1,855.20	\$0.00	\$1,855.20	Only Page 2 provided
21228	1/9/19	Yes	10234253	2/25/19	Coordination for Water	\$186.00	\$186.00	\$0.00	
21304	1/31/19	Yes	10234253	2/25/19	Landscape Plans	\$3,103.75	\$3,103.75	\$0.00	
21382	3/5/19	Yes	10234807	3/25/19		\$2,640.00	\$1,936.01	\$703.99	General items at Site %; Lots not District
Subtotal The Henry Design Group, In.						\$43,878.60	\$24,744.22	\$19,134.38	
Total						\$2,721,055.87	\$1,817,398.95	\$903,656.92	

"District Eligible Expenses" is the amount being recommended for reimbursement from the District

"Non Eligible Expenses" is the difference between the Invoiced Amount and the District Portion

These amounts do not include interest

Work that is both District and Non Eligible in nature was prorated at the Site % of 55.6% District eligible based on area percentage.

Attachment D

Project Photos

Commons at East Creek Metropolitan District Site Photos



E Arizona Pl



E Kansas Pl



E Kansas Pl



S Walden Ct



S Walden Ct



S Yampa Ct



Tract A



Tract A



Tract B



Tract C



Tract D



Tract E



Tract F



Tract G



Tract I



Tract J



Tract J



Tract K

RESOLUTION NO. 2020-10-02

RESOLUTION TO AMEND BUDGET

**RESOLUTION OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT
TO AMEND THE 2020 BUDGET**

Pursuant to Section 29-1-109, C.R.S., the Board of The Commons at East Creek Metropolitan District (the “**District**”), hereby certifies that an organizational meeting of the Board of Directors of the District, was held on February 10, 2020, at the offices of Meritage Homes of Colorado, Inc., 8400 E. Crescent Parkway, Suite 200, Greenwood Village, CO.

A. At such meeting, the Board of Directors of the District adopted that certain Resolution No. 2020-02-03 to Adopt Budget appropriating funds for the fiscal year 2020 as follows:

General Fund	\$50,000
--------------	----------

B. The necessity has arisen for additional General Fund appropriations and adoption of a Capital Projects Fund and a Debt Service Fund requiring the expenditure of funds in excess of those appropriated for the fiscal year 2020.

C. The source and amount of revenues for such expenditures, the purposes for which such revenues are being appropriated, and the fund(s) which shall make such supplemental expenditures are described on **Exhibit A**, attached hereto and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of The Commons at East Creek Metropolitan District shall and hereby does amend the budget for the fiscal year 2020 as follows:

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

BE IT FURTHER RESOLVED, that such sum is hereby appropriated from unexpected revenues available to the District to the General Fund, Capital Projects Fund and Debt Service Fund for the purpose stated.

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO RESOLUTION OF THE COMMONS AT EAST CREEK
METROPOLITAN DISTRICT TO AMEND THE 2020 BUDGET]**

RESOLUTION APPROVED AND ADOPTED on October 12, 2020.

**THE COMMONS AT EAST CREEK
METROPOLITAN DISTRICT**

By: _____
President

Attest:

By: _____
Secretary

EXHIBIT A

Original and Amended Budget Appropriations

NOTICE TO TITLE COMPANIES: THE FOLLOWING RESOLUTION IMPOSES FEES WHICH, UNTIL PAID, CONSTITUTE A STATUTORY AND PERPETUAL LIEN ON AND AGAINST THE PROPERTY SERVED. CONTACT THE MANAGER OF THE DISTRICT, SPECIAL DISTRICT MANAGEMENT SERVICES, AT (303) 987-0835 TO VERIFY PAYMENT.

RESOLUTION NO. 2020-09-01

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT REGARDING
THE IMPOSITION OF DISTRICT FEES**

- A. The Commons at East Creek Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in the City of Aurora, Colorado.
- B. The District’s boundaries are described in the legal description attached hereto as **Exhibit A**, which legal description may be amended from time to time, pursuant to the inclusion and/or exclusion of property into or from the District (the “**Property**”).
- C. The District, pursuant to its Service Plan and the Intergovernmental Agreement with the City of Aurora, is authorized to plan for, design, acquire, construct, install, relocate, redevelop, finance and provide for the operation and maintenance of certain street improvements, safety protection improvements, park and recreation improvements and related irrigation systems, television relay and translator facilities, and mosquito and pest control systems (the “**District Improvements**”).
- D. The Property will benefit from the District Improvements and the Districts’ operation and maintenance of the same.
- E. The District is authorized pursuant to Section 32-1-1001(1)(j)(I), C.R.S., and its Service Plan to fix fees and charges for capital costs and operation and maintenance costs.
- F. The District has determined that, to meet the costs associated with the District Improvements and the cost of operating and maintaining the District Improvements, it is necessary to impose an Operations and Maintenance Fee and a Capital Working Fee on the Property.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT, ARAPAHOE COUNTY, COLORADO, AS FOLLOWS:

1. The Board of Directors hereby finds, determines and declares that it is in the best interests of the District, its inhabitants and taxpayers to exercise its power by imposing the following fees:

- (a) Operations Fee.

(i) The Board hereby imposes an Operations and Maintenance Fee (the “**Operations Fee**”) in the amount of \$1,620.00 per year on each residential lot (each, a “**Lot**”) within the District. The District reserves the right to amend this resolution in the future to increase or decrease the amount of the Operations Fee.

(ii) The Operations Fee shall be paid in quarterly amounts of \$405.00 per calendar quarter invoiced on each January 1st, April 1st, July 1st and October 1st and due on each January 25th, April 25th, July 25th and October 25th. An invoice for the Operations Fee payable for each calendar quarter will be mailed to each property owner (“**Owner**”) thirty (30) days prior to the final due date (the “**Bill Date**”). If payment in full is not received by the 30th day following the Bill Date (the “**Past Due Date**”), the fee is deemed past due and otherwise outstanding. A “Reminder Notice” may be, but is not required to be, sent at such time. Notwithstanding the above, the Owner shall have the right to pay the Operations Fee for said calendar year in one installment on or before January 15th, in which event, the Owner shall be entitled to a five percent (5%) discount.

(iii) Failure to make payment of any Operations Fees due hereunder shall constitute a default in the payment of such Operations Fees. Upon default, Owner shall be responsible for a late payment fee (“**Late Payment Fee**”) in the amount of \$15.00 per late payment.

(iv) If the Owner does not make payment of all past due amounts, including the Late Payment Fee (the “**Delinquent Balance**”), within 60 days from the Past Due Date, the District may deliver to the Owner a Notice of Intent to File a Lien Statement (a “**Lien Notice**”). The Lien Notice shall give notice to the Owner that the District intends to perfect its lien against the Property by recording a Lien Statement in the office of the Arapahoe County Clerk and Recorder if the Delinquent Balance is not paid in full within thirty (30) days after said Lien Notice is served upon Owner by certified mail, return receipt requested, pursuant to Section 38-22-109(3), C.R.S.

(b) Transfer Fee.

(i) The Board hereby determines that in order to offset administrative costs associated with a transfer of ownership of any dwelling unit located within the Property, the District shall impose a Transfer Fees (the “**Transfer Fee**” and, collectively with the Operations Fee, the “**Fees**”) in the amount of \$300.00 per Lot and shall be due and payable at the time of any sale, transfer or re-sale of any single-family dwelling unit constructed on a Lot which has a certificate of occupancy.

2. The Fees shall not be imposed on real property actually conveyed or dedicated to non-profit owners’ associations, governmental entities or utility providers.

3. The Fees shall constitute a statutory and perpetual charge and lien upon the Property pursuant to Section 32-1-1001(1)(j), C.R.S., from the date the same becomes due and payable until paid. The lien shall be perpetual in nature as defined by the laws of the State of Colorado on the Property and shall run with the land and such lien may be foreclosed by the District in the same manner as provided by the laws of Colorado for the foreclosure of

mechanics' liens. This Resolution shall be recorded in the real property records of the Clerk and Recorder of Arapahoe County, Colorado.

4. The District shall be entitled to institute such remedies and collection proceedings as may be authorized under Colorado law, including, but not limited to, foreclosure of its perpetual lien. The defaulting Owner shall pay all costs, including attorney fees, incurred by the District in connection with the foregoing. In foreclosing such lien, the District will enforce the lien only to the extent necessary to collect the Delinquent Balance and costs of collection (including, but not limited to, reasonable attorney fees).

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

6. Any inquiries pertaining to the Fees may be directed to the District's Manager at: Peggy Ripko, Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228, phone number: 303-987-0835.

7. This Resolution shall take effect immediately upon its adoption and approval.

APPROVED AND ADOPTED THIS 1st day of October, 2020.

**THE COMMONS AT EAST CREEK
METROPOLITAN DISTRICT**, a quasi-
municipal corporation and political subdivision
of the State of Colorado

By: _____
President

Attest:

By: _____
Secretary

EXHIBIT A

Legal Description of the Property

Lots 1 through 12, inclusive, Block 1;
Lots 1 through 8, inclusive, Block 2;
Lots 1 through 10, inclusive, Block 3;
Lots 1 through 12, inclusive, Block 4;
Lots 1 through 8, inclusive, Block 5;
Commons at East Creek at Tower Landing Subdivision Filing No. 1
A Resubdivision of Lot 1 and Tract A, Tower Landing Subdivision Filing No. 1,
City of Aurora, County of Arapahoe, State of Colorado.

RESOLUTION NO. 2020-10-03

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT REGARDING
CONTINUING DISCLOSURE POLICIES AND PROCEDURES**

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

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

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT, ARAPAHOE COUNTY, COLORADO:

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

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

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

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

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

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

RESOLUTION APPROVED AND ADOPTED on October 12, 2020.

**THE COMMONS AT EAST CREEK
METROPOLITAN DISTRICT**

By: _____
President

Attest:

By: _____
Secretary

EXHIBIT A

Continuing Disclosure Undertaking

Attach Continuing Disclosure Agreement

TO BE CONFIRMED / UPDATED BASED ON FINAL CDA

EXHIBIT B

COMPLIANCE PROCEDURE

The Commons at East Creek Metropolitan District, Arapahoe County, Colorado
\$1,495,000 General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds, Series 2020A(3)

Subject to SEC Rule 15c2-12: NO

FINANCIAL DISCLOSURES	
Submittal Date to Trustee	Required Documentation Prepared By:
Quarterly Reports <ul style="list-style-type: none">February 15May 15August 15November 15 (commencing November 15, 2020)	Section 1 of the Quarterly Report, Residential Development: <i>Meritage Homes of Colorado, Inc. ("Developer") to provide to Simmons & Wheeler, P.C., District Accountant ("Simmons") at least thirty (30) days prior to submittal date all information required for Section 1.</i>
	Section 2 of the Quarterly Report, Fund Balances: <i>Simmons to obtain information from Trustee</i>
	Section 3 of the Quarterly Report, Authorized Denominations: <i>Simmons</i>
	Section 4 of the Quarterly Report, Additional District Financial Information: <i>Simmons to complete annually, to be submitted in November 15th Quarterly Report.</i>
Annual Reporting Requirements (to be included in the Quarterly Reported noted)	Section 5 of the Quarterly Report, Quarterly District Financial Information: <i>Simmons</i> Need not be included for the fourth quarter if such information is included in the annual information set for in Section 6
	Section 6 of the Quarterly Report, Annual District Financial Information: <i>Simmons / District Auditor</i> <ul style="list-style-type: none">Audited Annual Financial Statements (due with the November 15 Quarterly Report)Unaudited annual financial statements (due with the May 15 Quarterly Report)Annual Budget (due with the February 15 Quarterly Report, if not provided with the Budget Report)
Budget Report <ul style="list-style-type: none">February 15 (commencing February 15, 2021)	Budget Report <i>Simmons</i>

Procedure:

1. Simmons will prepare the reports.
2. Simmons will submit the reports to UMB Bank, n.a. ("**Trustee**") on the applicable submittal date and will copy McGeady Becher P.C. on the submittal.

NOTICE OF MATERIAL EVENT		
Reporting / Submittal Deadlines	Responsible Party to Report Event of Default	Party Responsible to Notify Trustee of Event of Default
District shall cause the Trustee to provide, in a timely manner, a notice of an event of default	SDMS, Simmons, McGeady Becher, UMB Bank, or anyone who has actual knowledge of a material event	Simmons / McGeady Becher

RESOLUTION NO. 2020-10-04

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT
ADOPTING THE RULES AND REGULATIONS OF COMMONS AT EAST CREEK**

1. The Commons at East Creek Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in the County of Arapahoe, Colorado.

2. The District operates pursuant to its Service Plan approved by the City Council of the City of Aurora, Colorado on August 5, 2019, as the same may be amended and/or modified from time to time (the “**Service Plan**”).

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

4. Meritage Homes of Colorado, Inc., an Arizona corporation (the “**Developer**”) has caused to be recorded the Declaration of Covenants, Conditions and Restrictions for Commons at East Creek, recorded on October 6, 2020, at Reception No. E0134201 of the County of Arapahoe, Colorado, real property records, as the same may be amended and/or modified from time to time (the “**Covenants**”) applicable to the real property within the District (the “**Property**”).

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

6. The Covenants provide that it is the intention of the Developer to empower the District to provide covenant enforcement services to the Property.

7. Pursuant to the Covenants, the District may promulgate, adopt, enact, modify, amend, and repeal rules and regulations concerning and governing the Property and the enforcement of the Covenants.

8. The District desires to provide for the orderly and efficient enforcement of the Covenants by adopting rules and regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT:

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

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

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

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO RESOLUTION NO. 2020-10-04]

APPROVED AND ADOPTED October 12, 2020.

**THE COMMONS AT EAST CREEK
METROPOLITAN DISTRICT**

By: _____
President

Attest:

Secretary or Assistant Secretary

EXHIBIT A

RULES AND REGULATIONS OF THE COMMONS AT EAST CREEK

RESOLUTION NO. 2020-10-05

**RESOLUTION OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT
ACKNOWLEDGING AND ADOPTING THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR THE COMMONS AT EAST CREEK**

1. The Commons at East Creek Metropolitan District (the “**District**”) is a duly and regularly created, established, organized, and existing metropolitan district, existing as such under and pursuant to Title 32, Article 1 of the Colorado Revised Statutes, as amended (“**C.R.S.**”).
2. Meritage Homes of Colorado, Inc., an Arizona corporation (the “**Developer**”), the master developer of The Commons at East Creek project (the “**Property**”) has executed a Declaration of Covenants, Conditions and Restrictions for Commons at East Creek (the “**Declaration**”) for the Property recorded in the real property records of Arapahoe County, State of Colorado, on October 6, 2020 at Reception No. E0134201, as the same may be amended from time to time, and which Declaration declares that the Property is and shall be subject to the Declaration and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied, enjoyed, sold, transferred, hypothecated, maintained, altered and otherwise enjoyed in accordance with and subject to the covenants and use restrictions contained therein.
3. The Declaration provides that The Commons at East Creek Metropolitan District shall enforce each of the provisions provided therein.
4. Section 32-1-1004(8), C.R.S. authorizes Title 32 metropolitan districts to furnish covenant enforcement and design review services within the district if the declaration, rules and regulations, or similar document containing the covenants to be enforced for the area within the metropolitan district named the district as the enforcement or design review entity.
5. The Declaration assigns to the District all duties, rights and obligations to enforce the Declaration and to promulgate the Guidelines with respect to real property within the boundaries of the District that is subject to the Declaration.
6. The Board of Directors of the District (the “**Board**”) wishes to adopt the Declaration as an official policy of the District and to acknowledge the duties, obligations and rights assigned to the District pursuant to such Declaration.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT, COUNTY OF ARAPAHOE, COLORADO, AS FOLLOWS:

1. The foregoing Recitals are incorporated into and made a substantive part of this Resolution.
2. The Board hereby determines that it is in the best interests of the District and its property owners and users for the District to accept the assignment of all duties, rights and

obligations under the Declaration and to provide the covenant enforcement and design review services established thereby.

3. The Board hereby authorizes and directs the officers of the District and District staff to take all actions necessary to execute the duties, rights and obligations assigned to the District by the Declaration.

4. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase, or word hereof, or the application thereof in any given circumstance, shall not affect the validity of the remainder of this Resolution, which shall be given effect in accordance with the manifest intent hereof.

5. This Resolution shall be effective upon recording of the Declaration in the Office of the Clerk and Recorder for Arapahoe County, Colorado.

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO RESOLUTION OF
THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT
ACKNOWLEDGING AND ADOPTING THE DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR COMMONS AT EAST CREEK]**

APPROVED AND ADOPTED on October 12, 2020.

**THE COMMONS AT EAST CREEK
METROPOLITAN DISTRICT**

By: _____
President

Attest:

Secretary

RESOLUTION NO. 2020-10-06

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT
ADOPTING THE POLICIES AND PROCEDURES GOVERNING THE
ENFORCEMENT OF THE DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS FOR COMMONS AT EAST CREEK**

- A. The Commons at East Creek Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in the City of Aurora, Colorado.
- B. The District operates pursuant to its Service Plan approved by the City Council of the City of Aurora on August 5, 2019, as the same may be amended and/or modified from time to time (the “**Service Plan**”).
- C. Pursuant to Section 32-1-1001(1)(m), C.R.S., the District has the power “to adopt, amend and enforce bylaws and rules and regulations not in conflict with the constitution and laws of this state for carrying on the business, objects, and affairs of the board and of the special district.”
- D. Pursuant to Section 32-1-1001(1)(j)(I), C.R.S., the District has the power “to fix and from time to time to increase or decrease fees, rates, tolls, penalties or charges for services, programs, or facilities furnished by the special district.”
- E. Meritage Homes of Colorado, Inc., an Arizona Corporation (the “**Developer**”) has caused to be recorded the Declaration of Covenants, Conditions and Restrictions for Commons at East Creek, recorded on October 6, 2020, at Reception No. E0134201, of the Arapahoe County, Colorado, real property records, as the same may be amended and/or modified from time to time (the “**Covenants**”) applicable to the real property within the District (the “**Property**”).
- F. Pursuant to Section 32-1-1004(8), C.R.S., and pursuant to the District’s Service Plan, a metropolitan district may provide covenant enforcement within the district if the declaration, rules and regulations, or any similar document containing the covenants to be enforced for the area within the metropolitan district name the metropolitan district as the enforcement and design review entity.
- G. The Covenants provide that it is the intention of the Developer to empower the District to provide covenant enforcement services to the Property.
- H. Pursuant to the Covenants, the District may promulgate, adopt, enact, modify, amend, and repeal rules and regulations concerning and governing the Property and the enforcement of the Covenants.

I. Pursuant to the Covenants, the District has the right to send demand letters and notices, to levy and collect fines, to negotiate, to settle, and to take any other actions with respect to any violation(s) or alleged violation(s) of the Covenants.

J. The District desires to provide for the orderly and efficient enforcement of the Covenants by adopting rules and regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT, ARAPAHOE COUNTY, COLORADO THAT:

1. The Board of Directors of the District hereby adopt the Policies and Procedures Governing the Enforcement of the Declaration of Covenants, Conditions and Restrictions for Commons at East Creek as described in **Exhibit A**, attached hereto and incorporated herein by this reference (“**Policies and Procedures**”).

2. The Board of Directors declares that the Policies and Procedures are effective as of [REDACTED].

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

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO RESOLUTION NO. 2020-10-06]

APPROVED AND ADOPTED October 12, 2020.

**THE COMMONS AT EAST CREEK
METROPOLITAN DISTRICT**

By: _____
President

Attest:

Secretary or Assistant Secretary

EXHIBIT A

**POLICIES AND PROCEDURES GOVERNING THE ENFORCEMENT OF THE
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
COMMONS AT EAST CREEK**

Preamble

The Board of Directors of The Commons at East Creek Metropolitan District (the “**District**”), has adopted the following Policies and Procedures Governing the Enforcement of the Declaration of Covenants, Conditions and Restrictions for Commons at East Creek (“**Policies and Procedures**”) pursuant to Sections 32-1-1001(1)(j)(I), 32-1-1001(1)(m), and Section 32-1-1004(8), C.R.S. These Policies and Procedures provide for the orderly and efficient enforcement of the Declaration of Covenants, Conditions and Restrictions for The Commons at East Creek, recorded on **October 6, 2020**, at Reception **No. E0134201** of the Arapahoe County, Colorado real property records, and as may be amended from time to time (the “**Covenants**”).

Pursuant to the Covenants, it is the intention of Meritage Homes of Colorado, Inc. (the “**Developer**”) to empower the District to provide covenant enforcement services to the residents of the District.

The District, pursuant to the provisions of its Service Plan, which was approved by the City Council of the City of Aurora, on August 5, 2019, as it has been and may be amended from time to time, and pursuant to the Covenants, may enforce the Covenants through any proceeding in law or in equity against any Person(s) violating or attempting to violate any provision therein. Possible remedies include all of those available at law or in equity. In addition, the District has the right to send demand letters and notices, to levy and collect fines, to negotiate, to settle, and to take any other actions, with respect to any violation(s) or alleged violation(s) of the Covenants.

Unless otherwise specified, all references to the “District” made herein shall refer to The Commons at East Creek Metropolitan District and its Board of Directors. The District has retained a management company (the “**District Manager**”) to assist it in managing its affairs, including the assessment and collection of penalties for violations of the Covenants under these Policies and Procedures.

ARTICLE 1. SCOPE OF POLICIES AND PROCEDURES

1.1 Scope. These Policies and Procedures shall apply to the enforcement of the Covenants, including the Rules and Regulations and Design Review Guidelines adopted pursuant thereto, as well as any reimbursable costs incurred by the District for enforcing the Covenants and for correction of noncompliance with the Covenants, including but not limited to, abatement of unsightly conditions, towing and storage of improperly parked vehicles, removal of trash, and removal of non-complying landscaping or improvements.

ARTICLE 2. VIOLATIONS OF THE COVENANTS

2.1 Violations. Any Person violating any provisions of the Covenants shall be liable to the District for any expense, loss, or damage occasioned by reason of such violation and shall also be liable to the District for the penalties set forth in Article 2.3 below.

2.2 Notice of Violation. A Notice of Violation shall be sent upon a determination, following investigation, by the District Manager that a violation is likely to exist. Such Notice of Violation shall set forth the specifics of the alleged violation and the time period within which the alleged violation must be corrected, pursuant to the following classification guidelines:

a. Class I Violation: a violation that, in the sole discretion of the District, can be corrected immediately and/or does not require submission to, and approval by, the District of any plans and specifications. Class I Violations include, but are not limited to, parking violations, trash violations and other violations of the Covenants concerning annoying lights, sounds or odors. Class I Violations can in most cases be corrected within seven (7) days of notification. If the violation is not corrected within seven (7) days of notification, the District may take any appropriate action necessary to remedy the violation, including but not limited to, abatement of unsightly conditions, towing and storage of improperly parked vehicles, and removal of trash, etc.

b. Class II Violation: a violation that, in the sole discretion of the District, cannot be corrected immediately and/or require plans and specifications to be submitted to, and approval by, the District prior to any corrective action. Class II Violations include, but are not limited to, violations of the Covenants related to landscaping and construction of, or modification to, improvements. Class II Violations can in most cases be corrected within thirty (30) days of notification. If the violation is not corrected within thirty (30) days of notification, the District may take any appropriate action necessary to remedy the violation, including but not limited to, removing the non-complying landscaping or improvement.

2.3 Penalties. Penalties for violations of the Covenants shall be assessed as follows. Any penalties that have not been paid by the applicable due date shall be considered delinquent (the “**Delinquent Account**”).

- a. First Offense – Notice of Violation, no penalty
- b. Second Repeated Offense – Fee of up to \$100.00
- c. Third Repeated Offense – Up to \$250.00
- d. Continuing Repeated Violation – Up to \$500 each day violation continues (each day constitutes a separate violation).

ARTICLE 3. INTEREST

3.1 Interest. Interest charges shall accrue and shall be charged on all amounts not paid by the applicable due date, including delinquent penalties and any amounts expended by the District to cure a violation of the Covenants or amounts expended by the District to repair damages caused as a result of a violation of the Covenants. Interest charges shall accrue and shall be charged at the maximum statutory rate of eighteen percent (18%) per annum.

ARTICLE 4. LIEN FILING POLICIES AND PROCEDURES

4.1 Perpetual Lien. Pursuant to Section 32-1-1001(1)(j)(I), C.R.S., all Fees and Charges, until paid, shall constitute a perpetual lien on and against the Property to be served by the District. Except for the for the lien against the Property created by the imposition of property taxes by the District and other taxing jurisdictions pursuant to Section 32-1-1202, C.R.S., all liens for unpaid Fees and Charges shall to the fullest extent permitted by law, have priority over all other liens of record affecting the Property and shall run with the Property and remain in effect until paid in full. All liens contemplated herein may be foreclosed as authorized by law at such time as the District in its sole discretion may determine. Notwithstanding the foregoing, the lien policies and procedures set forth herein shall be implemented in order to ensure an orderly and fair execution of the lien filing and collections process.

4.2 District Manager's Procedures. The District Manager shall be responsible for collecting Fees and Charges imposed by the District against the Property. In the event payment of Fees and Charges is delinquent, the District Manager shall perform the procedures listed below. Any Fees and Charges which have not been paid by the applicable due date are considered delinquent:

a. Fifteen (15) Business days Past Due. A delinquent payment "Reminder Letter" shall be sent to the address of the last known owner of the Property according to the District Manager's records. In the event the above mailing is returned as undeliverable, the District Manager shall send a second copy of the Reminder Letter to: (i) the Property; and (ii) the address of the last known owner of the Property as found in the real property records of the Arapahoe County, Colorado Assessor's office (collectively the "**Property Address**"). Said Reminder Letter shall request prompt payment of amounts due.

b. On the Fifteenth (15) Business day of the Month Following the Scheduled Due Date for Payment. A "Warning Letter" shall be sent to the Property Address requesting prompt payment and warning of further legal action should the Property owner fail to pay the total amount owing. Along with the Warning Letter, a summary of these Policies and Procedures, and a copy of the most recent account ledger reflecting the total amount due and owing to the District according to the records of the District Manager shall also be sent.

c. First (1) Business day of the Month Following the Postmark Date of the Warning Letter. Once the total amount owing on the Property, inclusive of Interest and Costs of Collections as defined below, has exceeded One Hundred Twenty Dollars (\$120.00) and the District Manager has performed its duties outlined in these Policies and Procedures, the District Manager shall refer the Delinquent Account to the District's General Counsel (the "**General Counsel**"). However, if the amount owing on the Delinquent Account is less than One Hundred Twenty Dollars (\$120.00), the District Manager shall continue to monitor the Delinquent Account until the amount owing on such account is One Hundred Twenty Dollars (\$120.00) or greater, at which point the Delinquent Account shall be referred to General Counsel. At the time of such referral, the District Manager shall provide General Counsel with copies of all notices and letters sent and a copy of the most recent ledger for the Delinquent Account.

4.3 General Counsel Procedures. Upon referral of a Delinquent Account from the District Manager, General Counsel shall perform the following:

a. Upon Referral of the Delinquent Account from the District Manager. A “Demand Letter” shall be sent to the Property Address, notifying the Property owner that his/her Property has been referred to General Counsel for further collections enforcement, including the filing of a lien against the Property. Along with the Demand Letter, a copy of the most recent account ledger reflecting the total amount due and owing the District according to the records of the District Manager shall also be sent.

b. No Earlier Than Thirty (30) Business days from the Date of the Demand Letter. A Notice of Intent to File Lien Statement, along with a copy of the lien to be filed, shall be sent to the Property Address of the Delinquent Account notifying the Property owner that a lien will be filed within thirty (30) days of the Notice of Intent to File Lien Statement postmark date.

c. No Earlier Than Ten (10) Business days from the Postmark Date of the Notice of Intent to File Lien Statement. A lien for the total amount owing as of the date of the lien shall be recorded against the Property with the County Clerk and Recorder’s Office; all Fees and Charges, Interest, and Costs of Collection (as defined below) will continue to accrue on the Delinquent Account and will run with the Property until the total amount due and owing the District is paid in full.

ARTICLE 5. COSTS OF COLLECTIONS

“Costs of Collections” are generated by the District Manager and General Counsel’s collection efforts. They consist of the following fixed rates and hourly fees and costs:

5.1 Action Fees. The following fixed rate fees shall be charged to a Delinquent Account once the corresponding action has been taken by either the District Manager or General Counsel:

a. Reminder Letter Fee. No charge for the Reminder Letter. This action is performed by the District Manager.

b. Warning Letter Fee. Fifteen Dollars (\$15.00) per Warning Letter sent. This action is performed by the District Manager.

c. Demand Letter Fee. Fifty Dollars (\$50.00) per Demand Letter sent. This action is performed by General Counsel.

d. Notice of Intent to File Lien Fee. One Hundred Fifty Dollars (\$150.00) per Notice of Intent to File Lien Statement sent. This action is performed by General Counsel.

e. Lien Recording Fee. One Hundred Fifty Dollars (\$150.00) per each lien recorded on the Property. This action is performed by General Counsel.

f. Lien Release Fee. One Hundred Fifty Dollars (\$150.00) per each lien recorded on the Property. This action is performed by General Counsel.

5.2 Attorney Hourly Fees and Costs. After a lien has been filed, all hourly fees and costs generated by General Counsel to collect unpaid Fees and Charges shall also be assessed to the Delinquent Account.

5.3 Recovery of Costs of Collections. In accordance with Section 29-1-1102(8), C.R.S., nothing in these Policies and Procedures shall be construed to prohibit the District from recovering all the Costs of Collections whether or not outlined above.

ARTICLE 6. WAIVER OF INTEREST AND COSTS OF COLLECTIONS

6.1 Waiver of Interest. The District Manager and General Counsel shall each have authority and discretion to waive or reduce portions of the Delinquent Account attributable to Interest. Such action shall be permitted if either the District Manager or General Counsel, in its discretion, determines that such waiver or reduction will facilitate the payment of the penalties due. Notwithstanding, if the cumulative amount due and owing the District on the Delinquent Account exceeds One Thousand Dollars (\$1,000.00), neither the District Manager nor General Counsel shall have any authority to waive or reduce any portion of the Interest. In such case, the person or entity owing in excess of One Thousand Dollars (\$1,000.00) shall first submit a request for a waiver or reduction, in writing, to the District, and the District shall make the determination in its sole discretion.

6.2 Waiver of Delinquent Penalties and Costs of Collections. Neither the District Manager nor General Counsel shall have the authority to waive any portion of delinquent penalties or Costs of Collections. Should the Property owner desire a waiver of such costs, she/he shall submit a written request to the District, and the District shall make the determination in its sole discretion.

6.3 No Waiver of Future Interest. Any waiver or reduction of Interest or other costs granted pursuant to Sections 6.1 and 6.2 hereof shall not be construed as a waiver or reduction of future Interest, or as the promise to waive or reduce future Interest. Nor shall any such waiver or reduction be deemed to bind, limit, or direct the future decision making power of the District, District Manager, or General Counsel, whether related to the Property in question or other properties within the District.

ARTICLE 7. OPPORTUNITY TO BE HEARD

7.1 Opportunity to be Heard. Individuals who receive any notice or demand pursuant to these Policies and Procedures may request a hearing in accordance with the procedures set forth herein, or in the alternative, may elect to follow the Alternative Dispute Resolution procedures set forth in the Covenants.

7.2 Hearing Process. The hearing and appeal procedures established by this Article shall apply to all complaints concerning the interpretation, application, or enforcement of the Covenants, as each now exists or may hereafter be amended.

a. Complaint. Complaints concerning the interpretation, application, or enforcement of the Covenants must be presented in writing to the District Manager, or such

representative as he or she may designate. Upon receipt of a complaint, the District Manager or designated representative, after a full and complete review of the allegations contained in the complaint, shall take such action and/or make such determination as may be warranted and shall notify the complainant of the action or determination by mail within fifteen (15) business days after receipt of the complaint. Decisions of the District Manager which impact the District financially will not be binding upon the District unless approved by the Board of Directors of the District at a special or regular meeting of the District.

b. Hearing. In the event the decision of the District Manager or his representative is unsatisfactory to the complainant, the complainant may submit to the District a written request for formal hearing before a hearing officer (“**Hearing Officer**”), which may be a member of the Board of Directors or such other Person as may be appointed by the Board of Directors. Such request for a formal hearing must be submitted within twenty (20) business days from the date written notice of the decision of the District Manager or designated representative was mailed.

Upon receipt of the request, if it be timely and if any and all other prerequisites prescribed by these Policies and Procedures have been met, the Hearing Officer shall conduct a hearing at the District’s convenience but in any event not later than fifteen (15) business days after the submission of the request for formal hearing. The formal hearing shall be conducted in accordance with and subject to all pertinent provisions of these Policies and Procedures. Decisions of the Hearing Officer which impact the District financially will not be binding upon the District unless approved by the Board of Directors at a special or regular meeting of the District.

c. Rules. At the hearing, the Hearing Officer shall preside and the hearing shall be recorded. The complainant and representatives of the District shall be permitted to appear in person, and the complainant may be represented by any Person (including legal counsel) of his or her choice.

The complainant or his or her representative and the District representatives shall have the right to present evidence and arguments; the right to confront and cross-examine any Person; and the right to oppose any testimony or statement that may be relied upon in support of or in opposition to the matter complained of. The Hearing Officer may receive and consider any evidence which has probative value commonly accepted by reasonable and prudent Persons in the conduct of their affairs.

The Hearing Officer shall determine whether clear and convincing grounds exist to alter, amend, defer, or cancel the interpretation, application, and/or enforcement of the Policies and Procedures that are the subject of the complaint. The Hearing Officer’s decision shall be based upon evidence presented at the hearing. The burden of showing that the required grounds exist to alter, amend, defer, or cancel the action shall be upon the complainant.

d. Findings. Subsequent to the formal hearing, the Hearing Officer shall make written findings and an order disposing of the matter and shall mail a copy thereto to the complainant not later than fifteen (15) business days after the date of the formal hearing.

e. Appeals. In the event the complainant disagrees with the findings and order of the Hearing Officer, the complainant may, within fifteen (15) business days from the date such findings and order were mailed, file with the District a written request for an appeal thereof to the Board of Directors. The request for an appeal shall set forth with specificity the facts or exhibits presented at the formal hearing upon which the complainant relied and shall contain a brief statement of the complainant's reasons for the appeal. The District shall compile a written record of the appeal consisting of (1) a transcript of the recorded proceedings at the formal hearing, (2) all exhibits or other physical evidence offered and reviewed at the formal hearing, and (3) a copy of the written findings and order. The District shall consider the complainant's written request and the written record on appeal at its next regularly scheduled meeting held not earlier than ten (10) days after the filing of the complainant's request for appeal. The District's consideration of the appeal shall be limited exclusively to a review of the record on appeal and the complainant's written request for appeal. No further evidence shall be presented by any Person or party to the appeal, and there shall be no right to a hearing de novo before the Board of Directors.

f. District Board of Directors Findings. The Board of Directors shall make written findings and an order concerning the disposition of the appeal presented to it and shall cause notice of the decision to be mailed to the complainant within thirty (30) days after the Board of Directors' meeting at which the appeal was considered. The Board of Directors will not reverse the decision of the Hearing Officer unless it appears that such decision was contrary to the manifest weight of the evidence made available at the formal hearing.

g. Notices. A complainant shall be given notice of any hearing before the District Manager, the hearing officer, or before the Board of Directors, by certified mail at last seven (7) business days prior to the date of the hearing, unless the complainant requests or agrees to a hearing in less time. When a complainant is represented by an attorney, notice of any action, finding, determination, decision, or order affecting the complainant shall also be served upon the attorney.

h. Costs. All costs of the formal hearing and appeal processes shall be paid by the complainant, including, but not limited to, certified mailing, transcription of the recorded proceedings, and General Counsel fees.

ARTICLE 8. PAYMENT PLANS

8.1 Payment Plans. Neither the District Manager nor General Counsel shall have the authority to enter into or establish payment plans for the repayment of a Delinquent Account. Should the Property owner desire to enter into a payment plan with the District, such owner shall first submit a written request to the District and the District shall make the determination in its sole discretion.

ARTICLE 9. RATIFICATION OF PAST ACTIONS

9.1 Ratification of Past Actions. All waivers and payment plans heretofore undertaken by the District Manager or General Counsel that would otherwise have been

authorized by these Policies and Procedures are hereby affirmed, ratified, and made effective as of the date said actions occurred.

ARTICLE 10. ADDITIONAL ACTIONS

10.1 Additional Actions. The District directs and authorizes its officers, staff and consultants to take such additional actions and execute such additional documents as are necessary to give full effect to the intention of these Policies and Procedures.

ARTICLE 11. COLORADO AND FEDERAL FAIR DEBT COLLECTIONS ACTS

11.1 Acts Not Applicable. Protective covenant enforcement as described herein is not a consumer transaction and, therefore, is not subject to the Colorado Fair Debt Collection Practices Act or the Federal Fair Debt Collections Practices Act.

ARTICLE 12. SEVERABILITY

12.1 Severability. If any term or provision of these Policies and Procedures is found to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable term or provision shall not affect the validity of these Policies and Procedures as a whole but shall be severed herefrom, leaving the remaining terms or provisions in full force and effect.

ARTICLE 13. SAVINGS PROVISION

13.1 Savings Provision. The failure to comply with the procedures set forth herein shall not affect the status of the Fees and Charges as a perpetual lien subject to foreclosure in accordance with law. Failure by the District Manager, General Counsel, or other authorized representative to take any action in accordance with the requirements as specifically provided herein shall not invalidate subsequent efforts to collect the Fees and Charges.