

THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT

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

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expiration:</u>
Glenn Nier	President	2022/May 2022
Michele Trujillo	Treasurer	2022/May 2022
Matthew Larsen	Assistant Secretary	2023/May 2023
Gary Fantasky	Assistant Secretary	2023/May 2023
VACANT		2022/May 2022
Peggy Ripko	Secretary	

DATE: **October 26, 2020**

TIME: **1:00 P.M.**

PLACE: 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 HELD BY CONFERENCE CALL WITHOUT ANY INDIVIDUALS (NEITHER DISTRICT REPRESENTATIVES NOR THE GENERAL PUBLIC) ATTENDING IN PERSON. IF YOU WOULD LIKE TO ATTEND THIS MEETING, PLEASE CALL IN TO THE CONFERENCE BRIDGE AT **877-221-1978** AND WHEN PROMPTED, DIAL IN THE PASSCODE OF **9521151**. *Please email Peggy Ripko if there are any issues (pripko@sdmsi.com).*

I. ADMINISTRATIVE MATTERS

A. Confirm Quorum and Present Conflict Disclosures.

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

C. Consider regular meeting dates for 2021. Review and consider approval of Resolution No. 2020-10-05; Resolution Establishing 2021 Regular Meeting Dates, Times and Location, and Designating Locations for Posting of 24-Hour Notice (enclosure).

D. Discuss §32-1-809, C.R.S. reporting requirements and mode of eligible elector notification for 2021.

II. PUBLIC COMMENTS

A. _____

III. *CONSENT AGENDA - These items listed below are a group of items to be acted on with a single motion and vote by the Board. An item may be removed from the consent agenda to the regular agenda by any Board member. Items on the consent agenda are then voted on by a single motion, second, and vote by the Board. **Enclosures included in electronic packets only; hard copies available upon request.**

- Review and approve Minutes of the October 12, 2020 special meeting (enclosures).
 - Ratification of payment of claims for the period ending _____, 2020 (to be distributed).
- _____

IV. FINANCIAL MATTERS

A. Consider appointment of District Accountant to prepare and file the 2020 Audit Exemption Application.

B. Conduct Public Hearing to consider Amendment to 2020 Budget and consider adoption of Resolution to Amend the 2020 Budget and Appropriate Expenditures, if necessary.

C. Conduct Public Hearing on the proposed 2021 Budget and consider adoption of Resolutions to Adopt the 2021 Budget and Appropriate Sums of Money and Set Mill Levies for General Fund _____, Debt Service Fund _____, and Capital Projects Fund _____ for a total mill levy of _____ (enclosures – Preliminary Assessed Valuation, draft 2021 Budget, and Resolutions).

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

F. Consider adoption of Resolution No. 2020-10-08; Resolution Authorizing Adjustment of the District Mill Levy in Accordance with Colorado Constitution, Article X, Section 3 (to be distributed).

V. LEGAL MATTERS

- A. Discuss and consider adoption of Resolution Regarding Continuing Disclosure Policies and Procedures (to be distributed).
-

- B. Discuss and consider approval of First Amendment to Operation Funding Agreement with Meritage Homes of Colorado, Inc. (to be distributed)
-

VI. COMMUNITY MANAGEMENT

- A. _____

VII. CONSTRUCTION MATTERS

- A. Discuss status of 2020 development / construction outlook.
-

VIII. OTHER BUSINESS

- A. _____

IX. ADJOURNMENT **THERE ARE NO MORE REGULAR MEETINGS SCHEDULED FOR 2020.**

RESOLUTION NO. 2020-10-05

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT
ESTABLISHING REGULAR MEETING DATES, TIME, AND LOCATION, AND
DESIGNATING LOCATION FOR POSTING OF 24-HOUR NOTICES**

A. Pursuant to Section 32-1-903, C.R.S., special districts are required to designate a schedule for regular meetings, indicating the dates, time and location of said meetings.

B. Pursuant to Section 24-6-402(2)(c)(I), C.R.S., special districts are required to designate annually at the board of directors of the district's first regular meeting of each calendar year, the public place at which notice of the date, time and location of regular and special meetings ("**Notice of Meeting**") will be physically posted at least 24 hours prior to each meeting ("**Designated Public Place**"). A special district is deemed to have given full and timely notice of a regular or special meeting if it posts its Notice of Meeting at the Designated Public Place at least 24 hours prior to the meeting.

C. Pursuant to Section 24-6-402(2)(c)(III), C.R.S., special districts are relieved of the requirement to post the Notice of Meeting at the Designated Public Place, and are deemed to have given full and timely notice of a public meeting, if a special district posts the Notice of Meeting online at a public website of the special district ("**District Website**") at least 24 hours prior to each regular and special meeting.

D. Pursuant to Section 24-6-402(2)(c)(III), C.R.S., if a special district is unable to post a Notice of Meeting on the District Website at least 24 hours prior to the meeting due to exigent or emergency circumstances, then it must physically post the Notice of Meeting at the Designated Public Place at least 24 hours prior to the meeting.

E. Pursuant to Section 32-1-903, C.R.S., all special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are 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 such provision is waived.

F. The provisions of Section 32-1-903, C.R.S., may be waived if: (1) the proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting; and (2) a resolution is adopted by the board stating the reason for which a meeting is to be held in a location other than under Section 32-1-903(1), C.R.S., and further stating the date, time and place of such meeting.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of The Commons at East Creek Metropolitan District (the "**District**"), Arapahoe County, Colorado:

1. That the provisions of Section 32-1-903(1), C.R.S., be waived pursuant to the adoption of this Resolution.

2. That the Board of Directors (the “**District Board**”) has determined that conducting regular and special meetings pursuant to Section 32-1-903(1), C.R.S., would be inconvenient and costly for the directors and consultants of the District in that they live and/or work outside of the twenty (20) mile radius requirement.

3. That regular meetings of the District Board for the year 2021 shall be held on _____ at _____, at the offices of Meritage Homes of Colorado, 8400 E. Crescent Parkway, Suite 200, Greenwood Village, CO 80111 in Arapahoe County, Colorado.

4. That special meetings of the District Board shall be held as often as the needs of the District require, upon notice to each director.

5. That, until circumstances change, and a future resolution of the District Board so designates, the location of all special and regular meetings of the District Board shall appear on the agenda(s) of said special and regular meetings.

6. That the residents and taxpaying electors of the District shall be given an opportunity to object to the meeting(s) location(s), and any such objections shall be considered by the District Board in setting future meetings.

7. That, if the District has established a District Website, the Notice of Meeting of the District Board shall be posted on the District Website at least 24 hours prior to each regular and special meeting pursuant to Section 24-6-402(2)(c)(III), C.R.S. and Section 32-1-903(2), C.R.S.

8. That, if the District has not yet established a District Website or is unable to post the Notice of Meeting on the District Website at least 24 hours prior to each meeting due to exigent or emergency circumstances, the Notice of Meeting shall be posted within the boundaries of the District at least 24 hours prior to each meeting, pursuant to Section 24-6-402(2)(c)(I) and (III), C.R.S., at the following Designated Public Place:

(a) Along Mississippi Avenue

9. Gary Fantasky, or his/her designee, is hereby appointed to post the above-referenced notices.

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO RESOLUTION ESTABLISHING REGULAR MEETING
DATES, TIME, AND LOCATION, AND DESIGNATING LOCATION FOR 24-HOUR
NOTICES]**

RESOLUTION APPROVED AND ADOPTED on October 26, 2020.

**THE COMMONS AT EAST CREEK
METROPOLITAN DISTRICT**

By: _____
President

Attest:

Secretary

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT (THE "DISTRICT") HELD OCTOBER 12, 2020

A special meeting of the Board of Directors of The Commons a East Creek Metropolitan District (the "District") was convened on Monday, the 12th day of October, 2020 at 1:00 p.m. Due to concerns regarding the spread of the Coronavirus (COVID-19) and the benefits to the control of the spread of the virus by limiting in-person contact, this District Board Meeting was held by conference call with two persons attending in-person. The meeting was open to the public via conference call.

Directors In Attendance Were:

Glenn Nier

Gary Fantasky (present at location)

Matthew Larsen (present at location)

Following discussion, the absence of Director Michele Trujillo was excused.

Also In Attendance Were:

Peggy Ripko; Special District Management Services, Inc. ("SDMS")

Paula Williams, Esq.; McGeady Becher P.C.

Tiffany L. Leichman, Esq.; Sherman & Howard LLC

Lacey Knowles; D.A. Davidson & Co.

**DISCLOSURE OF
POTENTIAL
CONFLICTS OF
INTEREST**

The Board discussed the requirements of Colorado Law to disclose any potential conflict of or potential breaches of fiduciary duty of the Board of Directors with the Secretary of State. Attorney Williams requested that the disclose any conflicts of interest with regard to any matters scheduled for discussion at this meeting. 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 were filed with the Secretary of State for all Directors pursuant to statute.

RECORD OF PROCEEDINGS

ADMINISTRATIVE MATTERS

Agenda: Ms. Ripko distributed for the Board's review and approval a proposed Agenda for the District's special meeting.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board approved the Agenda as amended.

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

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board determined that due to concerns regarding the spread of the Coronavirus (COVID-19) and the benefits to the control of the spread of the virus by limiting in-person contact, this District Board meeting was held by conference call at the above-stated time and date. There were two members present at the physical location. Director Fantasky confirmed that notice of the time, date and location was duly posted and that the Board has not received any objections to the location or any requests that the meeting place be changed by taxpaying electors within the District's boundaries.

Public Comment: There was no public comment.

Results of May 5, 2020 Regular Election: Ms. Ripko discussed with the Board the results of the May 5, 2020 Regular Election for Directors ("Election"). It was noted that the Election was cancelled, as permitted by statute and that Directors Fantasky and Larsen were deemed elected to three-year terms ending in May 2023.

Resignation of Director: The resignation of Michael Bird, effective May 8, 2020 was acknowledged by the Board of Directors.

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

President	Glenn Nier
Treasurer	Michele Trujillo
Secretary	Peggy Ripko
Assistant Secretary	Gary Fantasky
Assistant Secretary	Matthew Larsen

Minutes: The Board reviewed the minutes of the February 10, 2020 organizational meeting.

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board approved the minutes of the February 10, 2020 organizational meeting.

Management Agreement with Special District Management Services, Inc.: The Board discussed the Management Agreement with Special District Management Services, Inc. for District Management Services.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board ratified approval of the Management Agreement with Special District Management Services, Inc. for District Management Services.

Engagement Agreement with Simmons & Wheeler, P.C.: The Board discussed the Engagement Agreement with Simmons & Wheeler, P.C. for District Accounting Services.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board ratified approval of the Engagement Agreement with Simmons & Wheeler, P.C. for District Accounting Services.

FINANCIAL MATTERS

Cost Certification Report from Independent District Engineering Services, LLC: The Board discussed the status of Cost Certification Report from Independent District Engineering Services, LLC.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board approved the Certification Report from Independent District Engineering Services, LLC and acceptance of District Reimbursable Costs in the amount of 1,817,398.95 and authorized necessary actions in conjunction therewith.

Requisitions (under the Series 2020A Bonds) authorizing reimbursement to Meritage Homes of Colorado, Inc.: The Board discussed the status of Requisitions (under the Series 2020A Bonds) authorizing reimbursement to Meritage Homes of Colorado, Inc.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board approved Requisitions (under the Series 2020A Bonds) authorizing reimbursement to Meritage Homes of

RECORD OF PROCEEDINGS

Colorado, Inc. up to the verified costs and authorized necessary actions in conjunction therewith.

2020 Budget Amendment Hearing: The President opened the public hearing to consider the Resolution Amending the 2020 Budget.

It was noted that publication of Notice stating that the Board would consider adoption of a Resolution to Amend the 2020 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. There were no comments from the public in attendance and the public hearing was closed.

Following review and discussion, Director Larsen moved to adopt Resolution No. 2020-10-01 to Amend the 2020 Budget, Director Nier seconded the motion and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-10-01 to Amend the 2020 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

District Bank Account: The Board discussed opening the District bank account at First Bank, with all board members to be signers.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board authorized opening the District bank account at First Bank, with all board members to be signers.

LEGAL MATTERS

Service Agreement for Cost Verification Services Between the District and Independent District Engineering Services, LLC: The Board discussed the Service Agreement for Cost Verification Services between the District and Independent District Engineering Services, LLC.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board ratified approval of the Service Agreement for Cost Verification Services between the District and Independent District Engineering Services, LLC.

Resolution Regarding the Imposition of District Fees: The Board considered the imposition of District Fees.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board ratified adoption of Resolution No. 2020-09-01 Regarding the Imposition of District Fees.

RECORD OF PROCEEDINGS

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:

Ms. Knowles and Ms. Leichman presented 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.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board adopted the 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; authorized approval of the Preliminary Limited Offering Memorandum and the use thereof by the underwriter in connection with the offering of the Bonds; authorized the preparation of the final Limited Offering Memorandum; authorized 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, and appointed Director Nier as primary representative and Director Trujillo as the alternate.

Resolution Regarding Continuing Disclosure Policies and Procedures: The Board determined to defer this matter.

**COVENANT
ENFORCEMENT/
DESIGN REVIEW**

Covenants, Conditions and Restrictions of The Commons at East Creek: Ms. Ripko discussed the Covenants, Conditions and Restrictions of The Commons at East Creek.

Resolution Adopting the Rules and Regulations of The Commons at East Creek: The Board considered a Resolution Adopting the Rules and Regulations of The Commons at East Creek.

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-10-03 Adopting the Rules and Regulations of The Commons at East Creek pending final review.

Resolution Acknowledging and Adopting the Declaration of Covenants, Conditions and Restrictions of The Commons at East Creek: The Board considered a Resolution Acknowledging and Adopting the Declaration of Covenants, Conditions and Restrictions of The Commons at East Creek.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board adopted Resolution No. 2020-10-04 Acknowledging and Adopting the Declaration of Covenants, Conditions and Restrictions of The Commons at East Creek.

Resolution Adopting the Policies and Procedures Governing the Enforcement of the Covenants, Conditions and Restrictions of The Commons at East Creek: The Board considered a Resolution Adopting the Policies and Procedures Governing the Enforcement of the Covenants, Conditions and Restrictions of The Commons at East Creek.

Following discussion, upon motion duly made by Director Larsen, seconded by Director Nier and, upon vote, unanimously carried, the Board adopted Resolution NO. 2002-10-05 Adopting the Policies and Procedures Governing the Enforcement of the Covenants, Conditions and Restrictions of The Commons at East Creek.

CONSTRUCTION MATTERS

2020 Development / Construction Outlook: Director Nier gave an update. It was noted that construction is 99% complete and small landscape tracts need to be completed.

OTHER BUSINESS

2021 Budget Meeting: The Board discussed the 2021 budget meeting scheduled for Monday, October 26, 2020 and confirmed a quorum for the same.

ADJOURNMENT

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

RECORD OF PROCEEDINGS

Respectfully submitted,

By _____
Secretary for the Meeting

RESOLUTION NO. 2020-10-01

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
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B. The necessity has arisen for 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:

Capital Projects Fund	\$3,817,399
Debt Service Fund	\$ 11,644

BE IT FURTHER RESOLVED, that such sum is hereby appropriated from unexpected revenues available to the District to the 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

The Commons at East Creek Metropolitan District
Amended Budget
General Fund
For the Year ended December 31, 2020

	Adopted Budget <u>2020</u>	Amended Budget <u>2020</u>
Beginning fund balance	\$ -	\$ -
Revenues:		
Property taxes	-	-
Specific ownership taxes	-	-
Interest Income	-	-
Developer advance	<u>50,000</u>	<u>50,000</u>
Total revenues	<u>50,000</u>	<u>50,000</u>
Total funds available	<u>50,000</u>	<u>50,000</u>
Expenditures:		
Accounting	9,000	9,000
Election expense	1,000	1,000
Insurance	3,500	3,500
Legal	15,000	15,000
District management	15,000	15,000
Miscellaneous	3,000	3,000
Infrastructure fee to town	-	-
Operations fee to town	-	-
Treasurer fees	-	-
Treasurer fees Infrastructure	-	-
Treasurer fees town	-	-
Contingency	2,000	2,000
Emergency reserve (3%)	<u>1,500</u>	<u>1,500</u>
Total expenditures	<u>50,000</u>	<u>50,000</u>
Ending fund balance	<u>-</u>	<u>-</u>
Assessed valuation	<u>\$ 365,946</u>	<u>\$ -</u>
	<u>-</u>	<u>-</u>

The Commons at East Creek Metropolitan District
Amended Budget
Capital Projects Fund
For the Year ended December 31, 2020

	Adopted Budget <u>2020</u>	Amended Budget <u>2020</u>
Beginning fund balance	\$ -	\$ -
Revenues:		
Bond proceeds - Series A	-	2,000,000
Bond proceeds - Series B	-	-
Transfer from General Fund	-	-
Transfer from Capital Projects Fund	-	-
Developer advances	-	1,817,399
Interest income	-	-
Miscellaneous Income	-	-
	<u> </u>	<u> </u>
Total revenues	-	3,817,399
	<u> </u>	<u> </u>
Total funds available	-	3,817,399
	<u> </u>	<u> </u>
Expenditures:		
Capital outlay	-	1,817,399
Accounting	-	-
Legal	-	-
Issuance costs	-	280,000
Repay developer advances	-	1,501,465
Transfer to Debt Service	-	218,535
Transfer to General Fund	-	-
Contingency	-	-
	<u> </u>	<u> </u>
Total expenditures	-	3,817,399
	<u> </u>	<u> </u>
Ending fund balance	<u>\$ -</u>	<u>\$ -</u>

The Commons at East Creek Metropolitan District
Amended Budget
Debt Service Fund
For the Year ended December 31, 2020

	Adopted Budget <u>2020</u>	Amended Budget <u>2020</u>
Beginning fund balance	\$ -	\$ -
Revenues:		
Property taxes	-	-
Specific ownership taxes	-	-
Sales tax sharing	-	-
Developer Advances	-	-
Interest income	-	-
Transfer from capital projects	-	218,535
Total revenues	-	218,535
Total funds available	-	218,535
Expenditures:		
Bond interest	-	6,644
Bond principal	-	-
Collection fees	-	-
Treasurer fees	-	-
Trustee / paying agent fees	-	5,000
Total expenditures	-	11,644
Ending fund balance	\$ -	\$ 206,891
Assessed valuation	\$ 365,946	\$ -
Mill Levy	-	-
Total Mill Levy	-	-

RESOLUTION NO. 2020-10-02

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 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 October 6, 2020.

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

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO RESOLUTION NO. 2020-10-02]

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 COMMONS AT EAST CREEK

RESOLUTION NO. 2020-10-03

RESOLUTION OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT ACKNOWLEDGING AND ADOPTING THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 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. 2020-10-04

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 October 6, 2020.

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

[SIGNATURE PAGE FOLLOWS]

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

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 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.

CERTIFICATION OF VALUATION BY ARAPAHOE COUNTY ASSESSOR

New Tax Entity

☒ YES ☐ NO

Date: October 8, 2020

NAME OF TAX ENTITY: COMMONS AT EAST CREEK METRO DISTRICT

USE FOR STATUTORY PROPERTY TAX REVENUE LIMIT CALCULATION ("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 2020:

1. PREVIOUS YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	1. \$	365,946
2. CURRENT YEAR'S GROSS TOTAL TAXABLE ASSESSED VALUATION: ‡	2. \$	629,295
3. LESS TOTAL TIF AREA INCREMENTS, IF ANY:	3. \$	0
4. CURRENT YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	4. \$	629,295
5. NEW CONSTRUCTION: *	5. \$	0
6. INCREASED PRODUCTION OF PRODUCING MINE: ≈	6. \$	0
7. ANNEXATIONS/INCLUSIONS:	7. \$	0
8. PREVIOUSLY EXEMPT FEDERAL PROPERTY: ≈	8. \$	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.): Φ	9. \$	0
10. TAXES RECEIVED LAST YEAR ON OMITTED PROPERTY AS OF AUG. 1 (29-1-301(1)(A), C.R.S.). Includes all revenue collected on valuation not previously certified:	10. \$	0
11. TAXES ABATED AND REFUNDED AS OF AUG. 1 (29-1-301(1)(a), C.R.S.) and (39-10-114(1)(a)(B), C.R.S.):	11. \$	0

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

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

≈ Jurisdiction must submit to the Division of Local Government respective Certifications of Impact in order for the values to be treated as growth in the limit calculation; use Forms DLG 52 & 52A.

Φ Jurisdiction must apply to the Division of Local Government before the value can be treated as growth in the limit calculation; use Form DLG 52B.

USE FOR TABOR "LOCAL GROWTH" CALCULATION ONLY

IN ACCORDANCE WITH ART X, SEC.20, COLO. CONSTITUTION AND 39-5-121(2)(b), C.R.S., THE ASSESSOR CERTIFIES THE TOTAL ACTUAL VALUATION FOR THE TAXABLE YEAR 2020:

1. CURRENT YEAR'S TOTAL ACTUAL VALUE OF ALL REAL PROPERTY: ¶	1. \$	2,170,000
ADDITIONS TO TAXABLE REAL PROPERTY		
2. CONSTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS:	2. \$	0
3. ANNEXATIONS/INCLUSIONS:	3. \$	0
4. INCREASED MINING PRODUCTION: §	4. \$	0
5. PREVIOUSLY EXEMPT PROPERTY:	5. \$	0
6. OIL OR GAS PRODUCTION FROM A NEW WELL:	6. \$	0
7. TAXABLE REAL PROPERTY OMITTED FROM THE PREVIOUS YEAR'S TAX WARRANT: (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.):	7. \$	0

DELETIONS FROM TAXABLE REAL PROPERTY

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

¶ This includes the actual value of all taxable real property plus the actual value of religious, private school, 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	1. \$	0
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NOTE: ALL LEVIES MUST BE CERTIFIED TO THE COUNTY COMMISSIONERS NO LATER THAN DECEMBER 15.

The Commons at East Creek Metropolitan District
Amended Budget
General Fund
For the Year ended December 31, 2020

	Actual 2019	Adopted Budget 2020	Actual 6/30/2020	Actual 2020	Proposed Budget 2021
Beginning fund balance	\$ -	\$ -	\$ -	\$ -	\$ -
Revenues:					
Property taxes	-	-	-	-	7,005
Specific ownership taxes	-	-	-	-	561
Property taxes ARI	-	-	-	-	700
Specific ownership taxes ARI	-	-	-	-	56
Interest Income	-	-	-	-	-
Developer advance/District Fees/Property taxes	-	50,000	-	50,000	121,052
Total revenues	-	50,000	-	50,000	129,374
Total funds available	-	50,000	-	50,000	129,374
Expenditures:					
Accounting	-	9,000	-	9,000	9,500
Election expense	-	1,000	-	1,000	-
Insurance	-	3,500	-	3,500	5,000
Legal	-	15,000	-	15,000	15,000
District management	-	15,000	-	15,000	15,000
Miscellaneous	-	3,000	-	3,000	1,000
Other O&M expenses	-	-	-	-	74,390
ARI Mill levy	-	-	-	-	745
Treasurer fees	-	-	-	-	105
Treasurer fees ARI	-	-	-	-	11
Contingency/reserve	-	2,000	-	2,000	5,000
Emergency reserve (3%)	-	1,500	-	1,500	3,623
Total expenditures	-	50,000	-	50,000	129,374
Ending fund balance	\$ -	-	\$ -	-	-
Assessed valuation		\$ 365,946		\$ -	\$ 629,295
District Mill levy		-			11.132
Aurora Regional Mill levy					1.113

The Commons at East Creek Metropolitan District
Amended Budget
Capital Projects Fund
For the Year ended December 31, 2020

	Actual <u>2019</u>	Adopted Budget <u>2020</u>	Actual <u>6/30/2020</u>	Actual <u>2020</u>	Proposed Budget <u>2021</u>
Beginning fund balance	\$ -	\$ -	\$ -	\$ -	\$ -
Revenues:					
Bond proceeds - Series A	-	-	-	2,000,000	-
Developer advances	-	-	-	1,817,399	-
Interest income	-	-	-	-	-
Miscellaneous Income	-	-	-	-	-
Total revenues	-	-	-	3,817,399	-
Total funds available	-	-	-	3,817,399	-
Expenditures:					
Capital outlay	-	-	-	1,817,399	-
Issuance costs	-	-	-	280,000	-
Repay developer advances	-	-	-	1,501,465	-
Transfer to Debt Service	-	-	-	218,535	-
Contingency	-	-	-	-	-
Total expenditures	-	-	-	3,817,399	-
Ending fund balance	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>

The Commons at East Creek Metropolitan District
Amended Budget
Debt Service Fund
For the Year ended December 31, 2020

	Actual 2019	Adopted Budget 2020	Actual 6/30/2020	Actual 2020	Proposed Budget 2021
Beginning fund balance	\$ -	\$ -	\$ -	\$ -	\$ 206,891
Revenues:					
Property taxes	-	-	-	-	35,029
Specific ownership taxes	-	-	-	-	2,803
Interest income	-	-	-	-	3,500
Transfer from capital projects	-	-	-	218,535	-
Total revenues	-	-	-	218,535	41,332
Total funds available	-	-	-	218,535	248,223
Expenditures:					
Bond interest	-	-	-	6,644	74,750
Bond principal	-	-	-	-	-
Treasurer fees	-	-	-	-	525
Trustee / paying agent fees	-	-	-	5,000	4,000
Total expenditures	-	-	-	11,644	79,275
Ending fund balance	\$ -	\$ -	\$ -	\$ 206,891	\$ 168,948
Assessed valuation		\$ 365,946		\$ -	\$ 629,295
Mill Levy		-		-	55.664
Total Mill Levy		-		-	67.909

RESOLUTION NO. 2020 - 10 - 06
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT
TO ADOPT THE 2021 BUDGET AND APPROPRIATE SUMS OF MONEY

WHEREAS, the Board of Directors of The Commons at East Creek Metropolitan District ("District") has appointed the District Accountant to prepare and submit a proposed 2021 budget to the Board at the proper time; and

WHEREAS, the District Accountant has submitted a proposed budget to this Board on or before October 15, 2020, for its consideration; and

WHEREAS, upon due and proper notice, published or posted in accordance with the law, said proposed budget was open for inspection by the public at a designated place, a public hearing was held on October 26, 2020, and interested electors were given the opportunity to file or register any objections to said proposed budget; and

WHEREAS, the budget has been prepared to comply with all terms, limitations and exemptions, including, but not limited to, reserve transfers and expenditure exemptions, under Article X, Section 20 of the Colorado Constitution ("TABOR") and other laws or obligations which are applicable to or binding upon the District; 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.

WHEREAS, the Board of Directors of the District has made provisions therein for revenues in an amount equal to or greater than the total proposed expenditures as set forth in said budget; and

WHEREAS, it is not only required by law, but also necessary to appropriate the revenues provided in the budget to and for the purposes described below, as more fully set forth in the budget, including any interfund transfers listed therein, so as not to impair the operations of the District.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of The Commons at East Creek Metropolitan District:

1. That the budget as submitted, amended, and summarized by fund, hereby is approved and adopted as the budget of The Commons at East Creek Metropolitan District for the 2021 fiscal year.

2. That the budget, as hereby approved and adopted, shall be certified by the Secretary of the District to all appropriate agencies and is made a part of the public records of the District.

3. That the sums set forth as the total expenditures of each fund in the budget attached hereto as **EXHIBIT A** and incorporated herein by reference are hereby appropriated from the revenues of each fund, within each fund, for the purposes stated.

ADOPTED this 26th day of October, 2020.

Secretary

(SEAL)

EXHIBIT A
(Budget)

I, Peggy Ripko, hereby certify that I am the duly appointed Secretary of The Commons at East Creek Metropolitan District, and that the foregoing is a true and correct copy of the budget for the budget year 2021, duly adopted at a meeting of the Board of Directors of The Commons at East Creek Metropolitan District held on October 26, 2020.

By: _____

RESOLUTION NO. 2020 - 10 - 07
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE COMMONS AT EAST CREEK METROPOLITAN DISTRICT
TO SET MILL LEVIES

WHEREAS, the Board of Directors of The Commons at East Creek Metropolitan District (“District”) has adopted the 2021 annual budget in accordance with the Local Government Budget Law on October 26, 2020; and

WHEREAS, the adopted budget is attached to the Resolution of the Board of Directors to Adopt the 2021 Budget and Appropriate Sums of Money, and such budget is incorporated herein by this reference; and

WHEREAS, the amount of money necessary to balance the budget for general fund expenses from property tax revenue is identified in the budget; and

WHEREAS, the amount of money necessary to balance the budget for debt service fund expenses from property tax revenue is identified in the budget; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of The Commons at East Creek Metropolitan District:

1. That for the purposes of meeting all general fund expenses of the District during the 2021 budget year, the District determined to levy mills upon each dollar of the total valuation for assessment of all taxable property within the District, as set forth in the budget, to raise the required revenue.

2. That for the purposes of meeting all debt service fund expenses of the District during the 2021 budget year, the District determined to levy mills upon each dollar of the total valuation for assessment of all taxable property within the District, as set forth in the budget, to raise the required revenue.

3. That the District Accountant of the District is hereby authorized and directed to immediately certify to the County Commissioners of Arapahoe County, Colorado, the mill levies for the District as set forth in the District’s Certification of Tax Levies (attached hereto as **EXHIBIT A** and incorporated herein by reference), recalculated as needed upon receipt of the final certification of valuation from the County Assessor in order to comply with any applicable revenue and other budgetary limits.

ADOPTED this 26th day of October, 2020.

Secretary

(SEAL)

EXHIBIT A
(Certification of Tax Levies)