



## TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT

Regular Board Meeting  
Wednesday, November 16, 2022, at 10:00 AM  
17 S. Wahsatch Ave.  
Colorado Springs, Colorado 80903  
and

Via tele/videoconference  
<https://video.cloudoffice.avaya.com/join/564126970>

United States: (213) 463-4500

**Access Code:** 564126970

Board of Director	Title	Term
David Hewett	President	May 2023
Raymond O'Sullivan	Treasurer	May 2023
Roger Lemmon	Secretary	May 2025
Jack Wallace Mason	Assistant Secretary	May 2025
Tanweer H. Khan	Assistant Secretary	May 2023

### AGENDA

1. Call to order
2. Declaration of Quorum/Director Qualifications/Disclosure Matters
3. Approval of Agenda
4. Regular Business Items (These items are routine and may be approved by one motion. There will be no separate discussion of these items unless requested, in which event the item will be heard immediately)
  - a. Approval of June 9, 2022, Meeting Minutes (enclosure)
  - b. Ratification of Approval for Payables for Period Ending November 16, 2022 (enclosed)
  - c. Acceptance of Unaudited Financial Statements as of October 31, 2022, and the schedule of cash position updated as of October 31, 2022 (enclosed)
5. District Manager Report
6. Development Status Review
7. Financial Matters
  - a. Public Hearing on 2022 Budget Amendment
    - i. Consider Adoption of Resolution Amending the 2022 Budget (enclosure)
  - b. Public Hearing on 2023 Budget
    - i. Consider Adoption of Resolution Adopting 2023 Budget (enclosure)
8. Legal Matters
  - a. Review and Consider Approval of WSDM – District Managers Engagement Letter (enclosure)
  - b. Review and Consider Approval of BiggsKofford 2022 Audit Engagement Letter (enclosure)
  - c. Consider Adoption of 2023 Annual Administrative Resolution (enclosure)
  - d. Consider Adoption of Resolution Calling the May 2, 2023, Director Election (enclosure)
  - e. 2022 Legislative Overview (enclosure)

9. Public Comment (limited to 3 minutes per person)
10. Other Business
  - a. Discussion of District Landscape Alterations Made by Builder
  - b. 2023 Regular Meeting Schedule
11. Adjourn



MINUTES OF A SPECIAL MEETING OF THE BOARD OF  
DIRECTORS OF THE TUSCAN FOOTHILLS VILLAGE  
METROPOLITAN DISTRICT

Held: Thursday, June 9, 2022, at 10:00 A.M.

*The meeting was held via teleconference.*

**Attendance**

The meeting referenced above was called and held in accordance with the applicable statutes of the State of Colorado. The following Directors were in attendance:

Raymond O'Sullivan  
Jack Wallace Mason  
Tan Khan  
Roger Lemmon  
David Hewett

Also present were: Blair M. Dickhoner, Esq., and Nelson Dunford, Esq., White Bear Ankele Tanaka & Waldron, Attorneys at Law, District General Counsel; Dave Talbot, Kevin Walker and Rebecca Hardekopf, Walker Schooler District Managers; and Alice Snere, Carol Reily, Sabrina Fumagalli, and Daniel Duncan, members of the public.

**Call to Order**

It was noted that a quorum of the Board was present and the meeting was called to order.

**Disclosure Matters**

Mr. Dickhoner advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Mr. Dickhoner reported that disclosures for those directors that provided White Bear Ankele Tanaka & Waldron with notice of potential or existing conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Board. Mr. Dickhoner inquired into whether members of the Board had any additional disclosures of potential or existing conflicts of interest with regard to any matters scheduled for discussion at the meeting. No additional disclosures were noted. The participation of the members present was necessary to obtain a quorum or to otherwise enable the Board to act.

**Approval of Agenda**

Mr. Dickhoner presented the proposed agenda to the Board for

consideration. Following discussion, upon a motion duly made and seconded, the Board unanimously approved the agenda as presented.

**Consider Appointment of Officers**

The Board engaged in general discussion regarding the Election of Officers. Following discussion, upon a motion duly made and seconded, the Board elected Director Hewett as President, Director O’Sullivan as Treasurer, Director Lemmon as Secretary and Directors Khan as Assistant Secretary and Director Mason as Assistant Secretary.

**Public Comment**

The Board heard comments from the public, including discussion of removal of dead trees, concern with communication from the Board and dissemination thereof, and the status of questions submitted to Diversified.

**Consent Agenda**

The Board reviewed the items on the consent agenda. Mr. Dickhoner advised the Board that any item may be removed from the consent agenda to the regular agenda upon the request of any director. Item c. Master Service Agreement with CliftonLarsonAllen LLP for Accounting Services was requested to be removed from the consent agenda. Upon a motion duly made and seconded, the following items on the consent agenda were unanimously approved, ratified and adopted:

- a. November 16, 2021 Special Minutes
- b. Second Amendment to Funding and Reimbursement Agreement (Operations and Maintenance) with TFFV1, LLC 2020 Audit
- c. Stormwater Maintenance Agreement with Colorado Springs

Master Service Agreement with CliftonLarsonAllen LLP for Accounting Services

Following discussion, upon a motion duly made and seconded, the Board voted not to approve the Master Service Agreement with CliftonLarsonAllen LLP for Accounting Services.

**Legal Matters**

Conduct Public Hearing on Petition for Inclusion

Director O’Sullivan opened the public hearing on the Petition for Inclusion of Property (10 Lots and 2 Tracts of Tuscan Foothills Village Filing No. 4 and 5.32 Acre Parcel). Mr. Dickhoner noted that notice of the public hearing was published in accordance with Colorado law and no written objections or comments have been received. There being no public comment, the hearing was closed.

*Consider Adoption of  
Resolution and Order for  
Inclusion of Property by the  
Board of Directors*

Mr. Dickhoner reviewed the Petition and Resolution and Order for Inclusion of Property (10 Lots and 2 Tracts of Tuscan Foothills Village Filing No. 4 and 5.32 Acre Parcel) with the Board. Following discussion, upon a motion duly made and seconded, the Board determined to grant the petition and adopt the resolution. Director Lemmon abstained from voting.

Consider Proposal from  
Walker Schooler District  
Managers for District  
Management and  
Accounting Services

The Board reviewed the proposal from Walker Schooler District Managers for District Management and Accounting Services and engaged in lengthy discussion regarding same. Following discussion, upon a motion duly made, seconded and unanimously carried, the Board approved the proposal.

Discussion Regarding  
Landscape Tracts

The Board continued discussion regarding replacement of dead trees. No action taken.

**Financial Matters**

None.

**Construction Matters**

None.

**Other Business**

None.

Adjournment

There being no further business to come before the Board, upon a motion duly made, seconded, and unanimously carried, the Board determined to adjourn the meeting.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

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Secretary for the Meeting

The foregoing minutes were approved by the Board of Directors on the 15<sup>th</sup> day of November 2022.



# **Tuscan Foothills Village Metropolitan District**

## **PAYMENT REQUEST**

11/16/2022

### **GENERAL FUND ACCOUNT**

<b>Company</b>	<b>Invoice</b>	<b>Date</b>		<b>Comments</b>
Biggs Kofford	108812	9/30/2022	4,350.00	
Clifton Larson Allen	3474412	11/1/2022	1,002.23	
Walker Schooler District Managers	7235	10/31/2022	4,560.00	
UMB Bank	120122	12/1/2022	38,750.00	Paid From Bond Fund
<b>TOTAL</b>			<b>\$ 48,662.23</b>	





2:30 PM

11/09/22

Accrual Basis

## Tuscan Foothills Village Metro District

## Balance Sheet

As of October 31, 2022

	Oct 31, 22
<b>ASSETS</b>	
<b>Current Assets</b>	
Checking/Savings	
ECB Checking	8,296.76
Colo Trust	26,312.33
UMB Bond Account	40,846.87
UMB - Surplus Fund	33,169.10
<b>Total Checking/Savings</b>	<b>108,625.06</b>
<b>Other Current Assets</b>	
Property Tax Receivable	30,490.92
<b>Total Other Current Assets</b>	<b>30,490.92</b>
<b>Total Current Assets</b>	<b>139,115.98</b>
<b>TOTAL ASSETS</b>	<b>139,115.98</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
Accounts Payable	
Accounts Payable	8,910.00
<b>Total Accounts Payable</b>	<b>8,910.00</b>
<b>Other Current Liabilities</b>	
Deferred Property Tax Revenue	30,490.92
<b>Total Other Current Liabilities</b>	<b>30,490.92</b>
<b>Total Current Liabilities</b>	<b>39,400.92</b>
<b>Total Liabilities</b>	<b>39,400.92</b>
<b>Equity</b>	
Retained Earnings	65,849.23
Net Income	33,865.83
<b>Total Equity</b>	<b>99,715.06</b>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>139,115.98</b>

# Tuscan Foothills Village Metro District

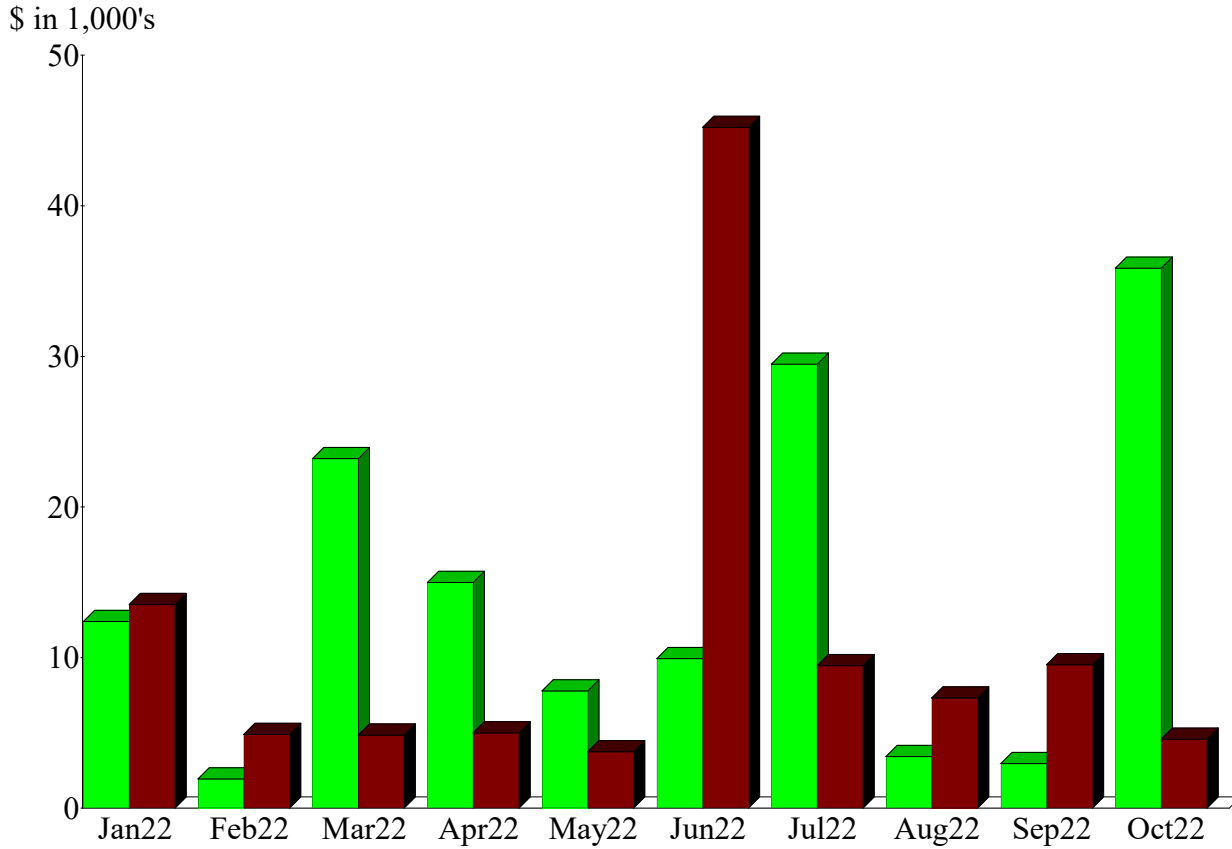
## Profit & Loss Budget vs. Actual

### January through October 2022

	TOTAL				
	Oct 22	Jan - Oct 22	Budget	\$ Over Budget	% of Budget
Ordinary Income/Expense					
Income					
Developer Advance	35,000.00	69,532.92	50,000.00	19,532.92	139.07%
Property Tax - O&M	0.00	9,385.61	10,542.00	-1,156.39	89.03%
Specific Ownership Tax - O&M	93.74	822.65	1,054.00	-231.35	78.05%
Delinquent Interest - O&M	0.00	131.21			
Property Tax - Debt	0.00	56,316.99	63,257.00	-6,940.01	89.03%
Specifice Ownership Tax - Debt	562.50	4,936.12	6,326.00	-1,389.88	78.03%
Delinquent Interest - Debt	0.00	43.90			
Total Income	35,656.24	141,169.40	131,179.00	9,990.40	107.62%
Expense					
General & Administration					
Audit	0.00	5,400.00	4,500.00	900.00	120.0%
Accounting	0.00	0.00	28,000.00	-28,000.00	0.0%
District Management	4,560.00	37,312.06	0.00	37,312.06	100.0%
Dues	0.00	310.31	400.00	-89.69	77.58%
Election Expense	0.00	1,829.11	2,000.00	-170.89	91.46%
Insurance	0.00	2,519.00	3,000.00	-481.00	83.97%
Legal Fees	0.00	16,715.21	20,000.00	-3,284.79	83.58%
Miscellaneous	0.00	58.00	100.00	-42.00	58.0%
Contingency	0.00	0.00	3,193.00	-3,193.00	0.0%
Total General & Administration	4,560.00	64,143.69	61,193.00	2,950.69	104.82%
Bond Expense					
Bank Fees	9.12	29.36			
Bond Interest Series 2020A	0.00	38,750.00	77,500.00	-38,750.00	50.0%
Paying Agent Fee	0.00	4,000.00	4,000.00	0.00	100.0%
Total Bond Expense	9.12	42,779.36	81,500.00	-38,720.64	52.49%
Operations & Maintenance					
Stormwater	0.00	177.87			
Utilites	0.00	28.76	0.00	28.76	100.0%
Total Operations & Maintenance	0.00	206.63	0.00	206.63	100.0%
Treasurer Collection Fee - O&M	0.00	141.15	158.00	-16.85	89.34%
Treasurer Collection Fee - Debt	0.00	847.02	949.00	-101.98	89.25%
Total Expense	4,569.12	108,117.85	143,800.00	-35,682.15	75.19%
Net Ordinary Income	31,087.12	33,051.55	-12,621.00	45,672.55	-261.88%
Other Income/Expense					
Other Income					
Interest Income	0.00	0.00	5.00	-5.00	0.0%
Interest Income - Debt	197.45	814.28	350.00	464.28	232.65%
Total Other Income	197.45	814.28	355.00	459.28	229.38%
Net Other Income	197.45	814.28	355.00	459.28	229.38%
Net Income	31,284.57	33,865.83	-12,266.00	46,131.83	-276.1%

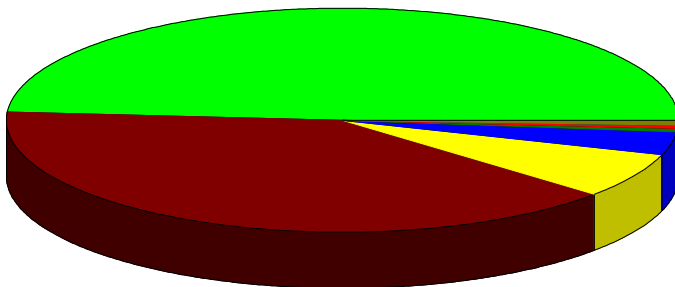
# Income and Expense by Month January through October 2022

Income  
Expense



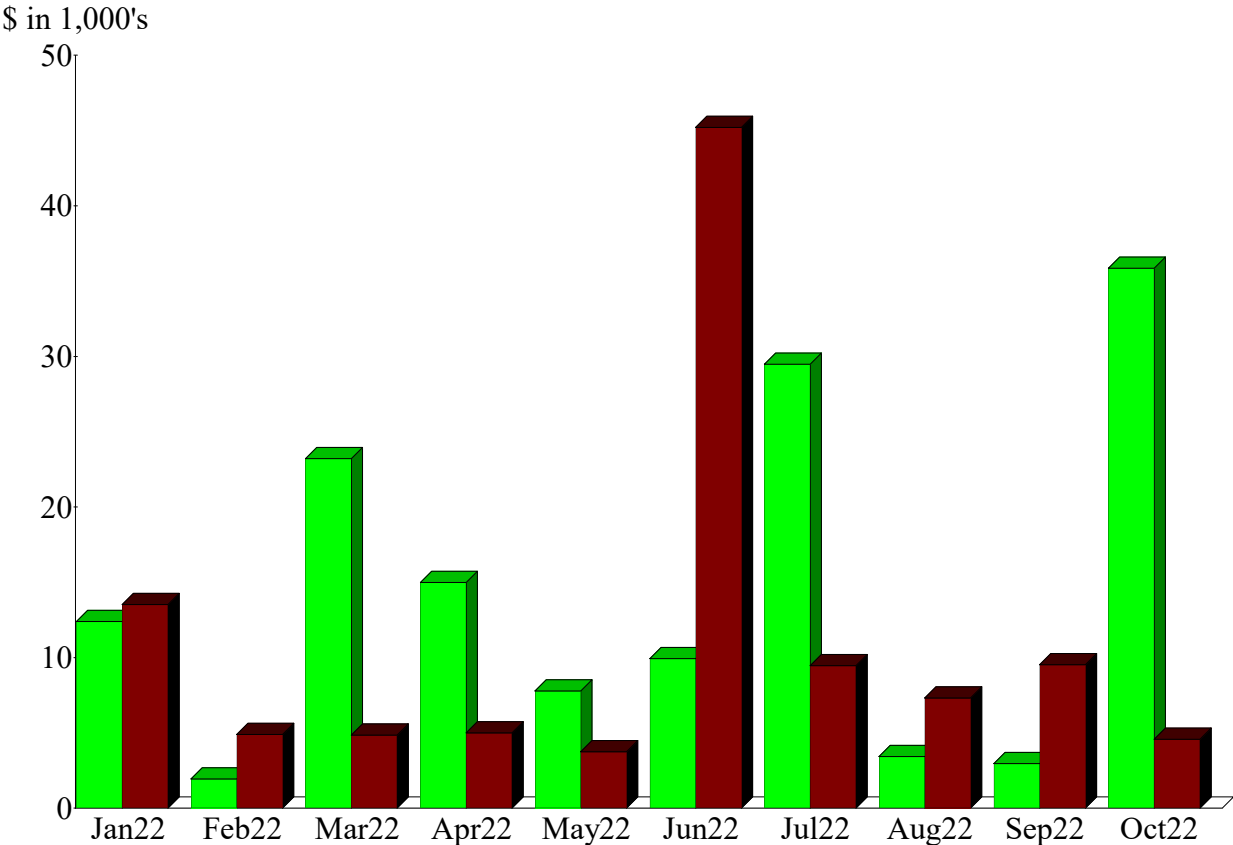
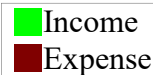
## Income Summary January through October 2022

Developer Advance	48.97%
Property Tax - Debt	39.66
Property Tax - O&M	6.61
Specifice Ownership Tax - Debt	3.48
Specific Ownership Tax - O&M	0.58
Interest Income - Debt	0.57
Delinquent Interest - O&M	0.09
Delinquent Interest - Debt	0.03
Total	\$141,983.68



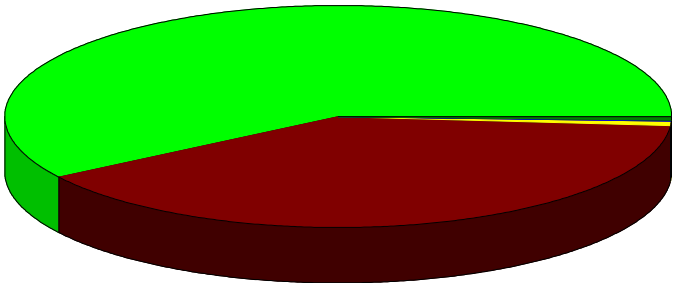
By Account

# Income and Expense by Month January through October 2022



## Expense Summary January through October 2022

General & Administration	59.33%
Bond Expense	39.57
Treasurer Collection Fee - Debt	0.78
Operations & Maintenance	0.19
Treasurer Collection Fee - O&M	0.13
Total	\$108,117.85



By Account



**TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT  
RESOLUTION TO AMEND 2022 BUDGET**

WHEREAS, the Board of Directors of Tuscan Foothills Village Metropolitan District (the “**District**”) certifies that at a regular meeting of the Board of Directors of the District held November 16, 2022, a public hearing was held regarding the 2022 amended budget, and, subsequent thereto, the following Resolution was adopted by affirmative vote of a majority of the Board of Directors:

WHEREAS, the Board of Directors of the District adopted a budget and appropriated funds for fiscal year 2022 as follows:

General Fund	\$61,000
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and;

WHEREAS, the necessity has arisen for additional expenditures by the District due to additional costs which could not have been reasonably anticipated at the time of adoption of the budget, requiring the expenditure of funds in excess of those appropriated for fiscal year 2022; and

WHEREAS, funds are available for such expenditure.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the District does hereby amend the adopted budget for fiscal year 2022 as follows:

General Fund	\$74,579
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BE IT FURTHER RESOLVED that such sums are hereby appropriated from the revenues of the District to the funds named above for the purpose stated, and that any ending fund balances shall be reserved for purposes of complying with Article X, Section 20 of the Colorado Constitution.

*[Remainder of Page Intentionally Left Blank]*

ADOPTED NOVEMBER 16, 2022.

**DISTRICT:**

**TUSCAN Foothills Village  
Metropolitan District**, a quasi-  
municipal corporation and political subdivision of  
the State of Colorado

By: \_\_\_\_\_  
Officer of the District

Attest:

By: \_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

STATE OF COLORADO  
COUNTY OF EL PASO  
TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT

I hereby certify that the foregoing resolution constitutes a true and correct copy of the record of proceedings of the Board adopted at a meeting held via teleconference on November 16, 2022, as recorded in the official record of the proceedings of the District.

IN WITNESS WHEREOF, I have hereunto subscribed my name this \_\_\_\_ day of November 2022.

\_\_\_\_\_





**RESOLUTION**  
**ADOPTING BUDGET, APPROPRIATING FUNDS AND CERTIFYING MILL LEVIES**  
**FOR THE CALENDAR YEAR 2023**

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The Board of Directors of Tuscan Foothills Village Metropolitan District (the “**Board**”), El Paso County, Colorado (the “**District**”), held a regular meeting, via teleconference on November 16, 2022, at the hour of 10:00 a.m.

Prior to the meeting, each of the directors was notified of the date, time, and place of the budget meeting and the purpose for which it was called and a notice of the meeting was posted or published in accordance with §29-1-106, C.R.S.

*[Remainder of Page Intentionally Left Blank]*

## NOTICE AS TO PROPOSED 2023 BUDGET

WHEREAS, the Board has designated its accountant to prepare and submit a proposed budget to the Board in accordance with Colorado law; and

WHEREAS, the proposed budget has been submitted to the Board for its review and consideration; and

WHEREAS, upon due and proper notice, provided in accordance with Colorado law, said proposed budget was open for inspection by the public at a designated place, a public hearing was held, and interested electors were given the opportunity to register their protest to the proposed budget prior to the adoption of the budget by the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

Section 1. Adoption of Budget. The budget attached hereto and incorporated herein is approved and adopted as the budget of the District for fiscal year 2023. In the event of recertification of values by the County Assessor's Office after the date of adoption hereof, staff is hereby directed to modify and/or adjust the budget and certification to reflect the recertification without the need for additional Board authorization. Any such modification to the budget or certification as contemplated by this Section 1 shall be deemed ratified by the Board.

Section 2. Levy for General Operating Expenses. For the purpose of meeting all general operating expenses of the District during the 2023 budget year, there is hereby levied a tax of 5.566 mills upon each dollar of the total valuation of assessment of all taxable property within the District.

Section 3. Levy for Debt Service Obligations. For the purposes of meeting all debt service obligations of the District during the 2023 budget year, there is hereby levied a tax of 33.398 mills upon each dollar of the total valuation of assessment of all taxable property within the District.

Section 4. Levy for Contractual Obligation Expenses. For the purposes of meeting all contractual obligations of the District during the 2023 budget year, there is hereby levied a tax of 0.000 mills upon each dollar of the total valuation of assessment of all taxable property within the District.

Section 5. Levy for Capital Project Expenses. For the purposes of meeting all capital project obligations of the District during the 2023 budget year, there is hereby levied a tax of 0.000 mills upon each dollar of the total valuation of assessment of all taxable property within the District.

Section 6. Mill Levy Adjustment. When developing the attached budget, consideration was given to any changes in the method of calculating assessed valuation, including any changes to the assessment ratios, or any constitutionally mandated tax credit, cut, or abatement, as authorized in the District's service plan. The Board hereby determines in good faith (such determination to be binding and final), that to the extent possible, the adjustments to the mill levies made to account for changes in Colorado law described in the prior sentence, and the actual tax revenues generated by the mill levies, are neither diminished nor enhanced as a result of those changes.

Section 7. Certification to County Commissioners. The Board directs its legal counsel, manager, accountant, or other designee to certify to the Board of County Commissioners of El Paso County, Colorado the mill levies for the District as set forth herein. Such certification shall be in compliance with the requirements of Colorado law.

Section 8. Appropriations. The amounts set forth as expenditures in the budget attached hereto are hereby appropriated.

Section 9. Filing of Budget and Budget Message. The Board hereby directs its legal counsel, manager, or other designee to file a certified copy of the adopted budget resolution, the budget and budget message with the Division of Local Government by January 30 of the ensuing year.

Section 10. Budget Certification. The budget shall be certified by a member of the District, or a person appointed by the District, and made a part of the public records of the District.

*[Remainder of Page Intentionally Left Blank]*

ADOPTED NOVEMBER 16, 2022.

**DISTRICT:**

**TUSCAN Foothills Village  
Metropolitan District**, a quasi-  
municipal corporation and political subdivision of  
the State of Colorado

By: \_\_\_\_\_  
Officer of the District

Attest:

By: \_\_\_\_\_

**APPROVED AS TO FORM:**

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

STATE OF COLORADO  
COUNTY OF EL PASO  
TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT

I hereby certify that the foregoing resolution constitutes a true and correct copy of the record of proceedings of the Board adopted by a majority of the Board at a District meeting held via teleconference on November 16, 2022, as recorded in the official record of the proceedings of the District.

IN WITNESS WHEREOF, I have hereunto subscribed my name this \_\_\_\_ day of November 2022.

\_\_\_\_\_

**EXHIBIT A**  
**BUDGET DOCUMENT**  
**BUDGET MESSAGE**

**TUSCAN FOOTHILLS VILLAGE**  
**2023 BUDGET**  
**GENERAL FUND**

	<b>2021 ACTUAL</b>	<b>2022 PROJ/AMEND</b>	<b>2022 BUDGET</b>	<b>2023 BUDGET</b>
<b>GENERAL FUND BEGINNING BALANCE</b>	<b>\$ (1,976.00)</b>	<b>\$ 1,442.00</b>	<b>\$ 1,442.00</b>	<b>\$ 3,736.23</b>
<b>REVENUES</b>				
PROPERTY TAXES - O&M	4,921	10,542	10,542	12,052
SPECIFIC OWNERSHIP TAXES - O&M	492	1,200	1,054	844
DELINQUENT INTEREST	-	131		
INTEREST INCOME	5		5	
DEVELOPER ADVANCE	48,000	65,000	50,000	65,000
<b>TOTAL REVENUES</b>	<b>53,418</b>	<b>76,873</b>	<b>61,601</b>	<b>77,895</b>
<b>TOTAL REVENUES AND FUND BALANCE</b>	<b>51,442</b>	<b>78,315</b>	<b>63,043</b>	<b>81,632</b>
<b>EXPENDITURES</b>				
ACCOUNTING	27,000		28,000	-
AUDIT	4,000	1,050	4,500	9,325
COUNTY TREASURERS FEE	74	158	158	181
DUES - SDA	305	310	400	400
DISTRICT MANAGEMENT	-	45,000	-	24,000
INSURANCE	2,519	2,600	3,000	3,000
LEGAL	10,000	23,000	20,000	20,000
MISCELLANEOUS	100	100	100	-
WEBSITE			1,200	-
ELECTION		2,085	2,000	10,000
STORMWATER	-	276		2,000
UTILITIES - PAID TO HOA				12,000
CONTINGENCY	6,002	-	1,642	-
<b>TOTAL EXPENDITURES</b>	<b>50,000</b>	<b>74,579</b>	<b>61,000</b>	<b>80,906</b>
Transfer to Bond Fund			-	-
<b>ENDING FUND BALANCE</b>	<b>\$ 1,441.79</b>	<b>\$ 3,736.23</b>	<b>\$ 2,043.23</b>	<b>\$ 725.91</b>
EMERGENCY RESERVE: State Required 3%	1,500	2,237	1,830	2,427
ASSESSED VALUATION	884,080.000	1,894,040.00	1,894,040.00	2,165,260.00
MILL LEVY	5.566	5.566	5.566	5.566



**TUSCAN FOOTHILLS VILLAGE**  
**2023 BUDGET**  
**DEBT SERVICE FUND**

	2021	2022	2022	2023
	ACTUAL	PROJ/AMEND	BUDGET	BUDGET
<b>DEBT FUND BEGINNING BALANCE</b>	<b>\$ 49,950.00</b>	<b>\$ 78,046.00</b>	<b>\$ 77,628.00</b>	<b>\$ 65,256.15</b>
REVENUES				
PROPERTY TAXES	\$ 29,526	\$ 63,257	\$ 63,257	\$ 72,315
SPECIFIC OWNERSHIP TAXES	\$ 2,953	\$ 6,300	\$ 6,326	\$ 5,062
INTEREST INCOME	\$ 60	\$ -	\$ 350	
TOTAL REVENUES	\$ 32,539	\$ 69,557	\$ 69,933	\$ 77,377
TOTAL REVENUES AND FUND BALANCE	\$ 82,489	\$ 147,603	\$ 147,561	\$ 142,634
EXPENDITURES				
COUNTY TREASURER'S FEE	\$ 443	\$ 847	\$ 949	\$ 1,085
PAYING AGENT FEE	\$ 4,000	\$ 4,000	\$ 4,000	\$ 4,000
CONTINGENCY			\$ 1,551	
BOND INTEREST		\$ 77,500	\$ 77,500	\$ 77,500
TOTAL EXPENDITURES	\$ 4,443	\$ 82,347	\$ 84,000	\$ 82,585
<b>ENDING FUND BALANCE</b>	<b>\$ 78,046.00</b>	<b>\$ 65,256.15</b>	<b>\$ 63,561.00</b>	<b>\$ 60,048.85</b>
ASSESSED VALUATION	884,080.000	1,894,040.000	1,894,040.00	2,165,260.00
MILL LEVY	33.398	33.398	33.398	33.398





## **RE: Annual Engagement Letter**

This agreement constitutes a Statement of Work ("SOW") to the Original Service Agreement made by and between WSDM – District Managers and **Tuscan Foothills Village Metropolitan District** ("the District"). This engagement letters serves as a renewal to the service provided or additional service to be provided as prescribed below.

### **Management Services**

1. Meeting and Reporting Services – WSDM will continue to provide the following services:
  - a. Coordinate Board meetings, prepare and distribute meeting agenda. Preparation, filing and posting of legal notices required in conjunction with the meeting.
  - b. Ensure meeting notices are properly and timely posted.
  - c. Contact Board members 72 hours prior to a scheduled meeting to ensure a quorum will be present. In the event of a cancelation of a meeting, contact and advise all parties of the cancelation and any changes to the meeting date, time and place, if available.
  - d. Meeting packets will be distributed by U.S. Mail and/or email, as determined by the Board
  - e. Prepare for and attend regular and special meetings of the Board.
  - f. Draft, revise and finalize the minutes of the meeting and circulate for review and comment to ensure all statutory requirements have been met.
  - g. Prepare and maintain a record of all Board members, consultants and vendors. Direct and oversee all service providers, consultants and employees.
  - h. Prepare and make annual compliance filings (but not judicial filings) with the various State and County officials, as required. Coordinate review and approval of annual compliance filings with the attorney.
  - i. Respond to inquiries made by various officials, property owners or consultants in a timely and professional manner.
  - j. Set up and maintain the official records of the District and service as official custodian for same pursuant to the Colorado Open Records Act.
  - k. Monitor requirements pertaining to HB 1343 (Illegal Aliens).
  - l. Insurance administration, including evaluating risks, comparing coverage, process claims, completing applications, monitoring expiration dates, processing routine written and telephone correspondence. Ensure that all District contractors and subcontractors maintain required coverage for the District's benefit. Obtain quotes for insurance annually.

2. Elections – service as a Designated Election Official (DEO) for district elections with familiarity with various laws, including, but not limited to the Special District Act, the Colorado Local Government Election Code, the Uniform Election Code of 1992, to the extent not in conflict with the Colorado Local Government Election Code, and Article X, § 20 of the Colorado Constitution ("TABOR")
3. Construction Oversight – we may provide extensive construction management. Our current experience principals have funded and managed over \$100,000,000 in public infrastructure including roads, water, wastewater, electric, gas, telecommunications and stormwater facilities.
4. Website Administration – continue extensive experience with creating and updating the District websites, specifically including the State Internet Portal Authority funded sites (SIPA). Or continue hosting the district website under [www.wsdistricts.co](http://www.wsdistricts.co).
5. Employee management – management of full or part time employees including Operators in Responsible Control (ORC), field and operations employees, administrative employees, part time seasonal employees, Certified Pool Operators, etc. Maintain compliance with Human Resource aspects like; labor statutes, insurance, training, safety, etc. issues. Also, automated payroll services
6. Covenant enforcement and CCR Management – WSDM will continue to provide the following services:
  - a. Management of Architectural Control Committees or Design Review Committees, including, but not limited to, coordination of meetings and preparation of meetings.
  - b. Community inspections and review of proposed improvements or architectural requests.
  - c. Provide enforcement of the recorded CCRs (Covenant, Conditions, and Restrictions) and Design Guidelines including, but not limited to, violation tracking and imposition of fines.
7. Insurance – WSDM will continue to be the liaison for the annual insurance renewal and payment, as well coordination for any insurance claims, as needed, and complete the annual insurance audit to ensure the district is properly covered.

### **Accounting and bookkeeping**

1. Standard Service – WSDM will continue to provide the following services (with a Certified Public Accountant):
  - a. Accounting:
    - i. Prepare monthly, quarterly and annual financial statements for the monthly meeting packets.
    - ii. Reconcile bank statements and trustee statements on a monthly basis.
    - iii. Coordinate bank account setup and maintenance of signature cards.
    - iv. Prepare and file Continuing Disclosure Notices with the Trustee and other required parties. Coordinate review with legal counsel.
    - v. Coordinate capital project draws and requisitions.

- vi. Prepare and review all payments of claims prior to release to ensure funds are available.
- vii. Monthly review of all expenditures and coordinate preparation and distribution of same with the manager for the District to monitor the district is on track with the budget and appropriated expenditures.
- b. Accounts Payable:
  - i. Receive and review invoices for accuracy and appropriateness for payment. Code the invoices in accordance with the budgeted line item.
  - ii. Prepare issuance of checks (or virtual checks) to be presented to the Board for approval and signatures. The claims (Payables) list will be included in the monthly meeting packets.
  - iii. Prepare funding requests, if required.
  - iv. Release checks to vendors when all approvals and funding have been received.
- c. Accounts Receivable:
  - i. Process deposit of revenues
  - ii. Process bank charges and other miscellaneous accounts receivable matters.
- d. Financial Projections:
  - i. Provide multi-year forecasting on Board request
  - ii. Provide a Utility consumption versus rate analysis, and possible water loss calculations
  - iii. Provide commercial billing and rate structure analysis.
- e. Budgets:
  - i. Prepare annual budget and budget message for approval by the Board and coordinate with legal counsel for same.
  - ii. Prepare or assist in the preparation of supplemental and/or amended budgets and accompanying documents, if required.
  - iii. Prepare and assist in the compliance of filing the annual Budget, or amendment, as needed.
- f. Audits:
  - i. Obtain proposals for conducting the annual audit for consideration at budget hearing meeting. Proposals should be included in the meeting packet.
  - ii. Coordinate and participate in audit bids, engagements, fieldwork and audit draft review.
  - iii. Assist the auditor in performing the annual audit, to accomplish timely completion and filing by statutory deadline.
  - iv. Help present the Annual Audit for approval by the Board to be file din compliance with State, local, and federal requirements.
- g. Bonds:
  - i. Monitor and comply with Bond documents, State Statute, and Auditing requirements
  - ii. Transfer debt obligated funds to correct Reserve Funding accounts as applicable
  - iii. Coordinate principal and interest payments as required by the governing documents.
  - iv. Coordinate with Bond counsel to issue bonds as directed by the Board of Directors

- v. Coordinate the proper compliance filing including but not limited to the DLG-30, etc.
- h. Developer Reimbursements/ Advances:
  - i. Coordinate with Developers to ensure all advances are received, tracked, or accounted for to fund the district as needed.
  - ii. Monitor and comply with Developer Reimbursement agreements and Auditing requirements
  - iii. Coordinate principal and interest payments required by the Reimbursement agreement

## **Billing and Collections**

- 1. ~~Standard Services — WSDM will continue to utilize the Continental Utility Solutions, Inc. (CUSI) billing software system for the residents, BILL billing software for, or QuickBooks billing software.~~
  - a. ~~CUSI system is compatible with the Automatic Meter Reading (AMR), Badger Beacon systems as well as state of the art integration with direct payment options (Customer Web Portals, ACH, and Credit Card).~~
- 2. ~~Additional Standard Services will include:~~
  - a. ~~Provide resolution of re-reads for meter reads, if necessary.~~
  - b. ~~Customize billing system to download meter readings directly into accounting software to allow for automatic updates to customer accounts.~~
  - c. ~~Produce and transmit customer invoices to a mailing facility or perform the mailing in house, whichever is more economical.~~
  - d. ~~Process and make daily deposits of all receipts mailed directly to the billing company, as necessary.~~
  - e. ~~Communicate with customers and transmit Automated Clearing House ("ACH") authorization forms allowing the District to initiate an ACH withdrawal of the customer bill directly from their checking or savings account. Initiate ACH batches using dual controls.~~
  - f. ~~Coordinate and provide correspondence regarding terminations, delinquencies, payment plans and shut-off notices in compliance with the District's collection policies and in coordination with the District's legal counsel.~~
  - g. ~~Process payoff requests from title company for closings and set up new ownership information.~~
  - h. ~~Collect transfer fee due upon the transfer of and account or property.~~
  - i. ~~Process payment arrangements for customers facing economic hardship at the direction of the Board.~~
  - j. ~~Process and transmit delinquent notices.~~
  - k. ~~Process shutoff notices and direct the District's operator to proceed with shutoff.~~
  - l. ~~Certify delinquent accounts with the County, as applicable, in coordination with the District's legal counsel.~~
  - m. ~~Coordinate processing of statements of liens with the District's legal counsel, and release of liens as account are paid current.~~
  - n. Respond to customer calls and inquiries in a timely and professional manner.

- ~~o. Track tap fee payments and coordinate with the Water Operator to provide installation of a new Tap for water utility.~~

### **Customer Service**

1. WSDM will continue to provide customer service support by phone, email, social media, and text messaging, and fax to help all customers with their inquiries, questions, or request for information.
2. WSDM will continue to provide access to a 24-hour emergency number at 719-447-4840.
3. WSDM will continue to collaborate with security teams and monitor any security camera's as needed.
4. All customer inquiries will have a response to them within 1 hour during regular business hours or immediately the following business day, if not an emergency.

### **Hourly Rates**

WSDM will continue to provide all applicable services as listed to the District at a monthly cost or not to exceed contractual monthly limit of **\$2,000 / month.**

Principal	\$225.00
Senior Manager	\$180.00
Senior Accountant (CPA)	\$190.00
Assistant Manager	\$150.00
Bookkeeper	\$ 75.00
Administrative/ Supporting Staff	\$ 50.00

Thank you,



Kevin Walker,  
President of WSDM

APPROVED AS SIGNED:

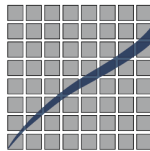
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Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date







## BiggsKofford

CERTIFIED PUBLIC ACCOUNTANTS

October 13, 2022

Tuscan Foothills Village Metropolitan District  
Board of Directors  
Via email: sue.g@wsdistricts.co

We are pleased to confirm our understanding of the services we are to provide for Tuscan Foothills Village Metropolitan District ("District") as of and for the year ended December 31, 2022.

### Audit Scope and Objectives

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We will audit the financial statements of the governmental activities and each major fund, including the related notes to the financial statements, which collectively comprise the basic financial statements of the District as of and for the year ended December 31, 2022. Accounting principles generally accepted in the United States of America ("US GAAP") provide for certain required supplementary information ("RSI"), such as management's discussion and analysis ("MD&A") to supplement the District's basic financial statements. Such information, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board which considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the District's RSI in accordance with auditing standards generally accepted in the United States of America ("US GAAS"). These limited procedures will consist of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge obtained during our audit of the basic financial statements. We will not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance. The following RSI is required by US GAAP and will be subjected to certain limited procedures, but will not be audited:

- You have informed us that the MD&A will be omitted. Our report will be modified accordingly.

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

- Schedule(s) of revenues, expenditures, and changes in fund balances – budget and actual for governmental funds, as applicable

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

We understand that the following people or entities will use these financial statements for the enumerated purposes:

<u>USER</u>	<u>PURPOSE</u>
State of Colorado	To assist with regulatory oversight
Management	To provide assurance on the financial statements to enhance management decision-making
El Paso County	To aid in regulatory oversight

You agree that you will discuss the suitability of this presentation with us if you intend to submit these financial statements to other users or to any of the identified users for different purposes.

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

**Auditor’s Responsibilities for the Audit of the Financial Statements**

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

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

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

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

Our procedures will include tests of documentary evidence supporting the transactions recorded in the accounts, and direct confirmation of receivables and certain assets and liabilities by correspondence with selected customers, creditors, and financial institutions. We may also request representations from your attorneys as part of the engagement and they may bill you for responding to this inquiry.

If circumstances occur which, in our professional judgment, prevent us from completing the audit or forming opinions on the financial statements, we retain the right to withdraw from the engagement without issuing opinions or report, as permitted by our professional standards.

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

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

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#### **Audit Procedures – Internal Control**

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

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#### **Audit Procedures – Compliance**

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

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#### **Other Services**

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We will also prepare the financial statements of the entity in conformity with US GAAP based on information provided by you. We will perform the services in accordance with applicable professional standards.

We, in our sole professional judgment, reserve the right to refuse to perform any procedure or take any action that could be construed as assuming management responsibilities.

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#### **Responsibilities of Management for the Financial Statements**

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

Management is responsible for making drafts of the financial statements, all financial records, and related information available to us and for the accuracy and completeness of that information (including information from outside of the general and subsidiary ledgers). You are also responsible for providing us with (1) access to all information of which you are aware that is relevant to the preparation and fair presentation of the financial

statements, such as records, documentation, identification of all related parties and all related-party relationships and transactions, and other matters; (2) additional information that we may request for the purpose of the audit; and (3) unrestricted access to persons within the District from whom we determine it necessary to obtain audit evidence. At the conclusion of our audit, we will require certain written representations from you about the financial statements and related matters.

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

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

With regard to including the auditor's report in an offering document, you agree that the aforementioned auditor's report, or reference to BiggsKofford, P.C., will not be included in any such offering document without our prior permission or consent. Any agreement to perform work in connection with an offering document, including an agreement to provide permission or consent, will be a separate engagement.

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

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

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### **Engagement Administration, Fees, and Other**

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You are responsible to notify us in advance of your intent to reproduce our report for any reason, in whole or in part, and to give us the opportunity to review any printed material containing our report before its issuance. Such notification does not constitute an acknowledgement on our part of any third party's intent to rely on the financial statements. With regard to financial statements published electronically or on your internet website(s), you understand that electronic sites are a means to reproduce and distribute information. We are not required to read the information contained in your sites, or to consider the consistency of other information in the electronic site with the original document.

You agree that you will not use our firm's name or the name of an employee of the firm in a communication containing a financial presentation without the written permission of our firm. If you do use our firm name or the name of an employee of the firm in a communication containing a financial presentation, you agree to include an "accountant's report" or a "disclaimer" on the financial presentation(s) which we specify. Further, you agree to provide us with printers' proofs or masters of any document that contains our firm name or the name of an employee of the firm and a financial presentation for our review and approval before printing/publishing of the document. You also agree to provide us with a copy of the final reproduced material that contains either our firm's name and/or the name of an employee of the firm and a financial presentation for our approval before it is distributed.

We value each and every one of our clients as well as each and every one of our employees. We have spent a great deal of time and resources to locate, train, and retain our employees. We respectfully request that you not solicit our employees to work for you. You agree that if you or your agents do hire one of our employees within three months of when they last worked for BiggsKofford, we will be due a finder's fee equal to 50% of the greater of the annual salary they were earning as of their last day of employment or their starting salary with the District. Payment will be due within 10 days of your receipt of our invoice. To ensure that our independence is not impaired under the *AICPA Code of Professional Conduct*, you agree to inform the engagement principal before entering into any substantive employment discussions with any of our personnel.

You understand that we provide clients with services specifically focused on identifying and addressing deficiencies in internal controls, and on searching for the existence of fraud within the entity. If you would like us to perform these services, we would be happy to discuss that opportunity with you. However, you acknowledge that those services are outside the scope of this engagement and are not included in the fees detailed below.

It is our policy to retain engagement documentation for a period of at least five years, after which time we may commence the process of destroying the contents of our engagement files. To the extent we accumulate any of your original records during the engagement, those documents will be returned to you promptly upon completion of the engagement. The balance of our engagement file, other than the compiled financial statement, which we will provide you at the conclusion of the engagement, is our property, and we will provide copies of such documents at our discretion and if compensated for any time and costs associated with the effort.

In the event we are required to respond to a subpoena, court order or other legal process for the production of documents and/or testimony related to information we obtained and/or prepared during the course of this engagement, you agree to compensate us at our standard hourly rates for the time we expend in connection with such response, and to reimburse us for all related out-of-pocket costs incurred.

You and BiggsKofford, P.C. both agree that any dispute that may arise from this engagement will, prior to resorting to litigation, be submitted for mediation before the American Arbitration Association. Both parties further agree that any such mediation shall be administered within El Paso County Colorado and the results of any such mediation shall be binding upon agreement of each party to be bound. Further, both parties agree that any potential legal action between you and BiggsKofford, P.C. shall be resolved in El Paso County District Court according to Colorado law. Our engagement ends on delivery of our audit report and any claim made concerning our services will be limited to the fees charged for those services. You agree to indemnify, defend, and hold BiggsKofford and its owners, heirs, executors, personal representatives, successors, and assigns harmless from any liability and costs resulting from knowing misrepresentations by management.

This engagement letter is contractual in nature and includes all of the relevant terms that will govern the engagement for which it has been prepared. The terms of this letter supersede any prior oral or written representations or commitments by or between the parties. Any material changes or additions to the terms set forth in this letter will only become effective if evidenced by a written amendment to this letter, signed by all parties.

We want you to clearly understand that this type of financial statement presentation is not designed for, and should not be used for, any purpose subject to regulation by the United States Securities and Exchange Commission ("SEC") or the securities division of any state.

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

The audit documentation for this engagement is the property of BiggsKofford, P.C. and constitutes confidential information. However, subject to applicable laws and regulations, audit documentation and appropriate individuals will be made available upon request and in a timely manner to Colorado Office of the State Auditor or its designee. We will notify you of any such request. If requested, access to such audit documentation will be provided under the supervision of BiggsKofford, P.C. personnel. Furthermore, upon request, we may provide copies of selected audit documentation to Colorado Office of the State Auditor or its designee. The Colorado Office of the State Auditor or its designee may intend or decide to distribute the copies or information contained therein to others, including other governmental agencies.

Braden Hammond is the engagement principal and is responsible for supervising the engagement and for signing the report or authorizing another individual to sign it.

Our fees for this engagement are not contingent on the results of our services. We estimate that our fees for these services will be \$9,325. You will also be billed for travel and other out-of-pocket expenses. The fee estimate is based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will keep you informed of any problems we encounter, and our fees will be adjusted accordingly. Our invoices for these fees will be rendered semi-monthly as work progresses and are payable on presentation. Any remaining balance will be due upon delivery of your financial statements. In accordance with our firm policies, work may be suspended if your account becomes overdue and will not be resumed until your account is paid in full. If we elect to terminate our services for nonpayment or for any other reason provided for in this letter, our engagement will be deemed to have been completed upon written notification of termination, even if we have not completed our report. You will be obligated to compensate us for all time expended and to reimburse us for all out-of-pocket expenses through the date of the termination.

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### Reporting

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

We appreciate the opportunity to be of service to you and believe this letter accurately summarizes the significant terms of our engagement. If you have any questions, please let us know. If you agree with the terms of our engagement as described in this letter, **PLEASE INITIAL EACH PAGE, SIGN THE LAST PAGE**, and return a copy to us.

Sincerely,

*BiggsKofford, P.C.*

BiggsKofford, P.C.

**RESPONSE:**

**This letter correctly sets forth the understanding of Tuscan Foothills Village Metropolitan District.**

Officer signature: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_



**TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT  
ANNUAL ADMINISTRATIVE RESOLUTION  
(2023)**

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WHEREAS, Tuscan Foothills Village Metropolitan District (each a “**District**”), were organized as special districts pursuant to an Order and Decree of the District Court in and for the County of El Paso, Colorado (the “**County**”), Colorado; and

WHEREAS, the Board of Directors (the “**Board**”) of the District has a duty to perform certain obligations in order to assure the efficient operation of the District and hereby directs its consultants to take the following actions.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. The Board directs Walker Schooler District Managers (the “**District’s Manager**”) to cause an accurate map of the District’s boundaries to be prepared in accordance with the standards specified by the Division of Local Government (“**Division**”) and to be filed in accordance with §32-1-306, C.R.S.

2. The Board directs the District’s Manager to notify the Board of County Commissioners, the County Assessor, the County Treasurer, the County Clerk and Recorder, the governing body of any municipality in which the District is located, and the Division of the name of the chairman of the Board, the contact person, telephone number, and business address of the District, as required by §32-1-104(2), C.R.S.

3. The Board directs the District’s Manager to prepare and file with the Division, within thirty (30) days of a written request from the Division, an informational listing of all contracts in effect with other political subdivisions, in accordance with §29-1-205, C.R.S.

4. The Board directs the District’s accountant to cause the preparation of and to file with the Department of Local Affairs the annual public securities report for nonrated public securities issued by the District within sixty (60) days of the close of the fiscal year, as required by §§11-58-101, et seq., C.R.S.

5. The Board directs the District’s accountant to: (a) obtain proposals for auditors to be presented to the Board; (b) cause an audit of the annual financial statements of the District to be prepared and submitted to the Board on or before June 30; and (c) cause the audit to be filed with the State Auditor by July 31, or by the filing deadline permitted under any extension thereof, all in accordance with §§29-1-603(1) and 29-1-606, C.R.S. Alternatively, if warranted by §29-1-604, C.R.S., the Board directs the District’s accountant to apply for and obtain an audit exemption from the State Auditor on or before March 31 in accordance with §29-1-604, C.R.S.

6. The Board directs the District’s accountant, if the District has authorized but unissued general obligation debt as of the end of the fiscal year, to cause to be submitted to the Board of County Commissioners or the governing body of the municipality that adopted a resolution of approval of the District the District’s audit report or a copy of its application for exemption from audit in accordance with §29-1-606(7), C.R.S.



7. The Board directs the District's accountant to submit a proposed budget to the Board by October 15, to prepare the final budget and budget message, including any amendments thereto, if necessary, and directs the District's Manager to schedule a public hearing on the proposed budget and/or amendments, and to post or publish notices thereof, and file the budget, budget resolution and budget message with the Division on or before January 30, all in accordance with §§29-1-101, et seq., C.R.S.

8. The Board directs the District's accountant to monitor all expenditures and, if necessary, to notify the District's legal counsel, Manager, and the Board when expenditures are expected to exceed appropriated amounts, and directs legal counsel to prepare all budget amendment resolutions and directs District Manager to schedule a public hearing on a proposed budget amendment and to post or publish notices thereof and to file the amended budget with the Division on or before the date of making such expenditure or contracting for such expenditure, all in accordance with §§29-1-101, et seq., C.R.S.

9. The Board directs legal counsel to cause the preparation of the Unclaimed Property Act report and submission of the same to the State Treasurer by November 1 if there is property presumed abandoned and subject to custody as unclaimed property, in accordance with §38-13-110, C.R.S.

10. The Board directs the District's accountant to prepare the mill levy certification form and directs legal counsel to file the mill levy certification form with the Board of County Commissioners on or before December 15, in accordance with §39-5-128, C.R.S.

11. The Board directs that all legal notices shall be published in accordance with §32-1-103(15), C.R.S.

12. The Board determines that each director shall receive compensation for their services as directors subject to the limitations set forth in §§32-1-902(3)(a)(I) & (II), C.R.S.

13. The District hereby acknowledges, in accordance with §32-1-902, C.R.S., the following officers for the District:

Chairman/President:	David Hewett
Treasurer:	Raymond O'Sullivan
Secretary:	Roger Lemmon
Assistant Secretary:	Jack Wallace Mason
Assistant Secretary:	Tanweer H. Khan
Recording Secretary:	District Manager

14. The Board hereby determines that each member of the Board shall, for any potential or actual conflicts of interest, complete conflicts of interest disclosures and directs legal counsel to file the conflicts of interest disclosures with the Board and with the Colorado Secretary of State at least seventy-two (72) hours prior to every regular and special meeting of the Board, in accordance with §32-1-902(3)(b) and §18-8-308, C.R.S. Written disclosures provided by Board

members required to be filed with the governing body in accordance with §18-8-308, C.R.S., shall be deemed filed with the Board when filed with the Secretary of State. Additionally, at the beginning of each year, each Board member shall submit information to legal counsel regarding any actual or potential conflicts of interest and, throughout the year, each Board member shall provide legal counsel with any revisions, additions, corrections, or deletions to said conflicts of interest disclosures.

15. The Board confirms its obligations under §24-10-110(1), C.R.S., with regards to the defense and indemnification of its public employees, which, by definition, includes elected and appointed officers.

16. The Board hereby appoints the District's Manager as the official custodian for the maintenance, care, and keeping of all public records of the District, in accordance with §§24-72-202, et seq., C.R.S. The Board hereby directs its legal counsel, accountant, manager, and all other consultants to adhere to the Colorado Special District Records Retention Schedule as adopted by the District.

17. The Board directs the District's Manager to post notice of all regular and special meetings in accordance with §32-1-903(2) and §24-6-402(2)(c), C.R.S. The Board hereby designates <https://wsdistricts.co/tuscan-foothills-village-metropolitan-district/> as the District's website for the posting of its regular and special meeting notices. The Board also hereby designates, unless otherwise designated by the Board, the southwest corner of the intersection of Centennial Boulevard and Mule Deer Drive, Colorado Springs as the location the District will post notices of meetings in the event of exigent or emergency circumstances which prevent the District from posting notice of the meeting on the District's website. The Board directs the District's Manager to provide the website address set forth above to the Department of Local Affairs for inclusion in the inventory maintained pursuant to §24-32-116, C.R.S.

18. The Board determines to hold a regular meeting on November 14, 2023, at 10:00 a.m. by telephone, electronic, or other means not including physical presence. All notices of meetings shall designate whether such meeting will be held by electronic means, at a physical location, or both, and shall designate how members of the public may attend such meeting, including the conference number or link by which members of the public can attend the meeting electronically, if applicable.

19. In the event of an emergency, the Board may conduct a meeting outside of the limitations prescribed in §24-6-402(2)(c), C.R.S., provided that any actions taken at such emergency meeting are ratified at the next regular meeting of the Board or at a special meeting conducted after proper notice has been given to the public.

20. For the convenience of the electors of the District, and pursuant to its authority set forth in §1-13.5-1101, C.R.S., the Board hereby deems that all regular and special elections of the District shall be conducted as independent mail ballot elections in accordance with §§1-13.5-1101, et seq., C.R.S., unless otherwise deemed necessary and expressed in a separate election resolution adopted by the Board.

21. Pursuant to the authority set forth in §1-1-111, C.R.S., the Board hereby appoints Ashley B. Frisbie, as the Designated Election Official (the “**DEO**”) of the District for any elections called by the Board, or called on behalf of the Board by the DEO, and hereby authorizes and directs the DEO to take all actions necessary for the proper conduct of the election, including, if applicable, cancellation of the election in accordance with §1-13.5-513, C.R.S.

22. In accordance with §1-11-103(3), C.R.S., the Board hereby directs the DEO to certify to the Division the results of any elections held by the District and, pursuant to §32-1-1101.5(1), C.R.S., to certify results of any ballot issue election to incur general obligation indebtedness to the Board of County Commissioners or the governing body of the municipality that adopted a resolution of approval of the District and file a copy of such certification with the Division of Securities.

23. The Board directs legal counsel to cause a notice of authorization of or notice to incur general obligation debt to be recorded with the County Clerk and Recorder within thirty (30) days of authorizing or incurring any indebtedness, in accordance with §32-1-1604, C.R.S.

24. Pursuant to the authority set forth in §24-12-103, C.R.S., the Board hereby designates, in addition to any officer of the District, Emilee D. Hansen of the law firm of White Bear Ankele Tanaka & Waldron, Attorneys at Law, as a person with the power to administer all oaths or affirmations of office and other oaths or affirmations required to be taken by any person upon any lawful occasion.

25. The Board directs legal counsel to cause the preparation of and filing with the Board of County Commissioners or the governing body of the municipality that adopted a resolution of approval of the District, if requested, the application for quinquennial finding of reasonable diligence in accordance with §§32-1-1101.5(1.5) and (2), C.R.S.

26. The Board directs the District's Manager to cause the preparation of and the filing with the Board of County Commissioners or the governing body of any municipality in which the District is located, the Division, the State Auditor, the County Clerk and Recorder, and any interested parties entitled to notice pursuant to §32-1-204(1), C.R.S., an annual report in accordance with §32-1-207(3)(c), C.R.S.

27. The Board directs the District's Manager to obtain proposals and/or renewals for insurance, as applicable, to insure the District against all or any part of the District's liability, in accordance with §§24-10-115, et seq., C.R.S. The Board directs the District's accountant to pay the annual SDA membership dues, agency fees, and insurance premiums, as applicable, in a timely manner. The Board appoints the District's Manager to designate the proxy for the SDA Annual meeting for voting and quorum purposes.

28. The Board hereby opts to include elected or appointed officials as employees within the meaning of §8-40-202(1)(a)(I)(A), C.R.S., and hereby directs the District's Manager to obtain workers' compensation coverage for the District.

29. The Board hereby directs the District's Manager to prepare the disclosure notice required by §32-1-809, C.R.S., and to disseminate the information to the electors of the District accordingly. Further, the Board hereby designates the following website as the District's official

website for the purposes thereof: <https://wsdistricts.co/tuscan-foothills-village-metropolitan-district/>.

30. The Board hereby directs legal counsel to prepare and record with the County Clerk and Recorder updates to the disclosure statement notice and map required by §32-1-104.8, C.R.S., if additional property is included within the District's boundaries.

31. In accordance with §38-35-109.5(2), C.R.S., the District hereby designates the President of the Board as the official who shall record any instrument conveying title of real property to the District within thirty (30) days of any such conveyance.

32. The Board hereby affirms the adoption of the corporate seal in substantially the form appearing on the signature page of this resolution in accordance with §32-1-902, C.R.S., regardless of whether initially produced electronically or manually. The requirement of any District resolution, proceeding or other document to "affix" the District seal thereto, including for the purpose of satisfying any applicable State law, shall be satisfied by manual impression or print, facsimile reproduction or electronic reproduction, or inclusion of the image of such seal. Without limiting the foregoing, any electronic production or reproduction of the image of the seal shall constitute an electronic record of information, as defined in the Uniform Electronic Transactions Act, and the Board hereby authorizes its use in accordance with the authority provided by §24-71.3-118, C.R.S.

33. The Board directs the District's Accountant to prepare and submit the documentation required by any continuing disclosure obligation signed in conjunction with the issuance of debt by the District.

34. The Board directs legal counsel to monitor, and inform the Board of, any legislative changes that may occur throughout the year.

***[Remainder of Page Intentionally Left Blank, Signature Page Follows]***

ADOPTED NOVEMBER 16, 2022.



**DISTRICT:**

**TUSCAN FOOTHILLS VILLAGE  
METROPOLITAN DISTRICT**, a quasi-  
municipal corporation and political subdivision of  
the State of Colorado

By: \_\_\_\_\_  
Officer of the District

Attest:

By: \_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

**CERTIFICATION OF RESOLUTION**

I hereby certify that the foregoing constitutes a true and correct copy of the resolution of the Board adopted at a meeting held on November 16, 2022, via teleconference.

IN WITNESS WHEREOF, I have hereunto subscribed my name this \_\_\_\_ day of November 2022.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name



**RESOLUTION OF BOARD OF DIRECTORS  
CALLING ELECTION**

**TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT**

§§ 32-1-804, 1-1-111(2), 1-13.5-1103(1), and 1-13.5-513(1), C.R.S.

At a meeting of the Board of Directors (the “**Board**”) of the Tuscan Foothills Village Metropolitan District (the “**District**”), it was moved to adopt the following Resolution:

WHEREAS, the District was organized as a special district pursuant to §§ 32-1-101, *et seq.*, C.R.S. (the “**Special District Act**”); and

WHEREAS, the District is located entirely within El Paso County, Colorado (the “**County**”); and

WHEREAS, pursuant to § 32-1-804, C.R.S., the Board governs the conduct of regular and special elections for the District; and

WHEREAS, the Board anticipates holding a regular election on May 2, 2023, for the purpose of electing directors, and desires to take all actions necessary and proper for the conduct thereof (the “**Election**”); and

WHEREAS, the Election shall be conducted pursuant to the Special District Act, the Colorado Local Government Election Code and the Uniform Election Code of 1992, to the extent not in conflict with the Colorado Local Government Election Code, including any amendments thereto, and shall also comply with Article X, § 20 of the Colorado Constitution (“**TABOR**”), as necessary; and

WHEREAS, pursuant to § 1-1-111(2), C.R.S., the Board is authorized to designate an election official (the “**Designated Election Official**”) to exercise authority of the Board in conducting the Election; and

WHEREAS, pursuant to § 1-13.5-513(1), C.R.S., the Board can authorize the Designated Election Official to cancel the Election upon certain conditions.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. The Board hereby calls the Election for the purpose of electing directors. The Election shall be conducted as an independent mail ballot election in accordance with §§ 1-13.5-1101, *et seq.*, C.R.S.

2. The Board names Ashley B. Frisbie as the Designated Election Official for the Election. The Designated Election Official shall act as the primary contact with the County and shall be primarily responsible for ensuring the proper conduct of the Election.

3. Without limiting the foregoing, the following specific determinations also are made:
  - a. The Board hereby directs general counsel to the District to approve the final form of the ballot to be submitted to the eligible electors of the District and authorizes the Designated Election Official to certify those questions and take any required action therewith.
  - b. The Board hereby determines that: in addition to emailing to each registered elector at the email address provided by the county, or if no email is provided, by mailing to the household of each registered elector, notice of the call for nominations will be provided by posting on the District's website.
  - c. The Board hereby directs general counsel to the District to oversee the general conduct of the Election and authorizes the Designated Election Official to take all action necessary for the proper conduct thereof and to exercise the authority of the Board in conducting the Election, including, but not limited to, causing the call for nominations; appointment, training and setting compensation of election judges and a board of canvassers, as necessary; all required notices of election, including notices required pursuant to TABOR; printing of ballots; supervision of the counting of ballots and certification of election results; and all other appropriate actions.
4. The District shall be responsible for the payment of any and all costs associated with the conduct of the Election, including its cancellation, if permitted.
5. The Board hereby ratifies any and all actions taken to date by general counsel and the Designated Election Official in connection with the Election.
6. The Board hereby authorizes and directs the Designated Election Official to cancel the Election and to declare the candidates elected if, at the close of business on the sixty-third day before the Election, or at any time thereafter, there are not more candidates for director than offices to be filled, including candidates filing affidavits of intent to be write-in candidates, and so long as the only ballot questions are for the election of candidates. The Board further authorizes and directs the Designated Election Official to publish and post notice of the cancellation as necessary and file such notice and cancellation resolutions with the County Clerk and Recorder and with the Division of Local Government, as required. The Designated Election Official shall also notify the candidates that the Election was canceled and that they were elected by acclamation.
7. This Resolution shall remain in full force and effect until repealed or superseded by subsequent official action of the Board.

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ADOPTED NOVEMBER 16, 2022.

**DISTRICT:**

**TUSCAN      FOOTHILLS      VILLAGE  
METROPOLITAN DISTRICT**, a quasi-  
municipal corporation and political subdivision of  
the State of Colorado

By: \_\_\_\_\_  
Officer of the District

Attest:

By: \_\_\_\_\_

**APPROVED AS TO FORM:**

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

*Signature Page to Resolution Calling Election*



WILLIAM P. ANKELE, JR.  
JENNIFER GRUBER TANAKA  
CLINT C. WALDRON  
KRISTIN BOWERS TOMPKINS  
ROBERT G. ROGERS  
BLAIR M. DICKHONER  
GEORGE M. ROWLEY



OF COUNSEL:  
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K. SEAN ALLEN  
TRISHA K. HARRIS  
ZACHARY P. WHITE  
HEATHER L. HARTUNG  
MEGAN J. MURPHY

EVE M. G. VELASCO  
AUDREY G. JOHNSON  
CAREY S. SMITH V  
ERIN K. STUTZ  
JON L. WAGNER  
NELSON G. DUNFORD  
RUTH O. BORNE

## MEMORANDUM

**FROM:** WHITE BEAR ANKELE TANAKA & WALDRON

**DATE:** June 23, 2022

**RE:** Overview of 2022 Legislation Affecting Special Districts, Municipalities, and Community Associations

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This year's Legislative Session officially wrapped up on May 11, 2022. As in past years we are providing a summary of the pertinent legislation impacting special districts, municipalities, and community associations. If you would like more detailed information on any of the information contained herein, please let us know.

Most bills approved by the legislature were signed by the Governor and became law at 12:01 a.m. on June 10, 2022, unless otherwise indicated below; provided, however, some laws include a 90-day referendum period before becoming effective, as noted below. One bill approved by the legislature was vetoed by the Governor, as noted below.

### **SPECIAL DISTRICT LEGISLATION**

#### **SB 22-001: Crime Prevention Through Safer Streets**

This law creates the Crime Prevention Through Safer Streets Grant Program in the Department of Public Safety (DPS), through which local governments can apply for grants for improvements designed to create safer communities, such as improved lighting and trash collection, space management, and territorial reinforcement. Grant money may not be used for hiring law enforcement, facial recognition purposes, or surveillance programs to detect gunshots. Grant applications must solicit feedback and consulting with various stakeholders and experts, among other requirements established by the DPS. This law appropriates \$10.3 million to DPS for the grant program.

This law was signed by the Governor on May 19, 2022, and takes effect immediately.

### **SB 22-002: Resources For Volunteer Firefighters**

This law amends the existing local firefighter safety and disease prevention fund to give priority in awarding grants to governing bodies and volunteer fire departments that:

- Have lost tax revenues as a result of decreased assessment values due to a wildland fire within their jurisdiction in the previous 5 years;
- Rely solely or primarily on volunteer firefighters and serve communities affected by wildland fires; or
- Demonstrate the greatest need for additional funding to ensure the safety of volunteer and seasonal firefighters.

In addition, money in the fund may be used to reimburse a multiple employer behavioral health trust for the direct costs of providing a behavioral health care to firefighters. The division is also authorized to directly purchase distribute equipment and pay for training for governing bodies and volunteer fire departments without requiring a grant application.

This law was signed by the Governor on June 3, 2022, and takes effect immediately.

### **SB 22-006: Sales Tax Assistance for Small Businesses**

This law permits a retailer with total taxable sales in the amount of \$100,000 or less to retain 5.3% of the sales tax reported as compensation for the retailer's expenses incurred in collecting and remitting the tax (vendor fee) for sales made in 2023, rather than retaining a 4% vendor fee, which is what current law allows. The law also clarifies that the calculation of the amount that is credited to the housing development grant fund is only based on the changes to the vendor fee from House Bill 19-1245, and not on any subsequent modifications, including those changes made in this law.

This law was signed by the Governor on May 16, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. Further, this law applies to sales occurring in 2023.

### **SB 22-007: Increase Wildfire Risk Mitigation Outreach Efforts**

This law is designed to enhance the wildland-urban interface requiring the Colorado state forest service to convene a working group with the division of fire prevention in the department of public safety (DFPC) and the United States forest service (USFS), and may include other local, state, or federal partners and entities engaged in wildfire risk mitigation. The working group is tasked with enhancing wildfire awareness and mitigation.

This law was signed by the Governor on June 3, 2022, and takes effect immediately.

### **SB 22-076: Complaint Occupational License Official Acts**

This law directs the agency that regulates an occupation to dismiss an anonymous complaint that is lodged against the holder of an occupational license, certification, or registration if the complaint is based on words said or actions taken as:

- An elected official of Colorado or a political subdivision of Colorado; or
- A member of a board or commission of Colorado or a political subdivision of Colorado.

If the same type of complaint is submitted, but not anonymously, the department is authorized to dismiss the complaint. The subject of the complaint need not respond or provide evidence for the complaint to be dismissed. An exception is added for words said to or actions committed for a specific person when the license, certificate, or registration holder is speaking or acting as a member of the occupation.

This law was signed by the Governor on April 7, 2022, and takes effect immediately.

### **SB 22-086: Homestead Exemption and Consumer Debt Protection**

This law increases the amount of the homestead exemption from \$75,000 to \$250,000 if such homestead is occupied by the owner or owner's family or from \$105,000 to \$350,000 if such homestead is occupied by an owner who is elderly or disabled, an owner's spouse who is elderly or disabled or an owner's dependent who is elderly or disabled. The law also expands the definition of "homestead" to include a greater range of real and personal property when such property is used as a dwelling or place of residence, adds an exemption category for depository account(s) of up to \$2,500 and creates new exemption categories.

This law was signed by the Governor on April 7, 2022, and takes effect immediately.

### **SB 22-097: Whistleblower Protection Health & Safety**

Current law provides whistleblower protections for workers who raise a reasonable concern about health or safety related to a public health emergency. This law expands the protection to all health and safety concerns regardless of whether there is a declared public health emergency.

This law was signed by the Governor on May 31, 2022 and takes effect immediately.

### **SB 22-114: Fire Suppression Ponds Water Rights**

This law allows a board of county commissioners in consultation with its fire protection district to apply to the state engineer for the designation of a pond as a fire suppression pond. If a pond that is under consideration for designation as a fire suppression pond is located in whole or in part upon private property, a board must acquire the voluntary written approval of each owner of private property that abuts the pond before the board applies to the state engineer for the designation of the pond as a fire suppression pond.

It is important to note that a fire suppression pond and the water associated that is designated;

- Are not considered a water right;
- Do not have a priority for the purpose of determining water rights; and
- May not be adjudicated as a water right.
- Cannot exceed 30 total surface acres in any county

The state engineer reviews the applications received from boards and, can only designate ponds, which satisfy specific requirements.

Within 70 days after the state engineer designates a pond as a fire suppression pond, a holder of a decreed water right may file with the water clerk of the water division in which the fire suppression pond is located a petition for review of the state engineer's decision. Upon receiving a petition, a water judge must conduct a review of the state engineer's decision. A water judge may nullify the state engineer's designation of a pond as a fire suppression pond if, after considering the entire record, including any evidence of material injury, the judge finds that:

- In applying for such designation, the board did not describe a pond that complies with criteria established by rules promulgated by the director; or
- The state engineer's decision did not accord with certain other requirements in the law concerning fire suppression ponds.

A proposed fire suppression pond is presumed to not cause material injury to vested water rights. A holder of a decreed water right may rebut the presumption by providing evidence to the state engineer sufficient to show that material injury has occurred or will occur to the decreed water right.

This law was signed by the Governor on June 8, 2022, and takes effect July 1, 2022.

### **SB 22-130: State Entity Authority For Public-Private Partnerships**

This law authorizes a "state public entity" to enter into an agreement with a private partner to form a public-private partnership to develop or operate a "public project" subject to additional requirements and oversight by the Department of Personnel. Definition of "private partner" includes local governments which presumably includes special districts.

This law was signed by the Governor on May 26, 2022, and takes effect immediately.

### **SB 22-164: Correction Property Tax Disclosure Information Metropolitan District**

This law is a clean-up law relating to SB 21-262. The disclosure requirement in SB 21-262 requires one to obtain the property tax statement from the County Assessor as opposed to the County Treasurer. This law clarifies that the property tax statement is obtained from the County Treasurer.

This law was signed by the Governor on May 6, 2022, and takes effect immediately.

### **SB 22-206: Disaster Preparedness and Recovery Resources**

The law also creates the disaster resilience rebuilding program fund and the sustainable rebuilding program. The disaster resilience rebuilding program primary purpose is to provide loans and grants to homeowners, owners of residential rental property, businesses, governmental entities, and other organizations working to rebuild after a disaster emergency. The division may contract with a governmental entity, bank, community development financial institution, or other entity to administer the disaster resilience rebuilding program. The sustainable rebuilding program's purpose is to provide loans and grants to homeowners, owners of residential rental property, and businesses that are rebuilding after a wildfire or other natural disaster to cover costs associated with building high performing, energy efficient, and resilient homes and structures.

This law was signed by the Governor on May 17, 2022, and takes effect immediately.

### **SB 22-208: Condemned Conservation Easement Property Compensation**

The law specifies that if property encumbered by a conservation easement in gross is condemned through an eminent domain proceeding, just compensation must be determined based on the value of the property as if unencumbered by the conservation easement in gross and must be allocated between the fee owner and the holder of the conservation easement based upon the value of their respective interests in the property.

This law was signed by the Governor on June 7, 2022, and takes effect immediately.

### **SB 22-225: Ambulance Service Sustainability and State Licensing**

Under current law, ambulance services are regulated at the local level. On and after July 1, 2024, the law requires an ambulance service to obtain a state license from the department of public health and environment. On and after July 1, 2024, a county or city and county is authorized to grant an ambulance service authorization to operate within the county or city and county and to enter into service agreements, memoranda of understanding, and other contracts with ambulance services operating in the county or city and county.

This law was signed June 1, 2022, and takes effect immediately.

### **SB 22-238: 2023 and 2024 Property Taxes**

This law concerns the reductions in real property taxation for only the 2023 and 2024 property tax years, and, in connection therewith, reduces the assessment rates for certain classes of nonresidential property and all residential property and the amount of actual value to which the rate is applied for all residential real property and commercial property for 2023; reduces the assessment rates for all multi-family residential real property to a set amount for 2024; reduces the assessment rates for all residential real property other than multi-family residential real property for 2024 by an amount determined by the property tax administrator to cumulatively with the other provisions of the law reduce statewide property tax revenue for 2023 and 2024 by a specified amount; reduces the assessment rates for real and personal property that is classified as agricultural

or renewable energy production property for 2024; and requires the state to reimburse local governments, excluding school districts, in 2024 for 2023 reductions in their property tax revenue resulting from the law. Metropolitan districts are not eligible for reimbursements under this law; however, certain special districts, including water, sanitation, fire protection and library districts, are eligible for reimbursements if they meet the demographic requirements set forth in the law.

This law was signed by the Governor on May 16, 2022, and takes effect immediately and applies to tax years 2023 and 2024.

#### **HB 22-1006: Child Care Property Tax Exemption**

Under the state constitution, property that is used solely and exclusively for charitable purposes is exempt from property tax, unless otherwise provided by general law. Under this constitutional authority, there is currently an exemption for property used as an integral part of a child care center. This law modifies this exemption by repealing the requirement that the property must be owned for strictly charitable purposes and not for private gain or corporate profit, and that the property must be irrevocably dedicated to a charitable purpose. These changes allow property that is used by a tenant or subtenant to operate a child care center to be eligible for the exemption, and the law specifies that in such case, only the operator's use is to be considered for purposes of determining whether the property is eligible for the exemption.

This law was signed by the Governor on June 1, 2022, and takes effect immediately.

#### **HB 22-1007: Wildfire Matters Review Committee**

This law establishes the wildfire mitigation resources and best practices grant program under the Colorado state forest service and applies to local government, counties, municipalities, special districts, tribal agency or program, or a nonprofit organization. Grants are awarded to applicants proposing to outreach to landowners in high wildfire hazard areas. This law will extend the existing income tax deduction created to offset the landowner's costs incurred in performing wildfire mitigation measures set to expire in the 2024 income tax year through to the 2025 income tax year. The law creates a state income tax credit to reimburse a landowner for the costs incurred in performing wildfire mitigation measures on the landowner's property. Specifically, a landowner with a federal taxable income at or below \$120,000 for the income tax year commencing on or after January 1, 2023, but prior to the 2026 income tax year, as adjusted for inflation and rounded to the nearest hundred dollar amount for each income tax year thereafter, is allowed a state income tax credit in an amount equal to 25% of up to \$2,500 in costs for wildfire mitigation measures. The maximum total credit in a taxable year is \$625.

This law was signed by the Governor on June 3, 2022 and takes effect immediately.

#### **HB 22-1086: The Vote Without Fear Act**

This law prohibits a person from openly carrying a firearm within any polling location or central count facility, or within 100 feet of a ballot drop box or any building in which a polling location or central count facility is located, while an election or any related ongoing election administration



activity is in progress. The designated election official responsible for any central count facility, polling location, or drop box involved in that election cycle shall visibly place a sign notifying persons of the one-hundred foot no open carry zone for firearms. Exceptions are made for persons who own private property within the 100-foot buffer zone to carry a firearm on the private property; peace officers acting within the scope and authority of their duties to carry a firearm; and uniformed security guards employed by a contract security agency acting within the scope of the authority granted by and in the performance of a contractual agreement for the provision of security services with a person or entity that owns or controls the facility, building, or location. Openly carrying a firearm inside or within 100 feet of a polling location, central count facility, or drop box is a misdemeanor, punishable by a maximum \$1,000 fine, up to 364 days imprisonment in the county jail, or both; except that, for a first offense, the fine shall not exceed two hundred fifty dollars and the sentence of imprisonment shall not exceed one hundred twenty days.

This law was signed by the Governor on March 30, 2022, and takes effect immediately.

#### **HB 22-1087: Special District Retirement Benefits**

This law addresses special district retirement benefits and specifically excludes directors from being eligible for PERA benefits.

This law was signed by the Governor on March 24, 2022, and takes effect immediately and is applicable to those who begin their service as of July 1, 2022.

#### **HB 22-1097: Dissolution of Special Districts**

This law extends the power to dissolve special districts to the county and permits the dissolution of a special district without requiring an election. This power is currently permitted for municipalities and merely extends the same powers to the county.

This law was signed by the Governor on March 17, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. If a referendum is filed, then it be on the November, 2022 ballot.

#### **HB 22-1104: Powerline Trails Act**

This law enables electric utility transmission providers to enter into contracts with public entities, such as Special Districts, to construct and maintain recreational trails, known as powerline trails, within tracts of land that are utilized as electric utility transmission corridors. Furthermore, the law compels electric transmission providers to develop and maintain informational resources regarding powerline trails, and to distribute these informational resources to local governments located in the vicinity of construction of powerline transmission facilities. Public entities seeking to construct powerline trails are required by the legislation to consult and coordinate with the Division of Parks and Wildlife to minimize environmental impacts. While the intent of the legislation is to encourage and promote the consideration and construction of powerline trails when feasible, it does not obligate either electric transmission providers or local governments to enter into agreements, or to fund projects.

This law was signed by the Governor on April 13, 2022, and takes effect immediately.

### **HB 22-1119: Colorado False Claims Act**

The law establishes the “Colorado False Claims Act” (the act). Pursuant to the act, a person is liable to the state or a political subdivision of the state for a civil penalty if the person commits, conspires to commit, or aids and abets the commission of any false claim set forth in the law.

The law requires the attorney general or a local prosecutor to investigate false claims. The attorney general, prosecuting authority of a political subdivision, or a private person may bring a civil action against a person who made a false claim. The law permits the attorney general or prosecuting authority of a political subdivision to intervene in an action brought by a private person. A private person who brings a false claims action may be awarded up to 30% of the proceeds from the action based on the extent the private person contributed to the investigation and prosecution of the false claim. If the private person is an employee of the state or political subdivision and learns information about the false claim in the course of the person’s work, the court will award that amount to the person’s employer. The law authorizes the state auditor to share information about potential false claims with the attorney general and a political subdivision. The law requires that a false claims action be filed in a state district court or federal court with jurisdiction over the action.

A court cannot hear a false claim action:

- Brought against a serving member of the general assembly, a member of the state judiciary, an executive director of a state agency, or an elected official in the executive branch of the state of Colorado acting in the member’s, executive director’s, or official’s official capacity; or
- Based on the same allegations or transactions that are the subject of a different civil or administrative proceeding.

The law prohibits retaliatory action against an individual because of the individual’s efforts in furtherance of investigating, prosecuting, or stopping false claims. A court hearing a false claims action may hear a claim for retaliation against the individual.

The law clarifies how information subject to a person’s attorney-client privilege is protected, unless the privilege is waived, an exception to the privilege applies, or disclosure of the information is permitted by an attorney pursuant to certain federal regulations applicable to attorneys appearing and practicing before the federal securities and exchange commission, the applicable Colorado rules of professional conduct, or otherwise.

The law sets forth the process for paying to a political subdivision any proceeds recovered in a false claims action retained by the state that are attributable to the political subdivision.

The law requires the attorney general to annually submit a report to specified committees of reference about false claims actions during the previous fiscal year.

This law was signed by the Governor on June 7, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. If a referendum is filed, then it will be on the November, 2022 ballot.

### **HB 22-1132: Regulation and Services For Wildfire Mitigation**

This law regulates controlled burns on private property. The law requires that a fire department (defined to include a fire protection district as well as a county or municipality) be notified prior to conducting a controlled burn on private property.

This law was signed by the Governor on June 3, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. If a referendum is filed, then it will be on the November, 2022 ballot.

### **HB 22-1151: Turf Replacement Program**

This law requires the Colorado Water Conservation Board to develop a state turf replacement program on or before July 1, 2023 to incentivize the voluntary replacement of irrigated turf on residential, commercial, institutional and industrial properties and to promote the utilization of water-wise landscaping. The program will provide funds to eligible entities (those that provide matching funds in a specified amount and includes local governments, districts, Native American tribes and nonprofit organizations) and then those eligible entities may use the awarded money to cover direct and indirect costs in developing and administering a turf replacement program.

This law was signed by the Governor on June 8, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. If a referendum is filed, then it will be on the November, 2022 ballot.

### **HB 22-1273: Concerning Protections for Election Officials**

This law makes it unlawful for a person to threaten, coerce, or intimidate an election official with the intent to interfere with the performance of the official's duties or with the intent to retaliate against the official for the performance of the official's duties. The prohibition does not apply to an enforcement action taken by the secretary of state to enforce state election laws or to an enforcement action taken by a designated election official against an election judge who has violated a statute, a rule promulgated by the secretary of state, or the election judge's oath. The law also prohibits a person from making the personal information of an election official or an election official's immediate family publicly available on the internet if the person knows or reasonably should know that doing so will pose an imminent and serious threat to the election official or the election official's immediate family. An election worker may file a request with a state or local official to remove personal information from records that the official makes available on the internet. The request must include an affirmation under penalty of perjury that the election worker has reason to believe that the dissemination of the election worker's personal information on the internet poses an imminent and serious threat to the safety of the election worker. After receiving a request from an election worker, the state or local official is also required to deny access to the personal information in response to a request for records under the "Colorado Open

Records Act”; except that certain individuals may access records maintained by a county recorder, county assessor, or county treasurer if such access is related to a real estate matter. For purposes of this protection, “election worker” is defined to include a county clerk and recorder, county election staff, a municipal clerk, municipal election staff, the secretary of state, and the secretary of state’s election staff but does not include an election judge or a temporary employee.

This law was signed by the Governor on June 2, 2022, and takes effect immediately.

### **HB 22-1296: Residential Real Property Classification**

Under current law, facilities that provide long-term nursing, rest, and assisted living services, where residents reside for more than 30 days, are classified as residential properties. However, facilities that provide short-term convalescent care and rehabilitation services, where patrons visit the facility periodically or temporarily reside there for less than 30 days, are valued and classified according to the procedures for nonresidential property. This law defines a nursing home as a licensed nursing care facility, including a nursing care facility that provides convalescent care and rehabilitation services. The law specifies that land on which a nursing home is situated and any improvements affixed to that land for the use of the nursing home are classified and assessed as residential real property, regardless of a resident’s length of stay.

This law was signed by the Governor on June 2, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. Further, this law, if enacted, applies to property tax years commencing on January 1, 2023.

### **HB 22-1314: Towing Carrier Nonconsensual Tows**

This law increases regulations on towing and prohibits the nonconsensual towing of a vehicle from a parking space or common parking area without the towing carrier or property owner providing the vehicle owner or operator with 24 hours written notice, except in certain limited instances.

This law was signed by the Governor on June 7, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. If a referendum is filed, then it be on the November, 2022 ballot.

### **HB 22-1354: Protecting Injured Workers’ Mental Health Records**

The law clarifies provisions in the “Workers’ Compensation Act of Colorado” (act) relating to the release and disclosure of mental health records pertaining to an injured employee making a claim under the act (claimant). The law defines “mental health records”; requires a mental health provider to provide an insurer with mental health records, as necessary for payment, adjustment, and adjudication of claims involving psychiatric issues; prohibits the disclosure of mental health records to any person who is not directly involved in adjusting or adjudicating claims involving psychiatric issues without the consent of the mental health provider or claimant; prohibits an insurer from releasing a claimant’s mental health records to the claimant’s employer; limits an insurer’s disclosure of a claimant’s mental health records to an employer, supervisor, or manager to only information from the mental health records pertaining to work restrictions placed on the

claimant; and for a self-insured employer requires the employer to keep a claimant's mental health records separate from personnel files; limits disclosure of the claimant's mental health records to a supervisor or manager to only information from the mental health records pertaining to work restrictions placed on the claimant; and prohibits disclosure of the claimant's mental health records to any third party and redisclosure by the third party to any person who is not directly involved in adjusting or adjudicating claims involving psychiatric issues without the consent of the treating mental health provider or claimant.

This law was signed by the Governor on June 8, 2022, and takes effect immediately.

## **COMMUNITY ASSOCIATIONS LEGISLATION**

### **SB 22-059: Home Owners' Association Voting Proxy Limitations**

This law amends Section 38-33.3-310, C.R.S. regarding proxies and provides that proxies terminate 11 months after the date signed unless the proxy itself indicates an earlier termination date. This is somewhat of a minimal change from the prior language of the statute that provided a proxy terminated 11 months after its date unless "it provides otherwise".

This law was signed by the Governor on March 21, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. If a referendum is filed, then it will be voted on in the November, 2022 election.

### **HB 22-1040: Home Owners' Reasonable Access to Common Areas**

This law prohibits associations from unreasonably restricting or prohibiting access to, or enjoyment of, common elements by owners, including during the maintenance, repair, replacement or modification of common elements. If associations must restrict or prohibit the use of common elements for more than seventy-two hours then the association must provide either electronic or written notice to each owner of why the restriction or prohibition is being put in place; the estimated time or date by which the restriction or prohibition will be lifted and the phone number or email address of who an owner can contact to ask questions about the restriction or prohibition. The association must also post a notice at the entrance to the common element about the restriction or prohibition.

This law was signed by the Governor on April 12, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. If a referendum is filed, then it will be voted on in the November, 2022 election.

### **HB 22-1137: Homeowners' Association Board Accountability and Transparency**

This law greatly limits the ability of associations to collect delinquent assessments, fees and fines and requires associations and their management companies to change long-standing practices and operations. The multitude of changes are vast and include, but are not limited to:

- Requiring additional notifications to owners of delinquencies (including the physical posting of notices on a unit owner's unit);
- Allowing owners to request that correspondence and notices be in a language other than English;
- Requiring individual review of delinquent accounts by the association's board of directors before they are turned over to a collection agency or attorney for collections – a majority of the board of directors must agree to turn a file over for collections and the recorded vote must occur at a meeting;
- Prohibiting the imposition of daily late fees and/or fines for covenant violations;
- Limiting the maximum amount of fines an association may impose for a covenant violation to \$500;
- Requiring that prior to sending an account to collections for unpaid assessments, fines, fees or charges that the association provide notice to the owner by certified mail, return receipt requested;
- Changing the requirements to the offered payment plan to now state that owners have 18 months for a payment plan;
- Limiting interest on unpaid assessments, fines or fees to no more than 8%; per year;
- Prohibiting foreclosure actions based solely on fines and/or collection costs or attorney fees associated with assessed fines; and;
- Changing the way in which payments are to be applied to a delinquent account.

This law was signed by the Governor on June 3, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. If a referendum is filed, then it be voted on in the November, 2022 election.

#### **HB 22-1139: Home Owners' Associations Cannot Regulate Use of Public Rights-of-Way**

This law prohibits associations from regulating public rights-of-way, regardless of any provisions in the governing documents, by stating such prohibitions are contrary to public policy.

This law was signed by the Governor on May 6, 2022, and takes effect 90 days after the end of the legislative session, August 9, 2022, unless a referendum is filed. If a referendum is filed, then it be voted on in the November, 2022 election.

### **VETOED BILLS**

#### **HB 22-1387: Common Interest Communities Reserve Funds**

This bill would have required mandatory reserve studies for associations, changed the parameters for responsible governance policies as they relate to reserve studies for major shared components, placed new requirements on declarants relating to reserve studies and associated funding, required certain additional seller disclosures be provided by declarants to potential buyers and placed new requirements on what is required to be in an association's budget relative to reserve studies and reserve funding.

This bill was vetoed on May 27, 2022.