

TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT

Regular Board Meeting

Wednesday, April 19, 2023, at 10:00 AM



17 S. Wahsatch Ave. Colorado Springs, Colorado 80903

or

Via tele/videoconference:

<https://video.cloudoffice.avaya.com/join/744137992>

United States: (213) 463-4500

Access Code: 744137992

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. Public Comment - Members of the public may express their views to the Board on matters that affect the Districts. Comments will be limited to three (3) minutes.
5. Consent Agenda - The items listed below are a group of items to be acted on with a single motion and vote by the Boards. Any item may be removed from the Consent Agenda upon request of any Board member.
  - a. Approval of November 16, 2022 Meeting Minutes (**enclosure**)
  - b. Ratification of Approval for Payables for November 16, 2022 - March 21, 2023 (**enclosure**)
  - c. Acceptance of Unaudited Financial Statements as of March 31, 2023 (**enclosure**)
6. District Manager Report
7. Development Matters
8. Financial Matters
9. Legal Matters
  - a. Resolution Imposing Fees (**enclosure**)
  - b. Irrigation Services Reimbursement Agreement (**enclosure**)
  - c. Election Update
10. New Business
11. Adjournment – Next Regular Board Meeting is scheduled for July 19, 2023, at 11:00 a.m.





**MINUTES OF A REGULAR MEETING  
OF THE BOARD OF DIRECTORS OF THE  
TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT  
HELD NOVEMBER 16, 2022, AT 10:00 A.M.**

Pursuant to posted notice, the regular meeting of the Board of Directors of the Tuscan Foothills Village Metropolitan District was held on Wednesday, November 16, 2022, at 10:00 AM, at 17 S. Wahsatch Ave., Colorado Springs, CO 80903, and via video teleconference.

Attendance

In attendance were Directors:

David Hewett, President  
Raymond O'Sullivan, Treasurer  
Roger Lemmon, Secretary  
Jack Wallace Mason, Assistant Secretary (Excused)  
Tanweer H. Khan, Assistant Secretary (Excused)

Also in attendance were:

Kevin Walker, WSDM District Managers  
Rebecca Hardekopf, WSDM District Managers  
Heather Smith, WSDM District Managers  
Blair M. Dickhoner, Esq., White Bear Ankele Tanaka & Waldron  
Nelson Dunford, Esq., White Bear Ankele Tanaka & Waldron  
James Buller  
David Talbot

1. Call to Order: President Hewett called the meeting to order at 10:00 AM

2. Declaration of Quorum/Director Qualifications/ Disclosure Matter: President Hewett confirmed a quorum was present. Mr. Dickhoner advised the Board, 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.

3. Approval of the Agenda: Mr. Dickhoner added item 8.f. Consider Approval of Third Amendment to Funding and Reimbursement Agreement for Operations and Maintenance. Director Lemmon moved to approve the Agenda as amended; seconded by Director O'Sullivan. Motion passed unanimously.

#### 4. Regular Business Items

- a. Approval of June 9, 2022 Meeting Minutes: After review, Director O’Sullivan moved to approve the June 9, 2022 Meeting Minutes; seconded by Director Lemmon. Motion passed unanimously.
- b. Ratification of Approval for Payables for Period Ending November 16, 2022: Mr. Walker presented the payables for period ending November 16, 2022 and noted the WSDM invoice was removed and not paid due to an error on the invoice. After review, Director O’Sullivan moved to ratify the approval of the payables for the period ending November 16, 2022 as presented; seconded by Director Lemmon. Motion passed unanimously.
- c. Acceptance of Unaudited Financial Statements as of October 31, 2022, and the schedule of cash position updated as of October 31, 2022: After review, Director Lemmon moved to accept the Unaudited Financial Statements as of October 31, 2022, and the schedule of cash position updated as of October 31, 2022; seconded by Director O’Sullivan. Motion passed unanimously.

5. District Manager Report: Mr. Walker reported he has been working on questions regarding the landscaping, improvements, and the status of the City’s acceptance of landscaping since taking over management in June. The City has accepted the trees and shrubs but not the native grass seeding yet. The detention pond has been transferred to the District for maintenance. Mr. Walker is preparing the District to accept more land for maintenance once landscape is accepted by the City. Another ongoing issue is water usage and splitting costs between the District and the HOA. Ms. Hardekopf noted the District’s new website is up and running. Director Lemmon moved to approve the District Manager Report; seconded by Director O’Sullivan. Motion passed unanimously.

6. Development Status Review: Director O’Sullivan provided a development status review. Filing 3 has 20 completed lots and all remaining lots in Filing 3 are currently under construction. 10 have closed, 2 are under contract, and the remaining lots are being marketed to potential buyers. Filing 4 will have 24 lots. Director O’Sullivan discussed current market conditions and noted they are working to complete Filing 4 by 2024. Director O’Sullivan discussed road repairs and negotiations with the City that should be complete in Spring of 2023. Director O’Sullivan noted that 20 apartments are currently leased in Filing 2.

#### 7. Financial Matters

- a. Public Hearing on 2022 Budget Amendment: Director Lemmon moved to open the Public Hearing on the 2022 Budget Amendment; seconded by Director O’Sullivan. Motion passed unanimously. Mr. Walker presented the 2022 Budget Amendment. After no public comment, the Public Hearing was closed.
  - i. Consider Adoption of Resolution Amending 2022 Budget: After review, Director O’Sullivan moved to adopt the Resolution Amending 2022 Budget; seconded by Director Lemmon. Motion passed unanimously.
- b. Public Hearing on 2023 Budget: Director Lemmon moved to open the Public Hearing on the 2023 Budget; seconded by Director O’Sullivan. Motion passed unanimously. Mr. Walker presented the 2023 Budget. After no public comment, the Public Hearing was closed.
  - i. Consider Adoption of Resolution Approving the 2023 Budget: The Board agreed to Gallagherize the mill levy. After review, Director Lemmon moved to adopt the Resolution Approving the 2023 Budget with the Gallagherization of the mill levy; seconded by Director O’Sullivan. Motion passed unanimously.

#### 8. Legal Matters

- a. Review and Consider Approval of WSDM – District Managers Engagement Letter: Mr. Walker presented the WSDM District Managers Engagement Letter. Director Lemmon moved to approve the WSDM District Managers Engagement Letter; seconded by Director O’Sullivan. Motion passed unanimously.

- b. Review and Consider Approval of BiggsKofford 2022 Audit Engagement Letter: Director O’Sullivan moved to authorize the President of the Board to work with the District Manager to determine the Auditor at a cost not to exceed the \$9,325.00; seconded by Director Lemmon. Motion passed unanimously.
- c. Consider Adoption of 2023 Annual Administrative Resolution: Mr. Dickhoner presented the 2023 Annual Administrative Resolution. The Board agreed to schedule quarterly meetings on the third Wednesday of the first month of each quarter at 10:00 AM. Director O’Sullivan moved to approve the 2023 Annual Administrative Resolution with the quarterly meeting schedule as determined and the elimination of the director compensation; seconded by Director Lemmon. Motion passed unanimously.
- d. Consider Adoption of Resolution Calling the May 2, 2023 Director Election: Mr. Dickhoner presented the Resolution Calling the May 2, 2023 Director Election. After review, Director Lemmon moved to adopt the Resolution Calling the May 2, 2023 Director Election; seconded by Director O’Sullivan. Motion passed unanimously.
- e. 2022 Legislative Overview: Mr. Dickhoner presented the 2022 Legislative Overview Memorandum.
- f. Consider Approval of Third Amendment to Funding and Reimbursement Agreement for Operations and Maintenance: Mr. Dickhoner discussed the Third Amendment to Funding and Reimbursement Agreement for Operations and Maintenance. Director O’Sullivan committed to paying the shortfall for 2023 in the approximate amount of \$50,000. Director Lemmon moved to direct legal counsel to prepare the Third Amendment to Funding and Reimbursement Agreement for Operations and Maintenance that reflects the \$50,000 for 2023; seconded by Director O’Sullivan. Motion passed unanimously.

9. Public Comment: Mr. Talbot commented that collaboration and success is important between the Board, Management, and the homeowners. He thanked the Board for coordinating replacement of the deceased trees and noted that landscaping is an important and very visible part of the community. He noted concerns for new landscaping if there is no water or irrigation and commented that communication is key and noted that responsiveness with Management has been great. Mr. Talbot discussed recommendations made by the fire department regarding fire mitigation. Mr. Talbot asked about Board Meeting notifications. Ms. Hardekopf confirmed the meetings and details will be posted on the District website. Mr. Talbot discussed District irrigation pipe on homeowner property that may need to be addressed. WSDM will research further to address the issue.

#### 10. Other Business

- a. Discussion of District Landscape Alterations Made by Builder: The Board discussed landscape alterations done on District property that was not approved by the Board. Specifically, the builder approved and installed rock on the east side of the District’s property. The Board agreed to table this item.
- b. 2023 Regular Meeting Schedule: There was no additional discussion.

11. Adjournment: Director Lemmon moved to adjourn at 12:10 PM; seconded by Director O’Sullivan. Motion passed unanimously.

Respectfully Submitted,  
WSDM District Managers

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By: Recording Secretary



**Tuscan Foothills Village Metropolitan District**  
**PAYMENT REQUEST**  
**UNPAID AS OF 12/14/22**  
**GENERAL FUND ACCOUNT**

<b>Company</b>	<b>Invoice</b>	<b>Date</b>		<b>Comments</b>
Biggs Kofford	108812	9/30/2022	4,350.00	
City of Colorado Springs	113022	11/30/2022	61.06	
Clifton Larson Allen	3474412	11/1/2022	954.50	
CO Spreacial Districts Prop & Liab	23PL-61584-1810	9/6/2022	2,076.00	
TCW Risk Management	11/7/1930	9/6/2022	495.00	
White Bear Ankele Tanaka	25221	11/30/2022	3,764.83	
<b>TOTAL</b>			<b>\$ 11,701.39</b>	

# Tuscan Foothills Village Metropolitan District

## PAYMENT REQUEST

3/21/2023

### GENERAL FUND ACCOUNT

<b>Company</b>	<b>Invoice</b>	<b>Date</b>		<b>Comments</b>
CO Sprecial Districts Prop & Liab	43841	1/6/2023	450.00	Paid Online
Special District Association	2023	2/7/2023	366.14	
White Bear Ankele Tanaka	26212	1/31/2023	1,353.69	
White Bear Ankele Tanaka	26712	2/28/2023	2,180.81	
<b>TOTAL</b>			<b>\$ 4,350.64</b>	





## Tuscan Foothills Village Metro District

04/13/23

## Balance Sheet

Accrual Basis

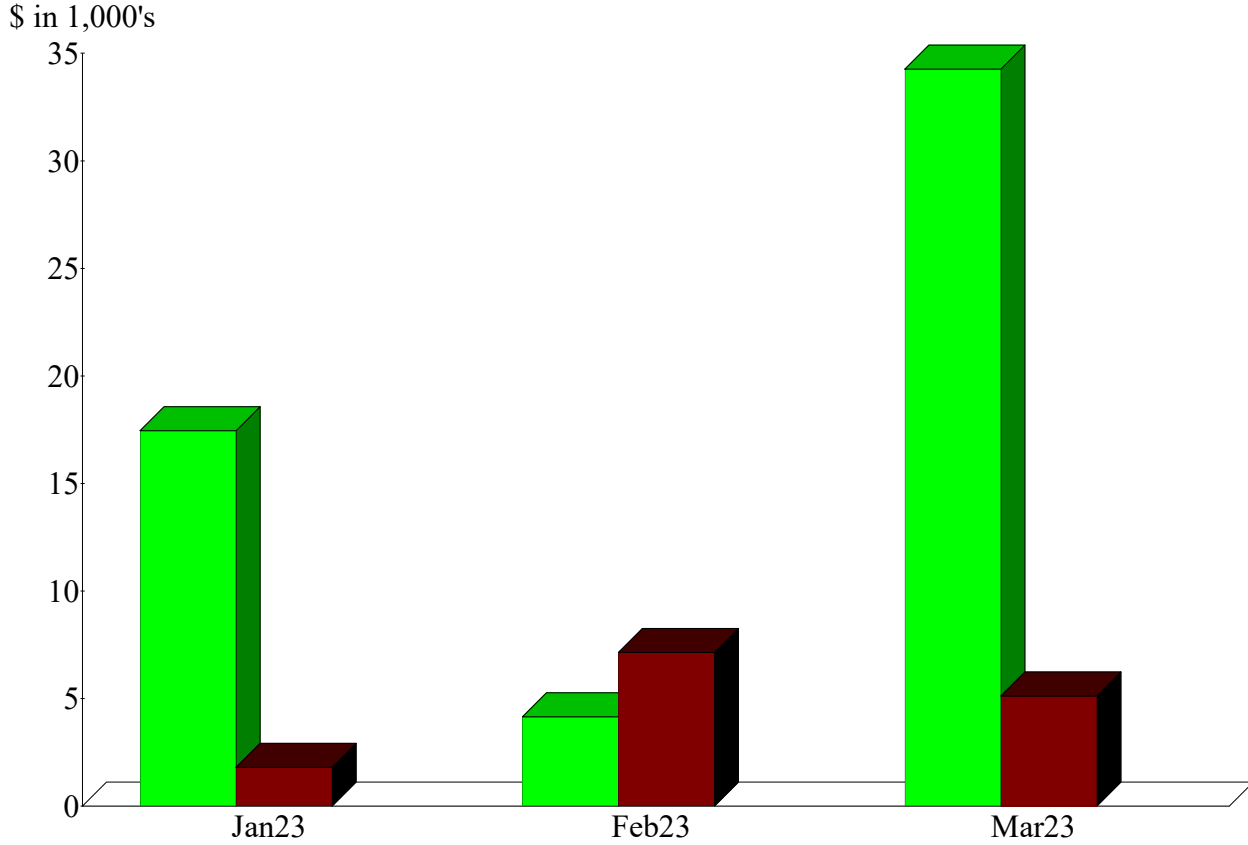
As of March 31, 2023

	<u>Mar 31, 23</u>
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
ECB Checking	3,946.12
Colo Trust	74,277.58
UMB Bond Account	2,243.73
UMB - Surplus Fund	33,739.78
<b>Total Checking/Savings</b>	<u>114,207.21</u>
<b>Other Current Assets</b>	
Property Tax Receivable	49,986.34
<b>Total Other Current Assets</b>	<u>49,986.34</u>
<b>Total Current Assets</b>	<u>164,193.55</u>
<b>TOTAL ASSETS</b>	<b><u>164,193.55</u></b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
Accounts Payable	
Accounts Payable	9,160.16
<b>Total Accounts Payable</b>	<u>9,160.16</u>
<b>Other Current Liabilities</b>	
Deferred Property Tax Revenue	49,986.34
<b>Total Other Current Liabilities</b>	<u>49,986.34</u>
<b>Total Current Liabilities</b>	<u>59,146.50</u>
<b>Total Liabilities</b>	59,146.50
<b>Equity</b>	
Retained Earnings	63,252.68
Net Income	41,794.37
<b>Total Equity</b>	<u>105,047.05</u>
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b><u>164,193.55</u></b>

## Tuscan Foothills Village Metro District Profit & Loss Budget vs. Actual January through March 2023

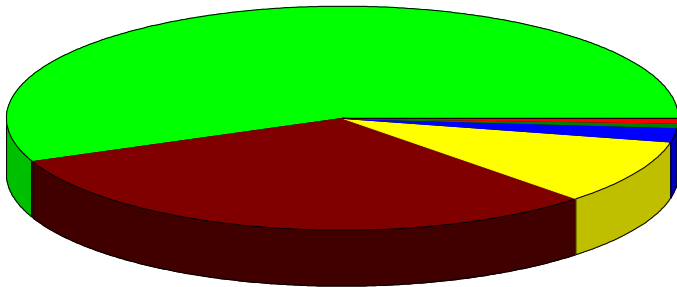
	TOTAL				
	Mar 23	Jan - Mar 23	Budget	\$ Over Budget	% of Budget
<b>Ordinary Income/Expense</b>					
<b>Income</b>					
Developer Advance	0.00	17,315.77	55,000.00	-37,684.23	31.48%
Property Tax - O&M	4,771.12	5,247.28	12,388.00	-7,140.72	42.36%
Specific Ownership Tax - O&M	101.73	201.87	867.00	-665.13	23.28%
Property Tax - Debt	28,630.08	31,487.38	74,333.00	-42,845.62	42.36%
Specifice Ownership Tax - Debt	610.47	1,211.36	5,203.00	-3,991.64	23.28%
<b>Total Income</b>	<b>34,113.40</b>	<b>55,463.66</b>	<b>147,791.00</b>	<b>-92,327.34</b>	<b>37.53%</b>
<b>Expense</b>					
<b>General &amp; Administration</b>					
Audit	0.00	0.00	9,325.00	-9,325.00	0.0%
District Management	1,190.85	1,190.85	24,000.00	-22,809.15	4.96%
Dues	0.00	366.14	400.00	-33.86	91.54%
Election Expense	351.06	2,246.80	10,000.00	-7,753.20	22.47%
Insurance	0.00	450.00	3,000.00	-2,550.00	15.0%
Legal Fees	1,453.46	3,092.22	15,000.00	-11,907.78	20.62%
<b>Total General &amp; Administration</b>	<b>2,995.37</b>	<b>7,346.01</b>	<b>61,725.00</b>	<b>-54,378.99</b>	<b>11.9%</b>
<b>Bond Expense</b>					
Bank Fees	7.36	20.51			
Bond Interest Series 2020A	0.00	0.00	77,500.00	-77,500.00	0.0%
Paying Agent Fee	0.00	0.00	4,000.00	-4,000.00	0.0%
<b>Total Bond Expense</b>	<b>7.36</b>	<b>20.51</b>	<b>81,500.00</b>	<b>-81,479.49</b>	<b>0.03%</b>
<b>Operations &amp; Maintenance</b>					
Landscaping	1,616.29	6,164.79	8,200.00	-2,035.21	75.18%
Stormwater	0.00	0.00	2,000.00	-2,000.00	0.0%
Utilites	0.00	0.00	6,000.00	-6,000.00	0.0%
<b>Total Operations &amp; Maintenance</b>	<b>1,616.29</b>	<b>6,164.79</b>	<b>16,200.00</b>	<b>-10,035.21</b>	<b>38.05%</b>
Treasurer Collection Fee - O&M	71.57	78.71	186.00	-107.29	42.32%
Treasurer Collection Fee - Debt	429.45	472.31	1,115.00	-642.69	42.36%
<b>Total Expense</b>	<b>5,120.04</b>	<b>14,082.33</b>	<b>160,726.00</b>	<b>-146,643.67</b>	<b>8.76%</b>
<b>Net Ordinary Income</b>	<b>28,993.36</b>	<b>41,381.33</b>	<b>-12,935.00</b>	<b>54,316.33</b>	<b>-319.92%</b>
<b>Other Income/Expense</b>					
<b>Other Income</b>					
Interest Income - Debt	145.40	413.04			
<b>Total Other Income</b>	<b>145.40</b>	<b>413.04</b>			
<b>Net Other Income</b>	<b>145.40</b>	<b>413.04</b>			
<b>Net Income</b>	<b>29,138.76</b>	<b>41,794.37</b>	<b>-12,935.00</b>	<b>54,729.37</b>	<b>-323.11%</b>

Income and Expense by Month  
January through March 2023



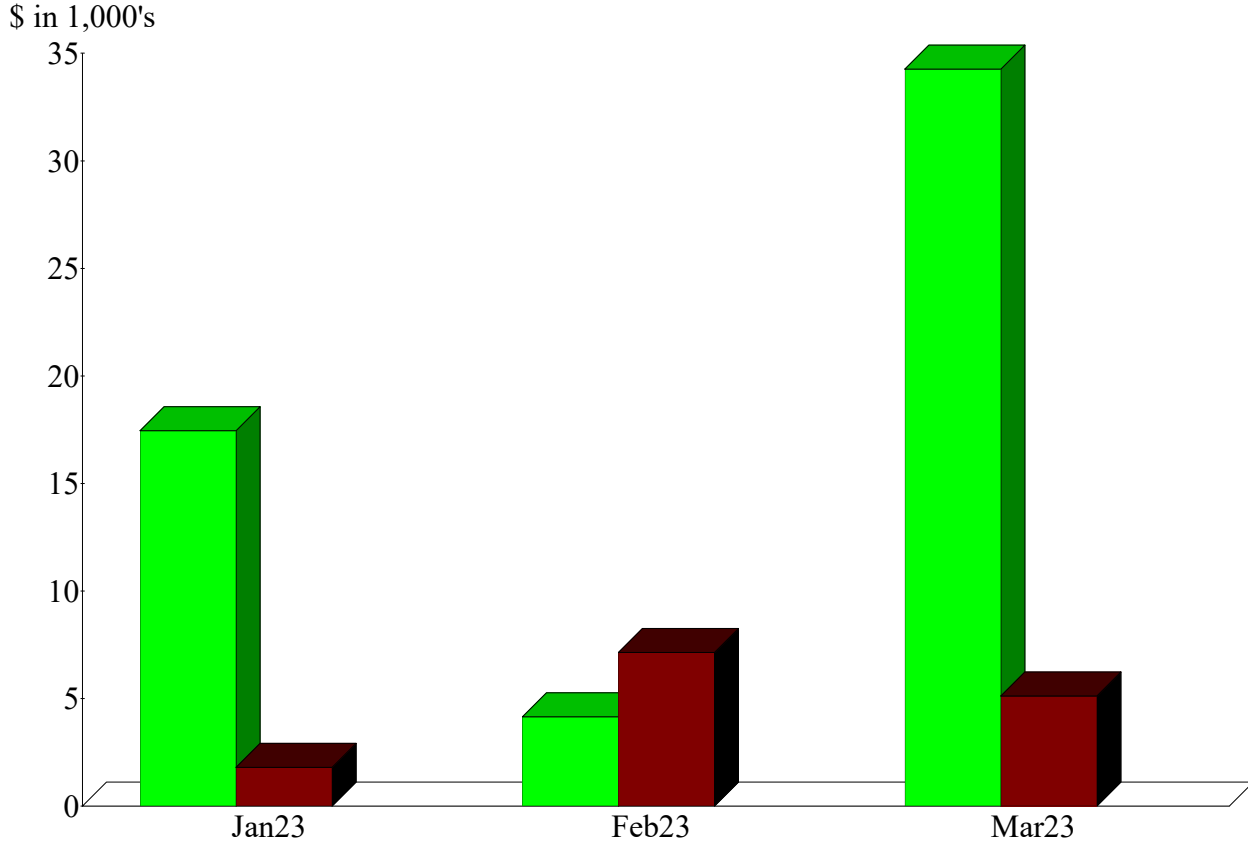
Income Summary  
January through March 2023

Property Tax - Debt	56.35%
Developer Advance	30.99
Property Tax - O&M	9.39
Specifice Ownership Tax - Debt	2.17
Interest Income - Debt	0.74
Specific Ownership Tax - O&M	0.36
<b>Total</b>	<b>\$55,876.70</b>



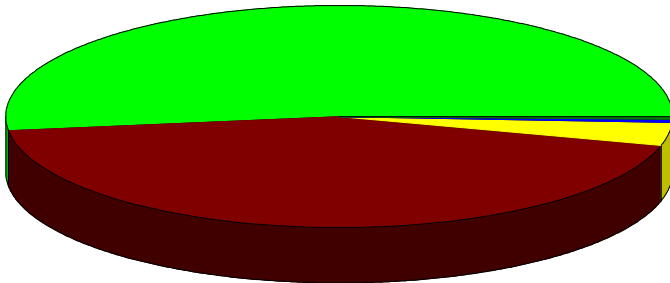
By Account

Income and Expense by Month  
January through March 2023



Expense Summary  
January through March 2023

General & Administration	52.16%
Operations & Maintenance	43.78
Treasurer Collection Fee - Debt	3.35
Treasurer Collection Fee - O&M	0.56
Bond Expense	0.15
Total	\$14,082.33



By Account





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## MEMORANDUM

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**TO:** TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT  
BOARD OF DIRECTORS  
**FROM:** HEATHER SMITH  
**SUBJECT:** MANAGERS REPORT FOR APRIL 19, 2023, BOARD MEETING  
**DATE:** APRIL 10, 2023  
**CC:** KEVIN WALKER  
BOARD PACKET

### Sales & Occupancy:

- Filing 1 – COMPLETED – 50 homes occupied
- Filing 3 & 3A – 16 homes occupied – 8 under construction
- Filing 4 – 14 homes under construction – 10 Lots platted
- Filing 5 – platting in process

### Financial Review:

- Monthly O&M Fees are being proposed with a July 1<sup>st</sup> start date
- Payables processed 12/14/2022 and 3/21/2023
- Current Contracted Services:
  - Management
  - Landscape Maintenance
  - Legal Counsel
  - Insurance

### Landscape Turnover:

- Detention Pond – accepted
- Trees & Shrubs - accepted
- Native Grasses – pending spring review

### Management Task List:

- Irrigation Start-Up – Finsterwald to coordinate with the Paired Homes
- Initiate O&M Fees – July 1st
- Software Transition – CINC Homeowner Portal – Launching May 1st
- 2022 Audit – 1<sup>st</sup> round of documents provided, pending auditor in-office appointment
- Welcome Packet Created & Sent to Jess - Completed
- Financial Analysis & O&M Fee Proposal - Completed
- Website Updated per Statute - Completed

# YSDM

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DISTRICT MANAGERS





**RESOLUTION  
OF THE  
BOARD OF DIRECTORS OF  
TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT  
CONCERNING THE IMPOSITION OF AN OPERATIONS FEE**

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WHEREAS, Tuscan Foothills Village Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and existing pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended (the “**Special District Act**”); and

WHEREAS, pursuant to § 32-1-1001(1)(h), C.R.S., the Board of Directors of the District (the “**Board**”) shall have the management, control, and supervision of all the business and affairs of the District; and

WHEREAS, the Board has determined it to be in the best interests of the District, and the property owners, taxpayers, and residents within the District, and the general public, to acquire, construct, operate, and maintain certain amenities and facilities benefitting the general public and property owners, taxpayers, and residents within the District, which amenities and facilities generally include streets, sidewalks and landscaping, improvements, facilities, appurtenances, and rights-of-way (collectively, the “**Facilities**”); and

WHEREAS, the Board has determined it to be in the best interests of the District, and the property owners, taxpayers, and residents within the District, to provide certain services to the property owners, taxpayers, and residents within the District, and the general public, including without limitation, landscape maintenance, and snow removal (collectively, the “**Services**”); and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., the District is authorized to fix and impose fees, rates, tolls, penalties, and charges for services or facilities furnished by the District which, until paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, the District incurs certain direct and indirect costs associated with the upkeep, repair, replacement, improvement, reconstruction, operation, and maintenance of the Facilities, as necessary, inclusive of the costs of utilities and capital replacement costs (collectively, the “**Facility Costs**”) in order that the Facilities may be properly provided, operated, and maintained; and

WHEREAS, the District incurs certain direct and indirect costs associated with the provision of the Services in order that the Services may be properly provided, the property within the District maintained, and that the health, safety, and welfare of the District and its inhabitants may be safeguarded (collectively, the “**Service Costs**”); and

WHEREAS, the establishment and continuation of a fair and equitable fee (the “**Operations Fee**”) to provide a source of funding to pay for the Facility Costs and the Service Costs, (collectively, the “**Operations Costs**”), which Operations Costs are generally attributable

to the persons and/or properties subject to such Operations Fees, is necessary to provide for the common good and for the prosperity and general welfare of the property owners, taxpayers, and residents within the District, and the general public and for the orderly and uniform administration of the District's affairs; and

WHEREAS, the District finds that the Operations Fee, as set forth in this Resolution, is reasonably related to the overall cost of providing the Facilities and Services and paying the Operations Costs, and that imposition thereof is necessary and appropriate.

NOW, THEREFORE, be it resolved by the Board as follows:

1. **DEFINITIONS.** Except as otherwise expressly provided or where the context indicates otherwise, the following capitalized terms shall have the respective meanings set forth below:

**“Apartment Unit”** means a unit within an apartment building which unit is held for lease or rent for residential occupancy and for which a final certificate of occupancy has been issued.

**“District Boundaries”** means the legal boundaries of the District, as the same are established and amended from time to time pursuant to the Special District Act, as more particularly set forth in the map and legal description attached hereto as **Exhibit B** and incorporated herein by this reference.

**“Due Date”** means the date by which the Operations Fee is due, which Due Date is reflected on the Schedule of Fees.

**“End User”** means any third-party homeowner or tenant of any homeowner occupying or intending to occupy a Residential Unit and any third-party owner or tenant occupying or intending to occupy a Commercial Unit. End User specifically excludes a tenant occupying an Apartment Unit.

**“Fee Schedule”** or **“Schedule of Fees”** means the schedule of fees set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, until and unless otherwise amended and/or repealed.

**“Lot”** means each parcel of land established by a recorded final subdivision plat and which is located within the District Boundaries.

**“Residential Unit”** means each residential dwelling unit (including, without limitation, condominiums, townhomes, and any other attached dwelling unit and detached single family dwelling units) located on a Lot which has been Transferred to an End User.

**“Transfer”** or **“Transferred”** shall include a sale, conveyance, or transfer by deed, instrument, writing, lease, or any other documents or otherwise by which real property is sold, granted, let, assigned, transferred, exchanged, or otherwise vested in an End User.

“**Vacant Lot**” means each parcel of land within the District established by a recorded final subdivision plat, but specifically excluding any parcel upon which one or more Residential Units, Commercial Units, or Apartment Units is situated, and specifically excluding any parcel owned by the District.

2. OPERATIONS FEE.

a. The Board has determined, and does hereby determine, that it is in the best interests of the property owners, taxpayers, and residents within the District, and the general public to impose, and does hereby impose an Operations Fee to fund the Operations Costs. The Operations Fee is hereby established and imposed in an amount as set forth by the District from time to time, pursuant to the “Fee Schedule” and shall constitute the rate in effect until such schedule is amended or repealed. The Fee Schedule is set forth in **Exhibit A**, attached hereto and incorporated herein by this reference. The Operations Fee shall consist of a recurring payment (the “**Recurring Payment**”) and a separate payment imposed on the Transfer of a Residential Unit to an End User (the “**Transfer Payment**”), which together shall comprise the Operations Fee.

b. The Transfer Payment shall be imposed on all Transfers of a Residential Unit and Commercial Unit to an End User. The Transfer Payment shall not apply to any of the following, except to the extent the District determines that such exception is being undertaken for the purpose of improperly avoiding the Operations Fee:

i. Any Transfer wherein the United States, or any agency or instrumentality thereof, the State of Colorado, any county, city and county, municipality, district, or other political subdivisions of this State, is either the grantor or the grantee.

ii. Any Transfer by document, decree, or agreement partitioning, terminating, or evidencing termination of a joint tenancy, tenancy in common, or other co-ownership; however, if additional consideration or value is paid in connection with such partition or termination the Transfer Payment shall apply and be based upon such additional consideration.

iii. Any Transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.

iv. Any Transfer made and delivered without consideration for the purpose of confirming, correcting, modifying, or supplementing a Transfer previously made; making minor boundary adjustments; removing clouds of title; or granting easements, rights-of-way, or licenses.

v. Any decree or order of a court of record quieting, determining, or resting title, except for a decree of foreclosure.

vi. Transfers to secure a debt or other obligation, or releases other than by foreclosure, which is security for a debt or other obligation.

vii. Transfers pursuant to a decree or separation of divorce.

c. The Board has determined, and does hereby determine, that the Operations Fee is reasonably related to the overall cost of providing the Services, and paying the Operations Costs, and is imposed on those who are reasonably likely to benefit from or use the Facilities and Services.

d. The revenues generated by the Operations Fee will be accounted for separately from other revenues of the District. The Operations Fee revenue will be used solely for the purpose of paying Operations Costs and may not be used by the District to pay for general administrative costs of the District.

3. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., any Operations Fee not paid in full within thirty (30) days after the scheduled Due Date will be assessed a late fee in the amount of Fifteen Dollars (\$15.00) or up to five percent (5%) per month, or fraction thereof, not to exceed a total of twenty-five percent (25%) of the amount due. Interest will also accrue on any outstanding Operations Fees, exclusive of assessed late fees, penalties, interest, and any other costs of collection, specially including but not limited to attorneys' fees, at the rate of 18% per annum, pursuant to § 29-1-1102(7), C.R.S. The District may institute such remedies and collection procedures as authorized under Colorado law, including but not limited to foreclosure of its perpetual lien. The defaulting property owner shall pay all fees and costs, specifically including but not limited to attorneys' fees and costs and costs associated with the collection of delinquent fees, incurred by the District and/or its consultants in connection with the foregoing.

4. PAYMENT. Payment for all Operations Fees, fees, rates, tolls, penalties, charges, interest, and attorneys' fees shall be made by check or equivalent form acceptable to the District, made payable to "Tuscan Foothills Village Metropolitan District" and sent to the address indicated on the Fee Schedule. The District may change the payment address from time to time and such change shall not require an amendment to this Resolution.

5. LIEN. The Operations Fees imposed hereunder, together with any and all late fees, interest, penalties, and costs of collection, shall, until paid, constitute a statutory, perpetual lien on and against the property served, and any such lien may be foreclosed in the manner provided by the laws of the State of Colorado for the foreclosure of mechanic's liens, pursuant to § 32-1-1001(1)(j)(I), C.R.S. Said lien may be foreclosed at such time as the District, in its sole discretion, may determine. The lien shall be perpetual in nature (as defined by the laws of the State of Colorado) on the property and shall run with the land. This Resolution shall be recorded in the offices of the Clerk and Recorder of El Paso County, Colorado.

6. SEVERABILITY. If any portion of this Resolution is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Resolution, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this

Resolution a provision similar in terms to such illegal, invalid, or unenforceable provision so that the resulting reformed provision is legal, valid, and enforceable.

7. THE PROPERTY. This Resolution shall apply to all property within the District Boundaries, including but not limited to the property set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, and any additional property included into the District after the date of this Resolution.

8. EFFECTIVE DATE. This Resolution shall become effective April 19, 2023.

ADOPTED this 19<sup>th</sup> day of April 2023.

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

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Officer of the District

**ATTEST:**

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**APPROVED AS TO FORM:**

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys At Law

---

General Counsel to the District

**EXHIBIT A**  
**TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT**  
**Schedule of Fees**  
**Effective April 19, 2023**

Schedule of Fees		
Fee Type	Classifications	Rate
<b>Operations Fee – Recurring Payment</b>	Apartment Unit	\$617 /year
	Residential Unit	\$617 /year
The Due Date for each Operations fee is July 1 <sup>st</sup> of each year.		
<b>Operations Fee – Payment Due Upon a Transfer</b>	Apartment Unit	\$100 per Transfer
	Residential Unit	\$100 per Transfer
The Due Date for each Operations Fee—Payment Due Upon Transfer is the date upon which the Transfer occurs.		

**PAYMENTS:** Payment for each fee shall be made payable to Tuscan Foothills Village Metropolitan District and sent to the following address for receipt by the Due Date:

Tuscan Foothills Village Metropolitan District  
c/o Walker Schooler District Managers  
614 N Tejon Street  
Colorado Springs, CO 80903

**EXHIBIT B**

**TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT**

**District Boundaries**





**IRRIGATION SERVICES REIMBURSEMENT AGREEMENT  
BY AND BETWEEN  
TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT  
AND  
TUSCAN FOOTHILLS VILLAGE PAIRED HOMES OWNERS ASSOCIATION, INC.**

This **IRRIGATION SERVICES REIMBURSEMENT AGREEMENT** (the “**Agreement**”) is entered into this 19<sup>th</sup> day of April 2023, by and between **TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **TUSCAN FOOTHILLS VILLAGE PAIRED HOMES OWNERS ASSOCIATION, INC.**, a Colorado nonprofit corporation (the “**Association**”). Individually, the District and the Association are referred to herein as a “**Party**” and collectively as the “**Parties**.”

**RECITALS**

**WHEREAS**, the District was organized pursuant to and in accordance with the provisions of §§ 32-1-101, *et seq.*, C.R.S., for the purpose of constructing, financing, operating, and maintaining certain public facilities and improvements for the benefit of its taxpayers, residents, and end-users; and

**WHEREAS**, the District has established, within property owned by the Association (the “**Property**”), as described in **Exhibit A**, underground piping and sprinkler heads to meet the irrigation needs of the Property (the “**Irrigation Improvements**”); and

**WHEREAS**, the Parties desire that the Association continue to provide water service, irrigation management, and necessary repairs to the Property (the “**Water Services**”); and

**WHEREAS**, the Water Services benefit both the District and Association and the Parties desire to share responsibility for the associated raw water costs; and

**WHEREAS**, the raw water usage associated with the Water Services is tracked by an Association water meter (the “**Water Costs**”); and

**WHEREAS**, the Parties desire that the District reimburse the Association, pursuant to this Agreement, for forty percent (40%) of the Water Costs on a biannual basis, until such time as native grasses are established on the Property and the Irrigation Improvements can be capped.

**NOW, THEREFORE**, in consideration of the terms, conditions, and covenants set forth in this Agreement, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

**TERMS AND CONDITIONS**

1. Effective Date. Except as noted in Paragraph 4 below, the obligations of this Agreement shall commence on May 1, 2023 (the “**Effective Date**”).

2. Water Costs. The Parties hereby agree that, as of the Effective Date, the District will commence reimbursing the Association for forty percent (40%) of the Water Costs associated with the irrigation of the Property. The Association will meter the Water Costs and provide biannual invoices to the District.

3. Irrigation Management. As part of the Water Services, the Association will continue to manage, maintain, and irrigate the Property. The Water Services provided by the Association will include monitoring irrigation and on-the-ground management to keep water use within reasonable amounts.

4. Irrigation Repair. As part of the Water Services, the Association will make all necessary repairs to the Irrigation Improvements. In the event that irrigation repairs are required, the Association and/or its contractor will return the landscaping to its pre-repair condition.

5. Billing for Water Costs. The Association will bill the District for forty percent (40%) of the Water Costs incurred by the Association to irrigate the Property on a biannual basis by no later than June 1<sup>st</sup> and December 1<sup>st</sup> of each year, beginning in 2023. Full payment for the invoiced Water Costs shall be due to the Association within thirty (30) days of receipt of the biannual invoices.

6. Miscellaneous.

a. Assignment. Except as otherwise stated herein, neither Party shall assign this Agreement, or parts thereof, or its respective duties, without the express written consent of the other Party. Any attempted assignment of this Agreement, in whole or in part, without the written consent of the other Party, shall be null and void and of no effect whatsoever.

b. Notices. Any notice or communication required under this Agreement must be in writing, and may be given personally, sent via e-mail, nationally recognized overnight carrier service, or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of: (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent; or (ii) three days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered, set via email, or sent via nationally recognized overnight carrier service, a notice will be deemed to have been given and received on the first to occur of: (i) one business day after being sent via email or deposited with a nationally recognized overnight air courier service; or (ii) delivery to the party to whom it is addressed. Either Party hereto may at any time, by giving written notice to the other Party hereto as provided in this Paragraph 6.b., designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the Parties at their addresses set forth below:

District:	Tuscan Foothills Village Metropolitan District c/o Walker Schooler District Managers 614 N. Tejon St.
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Colorado Springs, CO 80903  
Attention: Heather Smith  
Phone: (719) 447-1777  
E-mail: heather.s@wsdistricts.co

With a Copy to: WHITE BEAR ANKELE TANAKA & WALDRON  
2154 E. Commons Ave., Suite 2000  
Centennial, CO 80122  
Attention: Blair M. Dickhoner, Esq.  
Phone: (303) 858-1800  
E-mail: bdickhoner@wbapc.com

Association: Tuscan Foothills Village Paired Homes Owners  
Association, Inc.  
4325 N Nevada Ave, Suite 100  
Colorado Springs, CO 80907  
Phone: (719) 314-9111

c. Entire Agreement. This Agreement constitutes the entire agreement between the Parties hereto, and sets forth the rights, duties, and obligations of each to the other as of this date, and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to the subject matter herein, whether written or oral. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both Parties.

d. Binding Agreement. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

e. No Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in this Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

f. Venue. Venue for all actions arising from this Agreement shall be in the El Paso County District Court. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including but not limited to *forum non-conveniens* or otherwise.

g. Choice of Law. Colorado law shall apply to any dispute, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado.

h. Good Faith of Parties. In the performance of this Agreement, or in considering any requested approval, acceptance, consent, or change order, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably

withhold, condition, or delay any approval, acceptance, consent, or extension of time required or requested pursuant to this Agreement.

i. Subject To Annual Appropriation and Budget. The Parties do not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the Parties, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the Parties or statutory debt limitation, including, without limitation, Article X, Section 20 or Article XI, Section 6 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of funds. The Parties' obligations under this Agreement exist subject to annual budgeting and appropriations and shall remain subject to the same for the entire term of this Agreement.

j. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the Parties, their respective officials, employees, contractors, or agents, or any other person acting on behalf of the Parties and, in particular, governmental immunity afforded or available to the Parties pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

k. Negotiated Provisions. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed to the preparation of this Agreement.

l. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be invalid, void, or unenforceable, such decision shall not affect the validity of any other portion of this Agreement which shall remain in full force and effect, the intention being that such portions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid, or unenforceable provision so that the resulting reformed provision is legal, valid, and enforceable.

m. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

n. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

IN WITNESS WHEREOF, the Parties hereby execute this Agreement on the date first written above.

**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

**ASSOCIATION:**

**TUSCAN FOOTHILLS VILLAGE  
PAIRED HOMES OWNERS  
ASSOCIATION, INC.**, a Colorado nonprofit  
corporation

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

**EXHIBIT A**  
(Property)

End Year	Month End Date	Stormwater Fee	Bill Amount	Pay Date	Pay Amount
2020	9/21/2020	\$ -	\$ 2,321.56		
2020	10/20/2020	\$ -	\$ 1,444.58	10/20/2020	\$ (2,321.56)
2020	11/20/2020	\$ -	\$ 829.03	11/13/2020	\$ (1,444.58)
2020	12/22/2020	\$ -	\$ 152.79	1/5/2020	\$ (829.03)
2021	1/25/2021	\$ -	\$ 95.58	1/22/2021	\$ (152.79)
2021	2/24/2021	\$ -	\$ 84.34		
2021	3/25/2021	\$ -	\$ 81.52	3/25/2021	\$ (95.58)
2021	4/22/2021	\$ -	\$ 78.71	3/29/2021	\$ (84.34)
2021	5/20/2021	\$ -	\$ 619.48	4/26/2021	\$ (165.86)
2021	6/21/2021	\$ -	\$ 3,876.60	6/21/2021	\$ (613.85)
2021	7/21/2021	\$ -	\$ 2,543.01	7/6/2021	\$ (3,876.60)
2021	8/18/2021	\$ -	\$ 2,897.51	8/5/2021	\$ (2,543.01)
2021	10/19/2021	\$ -	\$ 3,144.02	9/3/2021	\$ (2,897.51)
2021	11/18/2021	\$ -	\$ 84.34	10/5/2021	\$ (3,396.97)
2021	12/22/2021	\$ -	\$ 95.58		\$ -
2022	1/24/2022	\$ -	\$ 92.77		\$ -
2022	2/23/2022	\$ -	\$ 84.34	2/8/2022	\$ (19.74)
2022	3/24/2022	\$ -	\$ 81.52	3/10/2022	\$ (84.34)
2022	4/22/2022	\$ -	\$ 81.52	4/8/2022	\$ (81.52)
2022	5/23/2022	\$ -	\$ 1,015.10	5/10/2022	\$ (81.52)
2022	6/21/2022	\$ -	\$ 1,583.60	6/6/2022	\$ (1,015.10)
2022	7/21/2022	\$ -	\$ 2,143.82	7/6/2022	\$ (1,583.60)
2022	8/21/2022	\$ -	\$ 1,789.81	8/5/2022	\$ (2,143.82)
2022	9/20/2022	\$ -	\$ 2,036.58	9/6/2022	\$ (1,789.81)
2022	10/19/2022	\$ -	\$ 1,743.80	10/5/2022	\$ (2,036.58)
2022	11/20/2022	\$ -	\$ 231.64	11/3/2022	\$ (1,743.80)
2022	12/21/2022	\$ -	\$ 87.15	12/5/2022	\$ (231.64)
2023	1/19/2023	\$ -	\$ 84.19	1/5/2023	\$ (87.15)
2023	2/20/2023	\$ -	\$ 94.46	2/3/2023	\$ (84.19)
			<b>\$ 29,498.95</b>		<b>\$ (29,404.49)</b>

\$ 94.46

HOA 60%	Metro 40%	Total Paid
\$ 17,699	\$ 11,800	\$ 29,499

# YSDM

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DISTRICT MANAGERS





## Heather Smith

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**From:** Emilee Hansen <ehansen@wbapc.com>  
**Sent:** Thursday, March 2, 2023 4:42 PM  
**To:** 'David Hewett'; 'rayosulli@gmail.com'; jenn mullins  
**Cc:** 'Roger Lemmon'; Jack Mason; Blair M. Dickhoner; Nelson Dunford; Kevin Walker; Rebecca Harris; Heather Smith  
**Subject:** Tuscan Foothills Village MD - May 2, 2023 Director Election - CANCELLED

Good afternoon,

At the end of the day on Tuesday, February 28th, there were no more nominees than there were seats available for the May 2, 2023 director election, so the election for the Tuscan Foothills Village Metropolitan District has been cancelled. The following directors have been elected via acclamation:

**Term Expires May 2027:**

- David Hewett
- Jennifer Mullins
- Raymond O'Sullivan

We will coordinate with each of you separately after the election date on the Oaths of Office that need to be administered to finalize your respective election to the District's Board of Directors.

Thank you, and please let us know if you have any questions.

**EMILEE HANSEN**

**PARALEGAL**

WHITE BEAR ANKELE TANAKA & WALDRON  
2154 East Commons Avenue, Suite 2000  
Centennial, Colorado 80122

P 303.858.1800

F 303.858.1801

[ehansen@wbapc.com](mailto:ehansen@wbapc.com)

[www.whitebearankele.com](http://www.whitebearankele.com)

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**NOTICE OF CANCELLATION OF ELECTION**  
**AND**  
**CERTIFIED STATEMENT OF RESULTS**

**TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT**

NOTICE IS HEREBY GIVEN, pursuant to §1-13.5-513(6), C.R.S., that, at the close of business on February 28, 2023, there were not more candidates than offices to be filled, including candidates filing affidavits of intent to be write-in candidates, for the Tuscan Foothills Village Metropolitan District (the “District”). Therefore, the election for the District to be held on May 2, 2023, is hereby cancelled.

The following candidates for the District are declared elected by acclamation:

<u>David Hewett</u>	<u>Until May 2027</u>
<u>Raymond O’Sullivan</u>	<u>Until May 2027</u>
<u>Jennifer Mullins</u>	<u>Until May 2027</u>

/s/ Ashley B. Frisbie  
Designated Election Official

Contact Person for the District:

Blair M. Dickhoner, Esq.  
WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law  
2154 E. Commons Avenue, Suite 2000  
Centennial, Colorado 80122  
(303) 858-1800

PUBLISHED IN: *The Gazette*  
PUBLISHED ON: April 15, 2023

**RESOLUTION OF DESIGNATED ELECTION OFFICIAL OF  
CANCELLATION OF ELECTION  
AND DECLARATION OF CANDIDATES ELECTED**

**TUSCAN FOOTHILLS VILLAGE METROPOLITAN DISTRICT**

WHEREAS, the Board of Directors of Tuscan Foothills Village Metropolitan District (the “District”) has duly authorized the Designated Election Official to cancel the election to be conducted on May 2, 2023, and to declare the candidates elected because the Designated Election Official has duly determined, at the close of business on the sixty-third (63<sup>rd</sup>) day before said election or at any time thereafter, that there were not more candidates for director than offices to be filled, including candidates filing affidavits of intent to be write-in candidates.

NOW, THEREFORE, pursuant to §1-13.5-513(1), C.R.S., the Designated Election Official hereby cancels the May 2, 2023 election and declares the following candidates to be elected by acclamation for the following terms of office for the District:

<u>David Hewett</u>	<u>5411 Silverstone Terrace, Colorado Springs, 80919</u>	<u>Until May 2027</u>
(Name)	(Address)	

<u>Raymond O’Sullivan</u>	<u>2223 Cabernet Ct., Colorado Springs, 80921</u>	<u>Until May 2027</u>
(Name)	(Address)	

<u>Jennifer Mullins</u>	<u>5462 Silverstone Terrace, Colorado Springs, 80919</u>	<u>Until May 2027</u>
(Name)	(Address)	

  
\_\_\_\_\_  
Designated Election Official

Contact Person for the District:

Blair M. Dickhoner, Esq.  
\_\_\_\_\_  
WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law  
2154 E. Commons Avenue, Suite 2000  
Centennial, CO 80122  
(303) 858-1800