

BRADLEY HEIGHTS METROPOLITAN DISTRICT NOS. 1, 2 and 3

Tuesday, July 13, 2021 at 9:00 AM

Regular Board Meeting

119 N. Wahsatch Ave.

Colorado Springs, Colorado 80903

and

Via tele/videoconference

<https://global.gotomeeting.com/join/547622885>

United States: [+1 \(646\) 749-3122](tel:+16467493122)

Access Code: 547-622-885

Randle W. Case II, President
Term to May 2023

Robert Case, Assistant Secretary
Term to May 2022

Bryan T. Long, Vice-President
Term to May 2023

Vacant, Assistant Secretary
Term to May 2022

Lindsay J. Case, Treasurer/Secretary
Term to May 2023

AGENDA

1. Call to order
2. Declaration of Quorum/Director Qualifications/ Disclosure Matters
3. Appoint Mr. Ray O'Sullivan to vacant Board positions for Bradley Heights Metropolitan Districts Nos 1 - 3
4. Approval of Agenda
5. Approval of May 11, 2021 Meeting minutes (see attached)
6. District Manager Report
7. President of the Board Report
8. Development Status Review
 - a. Traffic Engineering study
 - b. Stormwater update – MDDP
 - c. Master Utility Plan
 - d. Redemption Hill Church – PILOT update
 - e. Challenger Homes
 - f. Bradley Ridge
9. Bond Matters

- a. Bond Issuance Status Report: DA Davidson
 - a. Schedule update
 - b. Financial terms options Review (see attached)
 - b. PLOM Review (Under separate cover)
 - c. Bond Resolution, Capital Pledge Agreement and Special Counsel, etc. preliminary review and comment
 - d. Improvement costs and mapping
10. Financial Matters
- a. Approve Unaudited Financial Reports for June 30, 2021 and Payables for June, 2021 (see attached)
11. Other Business
- a. District Administrative Services Agreement (see attached)
 - b. Approval of IGA for CSDPool insurance (see attached)
 - c. Next Regular Meeting Date
12. Adjourn

2021 Regular Meetings	Location
The Second Tuesday of every month at 9:00 A.M. Please Call 719-447-1777 for meeting information	119 N. Wahsatch Ave. Colorado Springs, Colorado and https://global.gotomeeting.com/join/530123597 United States: +1 (571) 317-3112 Access Code: 530-123-597

NOTICE OF REGULAR MEETINGS

NOTICE IS HEREBY GIVEN That the Board of Directors of **BRADLEY HEIGHTS METROPOLITAN DISTRICT NOS. 1, 2 and 3**, County of El Paso, State of Colorado, will hold a regular meetings at 9:00 AM on Tuesday, the 13th day of July at 119 South Wahsatch Ave. in Colorado Springs, Colorado, and via tele/videoconferencing at the following:

<https://global.gotomeeting.com/join/547622885>

United States: [+1 \(646\) 749-3122](tel:+16467493122)

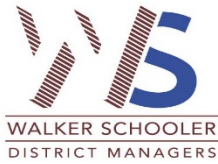
Access Code: 547-622-885

for the purpose of conducting such business as may come before the Board including the business on the attached agenda.

The meeting is open to the public.

BY ORDER OF THE BOARD OF DIRECTORS:

BRADLEY HEIGHTS METROPOLITAN DISTRICT NOS. 1, 2 AND 3



**MINUTES OF THE BUDGET HEARING BOARD MEETING
OF THE BOARD OF DIRECTORS OF THE
BRADLEY HEIGHTS METROPOLITAN DISTRICT NOS. 1, 2 AND 3
HELD JUNE 8, 2021
AT 9:00 AM**

Pursuant to posted notice, the special meetings of the Board of Directors of the Bradley Heights Metropolitan District Nos. 1, 2 and 3 were held on Tuesday, June 8, 2021 at 9:00 a.m., at 119 N. Wahsatch Avenue, Colorado Springs, CO, and at the tele/videoconference platform of GoToMeeting link: <https://global.gotomeeting.com/join/530123597>.

Attendance

In attendance were Directors:

Randle Case II, President

Bryan Long, Vice President

Lindsay Case, Treasurer/Secretary - Excused

Robert Case, Assistant Secretary (by phone)

Also in attendance were:

K. Sean Allen, Esq., White Bear Ankele Tanaka & Waldron (by phone)

Kevin Walker, WSDM, District Manager

Eric Smith, Interim District Engineer (by phone)

Kyle Thomas, D.A. Davidson (by phone)

David Neville, Kiemele Family Partnerships (by phone)

Ross Jagers, Redemption Hill Church (by phone)

Jim Byers, Challenger Homes (by phone)

Ray O'Sullivan, Bradley Ridge

Jane Fredman, Redemption Hill Church counsel (by phone)

Tony Gordon, Gordon Construction, Redemption Hill Church contractor (by phone)

Combined Meeting:

The Board of Directors of the Districts have determined to hold a joint meeting of the Districts and to prepare joint minutes of actions taken by the Districts in such meetings. Unless otherwise noted herein, all official action reflected in these minutes shall be deemed to be the action of all Districts. Where necessary, action taken by an individual District will be so reflected in these minutes.

1. Call to Order: The meeting was called to order by President Case II at 9:00 a.m.
2. Declaration of Quorum/Director Qualifications/ Disclosure Matters: President Case II indicated that a quorum of the Boards was present and stated that each Director has been qualified as an eligible elector of the Districts pursuant to Colorado law. The Directors confirmed their qualification. Mr. Allen advised the Boards that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Mr. Walker reported that disclosures for those directors with potential or existing conflicts of interest were filed with the

Secretary of State's Office and the Boards at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Board. Mr. Allen inquired into whether members of the Boards 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 Boards determined that the participation of the members present was necessary to obtain a quorum or to otherwise enable the Boards to act.

3. Consider appointment Mr. Ray O'Sullivan to vacant Board positions for Bradley Heights Metropolitan Districts Nos 1, 2, and 3: Mr. Allen explained that due to publication timing, the Board will need to postpone the appointment for the next meeting.
4. Approval of Agenda: Director Robert Case moved to approve the Agenda as presented; seconded by Director Long. Motion passed unanimously.
5. Approval of the May 11, 2021 Meeting Minutes: Director Long noted a correction to the fees on 8.d., it should be \$2,999 single-family building permit fee, \$2,499 mid-density building permit fee, \$1,999 for high-density building permit fee. Mr. Neville noted the correct spelling for Kiemele. Director Robert Case moved to approve the May 11, 2021 Meeting Minutes as amended; seconded by Director Long. Motion passed unanimously.
6. Public Hearing to consider approval of 2021 Budget Amendment: Mr. Walker presented the 2021 Budget Amendment. President Case II opened the public hearing for the 2021 Budget Amendment. After no public comment, President Case II closed the public hearing. Director Robert Case moved to approve the 2021 Budget Amendment; seconded by Director Long. Motion passed unanimously.
7. District Manager Report: Mr. Walker presented the District Manager Report. He noted that he continues to work on the bond disclosure documents as well as regular management tasks.
8. President of the Board Report: President Case II presented the President of the Board Report. He noted that he met with the developer of the Airport's Peak Innovation Park twice in the last 45 days and there is a lot of exciting development going on at the airport. Southwest Airlines is running at 70% occupancy with 13 new flights and a proposed east coast direct flight to Baltimore. Director Robert Case joined the meeting in person.
9. Development Status Review
 - a. Redemption Hill Church – PILOT Update: Mr. Gordon reported they are waiting for Challenger's review. Redemption Hill Church has already received their comments back and they should fall in line with Challenger's comments. Mr. Allen discussed the PILOT update and noted he will be providing sample PILOT agreements to Ms. Fredman.
 - b. Challenger Homes: Mr. Byers reported they have received their comments back and are currently working through them. They have met with the District engineers to discuss coordination items. They would like to meet with Mr. Gordon and Redemption Hill Church soon to coordinate as well. President Case II noted there is a coordination meeting scheduled tomorrow with Mr. Smith.
 - c. Bradley Ridge: There was no additional discussion.
 - d. Traffic Engineering study: Mr. Gordon discussed reducing the entrance road from Marksheffel from a collector status to a local street. He noted it could reduce the burden on the Metro District and funds could be used for other things. Mr. Smith said he discussed the traffic study with the City and that road specifically, and they agree it makes sense to reduce it. President Case II noted they also discussed a potential signal at Bradley Ridge

and Marksheffel. Mr. Smith reported they are 2 to 3 weeks out from a preliminary study that will be distributed for review. Once reviewed, it will be submitted to the City. Mr. Smith confirmed he can complete a traffic study for Mr. O'Sullivan and Bradley Ridge as well. President Case II discussed the comment back on Challenger's submittal regarding no cuts to Bradley Road until 2026, and noted the road is repaved but going west into the County, the road is in rough condition. He is waiting to hear back from Public Works to be sure they will not prevent work along Bradley. Mr. Smith clarified the comment does not mean they will prevent road cuts, but they will require degradation fees. President Case II discussed Widefield School District and reported they will be needing a 35-acre school site in the project.

10. Bond Matters

- a. Bond issuance – Status Report - DA Davidson: Mr. Thomas updated the Board on the bond issuance status and reported the closing is anticipated for July 21, 2021. Mr. Thomas confirmed the offering document draft will be distributed by the end of this week for review.

The Board discussed the Boy Scout parcel and Mr. Smith noted that full movement will be needed from Marksheffel as well as a right-in, right-out with two points of access.

11. Financial Matters

- a. Update on turnover: Mr. Walker reported the money is in the bank now and they are able to provide accounts receivable and accounts payable services. Mr. Walker explained developer loans to help with additional payments before the bonds close and certain expenses can be reimbursed when the bonds close.
- b. Financial Reports and Payables: Director Long moved to ratify and approve the payment of the Payables; seconded by Director Robert Case. Motion passed unanimously.

12. Other Business

- a. Next Regular Meeting Date: July 13, 2021, at 9:00 a.m.
- b. Mr. O'Sullivan asked if there are Civil Engineering Contractors bidding on the project. Mr. Smith replied that is a bit premature at this point and recommended developing designs further before getting pricing.

13. Adjourn: The Board adjourned the meeting at 9:46 a.m.

Respectfully Submitted,

By: Kristina Kulick for the Recording Secretary

Bradley Heights Metropolitan Districts Nos. 2 & 3							
El Paso County, Colorado							
	<u>Senior Current Interest and Subordinate Cash-Flow Bonds at 2% & 6% BiRe, Respectively</u> <u>100% Developer Fees</u>			<u>Senior Current Interest and Subordinate Cash-Flow Bonds at 2% & 6% BiRe, Respectively</u> <u>50% Developer Fees</u>		<u>Senior Cash Flow Bond at 6% BiRe</u> <u>100% Developer Fees</u>	
Structure							
	- Non-Rated - Current interest senior bonds and subordinate cash flow bonds - Secured by property tax revenues - Debt service mill levy: 33.398			- Non-Rated - Current interest senior bonds and subordinate cash flow bonds - Secured by property tax revenues - Debt service mill levy: 33.398		- Non-Rated - Senior cash flow bond only - Secured by property tax revenues - Debt service mill levy: 33.398 - Projected bond payoff on 2048, payoff necessary 5 years before termination date of 2053 in this structure	
Estimated Principal							
	Series 2021A	\$27.590mm	Series 2021A	\$27.590mm			
	Premium	\$1.406mm	Premium	\$1.406mm			
	<u>Series 2021B(3)</u>	<u>\$7.410mm</u>	<u>Series 2021B(3)</u>	<u>\$5.629mm</u>	<u>Series 2021A(3)</u>	<u>\$35.000mm</u>	
	Total Principal	\$35.000mm	Total Principal	\$33.219mm	Total Principal	\$35.000mm	
Estimated Proceeds							
	Capitalized Interest	\$3.027mm	Capitalized Interest	\$4.139mm			
	Debt Service Reserve	\$2.275mm	Surplus Fund	\$2.275mm			
	<u>Project Fund</u>	<u>\$30.080mm</u>	<u>Project Fund</u>	<u>\$27.241mm</u>	<u>Project Fund</u>	<u>\$34.050mm</u>	
	Total Proceeds	\$35.382mm	Total Proceeds	\$33.654mm	Total Proceeds	\$34.050mm	
Estimated Rates							
	Coupon 2021A	5.00% (4.25% yld)	Coupon 2021A	5.00% (4.25% yld)			
	Coupon 2021B(3)	8.000%	Coupon 2021B(3)	8.000%	Coupon 2021A(3)	5.250%	
	True Interest Cost (TIC)	4.772%	True Interest Cost (TIC)	4.772%			
Residential BiRe							
	Series 2021A	2% (1%/yr)	Series 2021A	2% (1%/yr)	Series 2021A(3)	6% (3%/yr)	
	Series 2021B(3)	6% (3%/yr)	Series 2021B(3)	6% (3%/yr)			
Final Maturity							
	Series 2021A	12/1/2051	Series 2021A	12/1/2051	Series 2021A(3)	12/1/2051	
	Series 2021B(3)	12/15/2048	Series 2021B(3)	12/15/2048			

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

OF COUNSEL:
KRISTEN D. BEAR
K. SEAN ALLEN
TRISHA K. HARRIS



ZACHARY P. WHITE
HEATHER L. HARTUNG
MEGAN J. MURPHY
EVE M. G. VELASCO
LAURA S. HEINRICH
AUDREY G. JOHNSON
CAREY S. SMITH V
ERIN K. STUTZ

July 13, 2021

Board of Directors

Bradley Heights Metropolitan District No. 1

Boards of Directors

Bradley Heights Metropolitan District No. 2-3

RE: Transaction-Based Informed Consent to Representation

Dear Boards of Directors:

White Bear Ankele Tanaka & Waldron (“WBA”) currently serves as general counsel to Bradley Heights Metropolitan District No. 1 (“**District No. 1**”), Bradley Heights Metropolitan District No. 2 (“**District No. 2**”), and Bradley Heights Metropolitan District No. 3 (“**District No. 3**”) (collectively, the “**Districts**”). The Districts desire to enter into a District Coordinating Services Agreement whereby District No. 1 will conduct administrative, operations and maintenance services on behalf of District Nos. 2 and 3, and in exchange District Nos. 2 and 3 will impose an operations mill levy and remit the revenues to District No. 1, and District No. 1 will serve as the “Coordinating District” and District Nos. 2 and 3 will serve as the “Financing Districts” (the “**Transaction**”). Because the Districts are on opposite sides in the Transaction, the Districts may be in adverse positions to each other. Even though the Districts are currently cooperative and may desire WBA to serve as general counsel to the Districts in the Transaction, WBA is limited by the Colorado Rules of Professional Conduct (“**CRPC**”) from serving in this capacity for the Transaction.

Generally, it is a conflict of interest for a lawyer to represent both sides of a transaction. It is also a conflict of interest for a lawyer to represent one client in a transaction in which the other party to the transaction is also a client of the same lawyer or that lawyer’s firm in other matters. In this instance, it is permissible for the firm to represent one but not both clients in the transaction if both clients provide informed consent, confirmed in writing by the lawyer. Informed consent is an agreement by a client to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct (Rule 1.0, CRPC).

WBA believes that this is an instance in which it can provide competent and diligent representation to District No. 1, notwithstanding that District Nos. 2 and 3 will be counterparties to the Transaction. If the Districts consent to this arrangement, WBA would represent District No. 1 but not District Nos. 2 and 3 in the Transaction. We recommend that the Districts consult with separate legal counsel regarding this request for informed consent and that District Nos. 2 and 3 retain separate legal counsel to represent their interests in the Transaction. If District Nos.

Board of Directors
Bradley Heights Metropolitan District No. 1
Boards of Directors
Bradley Heights Metropolitan District No. 2-3
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July 13, 2021

2 and 3 elect not to retain separate legal counsel for the Transaction, please advise us accordingly. WBA will continue to serve as general counsel to the Districts in matters unrelated to the Transaction.

Should you have any questions or wish to discuss this matter further, please do not hesitate to contact me.

Sincerely,

WHITE BEAR ANKELE TANAKA & WALDRON



K. Sean Allen
Of Counsel

Bradley Heights Metropolitan District No. 1 understands the conflict of interest described in this letter and provides its informed consent to WBA's continued representation of Bradley Heights Metropolitan District No. 1 in the Transaction.

Bradley Heights Metropolitan District No. 1 Acknowledgment

By: _____
Signature

Printed Name: _____

Position: _____

Date: _____

Board of Directors
Bradley Heights Metropolitan District No. 1
Boards of Directors
Bradley Heights Metropolitan District No. 2-3
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July 13, 2021

Bradley Heights Metropolitan District Nos. 2 and 3 understand the conflict of interest described in this letter and provides its informed consent to WBA's continued representation of Bradley Heights Metropolitan District No. 1 in the Transaction.

Bradley Heights Metropolitan District No. 2 Acknowledgment

By: _____
Signature

Printed Name: _____
Position: _____
Date: _____

Bradley Heights Metropolitan District No. 3 Acknowledgment

By: _____
Signature

Printed Name: _____
Position: _____
Date: _____

Balance Sheet

As of June 30, 2021

	<u>Jun 30, 21</u>
ASSETS	
Current Assets	
Checking/Savings	
US Bank 1 036 9030 9143	1,631.30
ECB - Checking	1,408.51
Total Checking/Savings	3,039.81
Other Current Assets	
A/R - EPC Treasurer	34.40
Total Other Current Assets	34.40
Total Current Assets	3,074.21
TOTAL ASSETS	<u>3,074.21</u>
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	24,285.31
Total Accounts Payable	24,285.31
Total Current Liabilities	24,285.31
Long Term Liabilities	
Developer Advance - Randle Case	36,000.00
Marksheffel-Woodmen Investments	70,850.00
Total Long Term Liabilities	106,850.00
Total Liabilities	131,135.31
Equity	
Retained Earnings	-85,184.30
Net Income	-42,876.80
Total Equity	-128,061.10
TOTAL LIABILITIES & EQUITY	<u>3,074.21</u>

1:12 PM

Bradley Heights Metropolitan District No. 1

07/09/21

Profit & Loss

Accrual Basis

January through June 2021

	Jan - Jun 21
Ordinary Income/Expense	
Expense	
Bank Service Charge	32.00
Bonds	
Cost of Issuance	10,000.00
Total Bonds	10,000.00
Copies & Postage	72.00
District Management	15,637.21
Dues & Subscriptions (SDA)	1,237.50
Insurance	2,382.00
Legal	13,516.09
Total Expense	42,876.80
Net Ordinary Income	-42,876.80
Net Income	-42,876.80

Bradley Heights Metropolitan District No. 2

07/09/21

Balance Sheet

Accrual Basis

As of July 9, 2021

	Jul 9, 21
ASSETS	
Current Assets	
Checking/Savings	
ECB Checking	638.22
Total Checking/Savings	638.22
Other Current Assets	
A/R - EPC Treasurer	66.27
Property Tax Receivable	663.20
Total Other Current Assets	729.47
Total Current Assets	1,367.69
TOTAL ASSETS	1,367.69
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	1,279.00
Total Accounts Payable	1,279.00
Other Current Liabilities	
Deferred Property Tax Revenue	663.20
Total Other Current Liabilities	663.20
Total Current Liabilities	1,942.20
Total Liabilities	1,942.20
Equity	
Retained Earnings	35.51
Net Income	-610.02
Total Equity	-574.51
TOTAL LIABILITIES & EQUITY	1,367.69

12:57 PM

Bradley Heights Metropolitan District No. 2

07/09/21

Profit & Loss

Accrual Basis

January through June 2021

	Jan - Jun 21
Ordinary Income/Expense	
Income	
CY Property Tax - O&M	154.10
Specific Ownership Tax - O&M	15.44
CY Property Tax - Debt	462.30
Specifice Ownership Tax - Debt	46.38
Total Income	678.22
Expense	
Insurance	1,279.00
Treasurer Collection Fee - O&M	2.31
Treasurer Collection Fee - Debt	6.93
Total Expense	1,288.24
Net Ordinary Income	-610.02
Net Income	-610.02

Balance Sheet

As of June 30, 2021

	<u>Jun 30, 21</u>
ASSETS	
Current Assets	
Checking/Savings	
ECB Checking	330.05
Total Checking/Savings	330.05
Other Current Assets	
A/R - EPC Treasurer	13.91
Property Tax Receivable	309.60
Total Other Current Assets	323.51
Total Current Assets	653.56
TOTAL ASSETS	653.56
LIABILITIES & EQUITY	
Liabilities	
Current Liabilities	
Accounts Payable	
Accounts Payable	1,279.00
Total Accounts Payable	1,279.00
Other Current Liabilities	
Deferred Property Tax Revenue	309.60
Total Other Current Liabilities	309.60
Total Current Liabilities	1,588.60
Total Liabilities	1,588.60
Equity	
Retained Earnings	14.48
Net Income	-949.52
Total Equity	-935.04
TOTAL LIABILITIES & EQUITY	653.56

12:54 PM

Bradley Heights Metropolitan District No. 3

07/09/21

Profit & Loss

Accrual Basis

January through June 2021

	Jan - Jun 21
Ordinary Income/Expense	
Income	
CY Property Tax - O&M	76.10
Specific Ownership Tax - O&M	7.41
CY Property Tax - Debt	228.30
Specifice Ownership Tax - Debt	22.24
Total Income	334.05
Expense	
Insurance	1,279.00
Treasurer Collection Fee - O&M	1.15
Treasurer Collection Fee - Debt	3.42
Total Expense	1,283.57
Net Ordinary Income	-949.52
Net Income	-949.52

Bradley Heights Metropolitan District
PAYMENT REQUEST

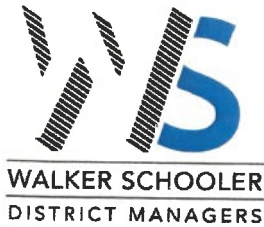
6/18/2021

GENERAL FUND ACCOUNT

Company	Invoice	Date	Amount	Retainage	Amount this Draw	Comments	
Walker Schooler District Managers	6804	5/31/2021	\$ 2,012.00		\$ 2,012.00		
TOTAL			\$ 2,012.00		\$ 2,012.00		

_____, President
Bradley Heights Metropolitan District

\$2,012.00



614 N. Tejon St.
Colorado Springs, CO 80903

Invoice

Date	Invoice #
5/31/2021	6804

Bill To
Bradley Heights Metropolitan District 614 N. Tejon St. Colorado Springs, CO 80903

Description	Hours	Rate	Amount
May 2021 services <ul style="list-style-type: none">- Preparations of the 2021 Budgets.- Prepare agenda, minutes, and attend the December meeting.- File director conflict disclosures.- Review final assessed valuations.- 2020 Audit Exemptions		2,000.00	2,000.00
Copies, Postage, Reimbursements		12.00	12.00

Phone: (719) 447-1777

E-mail
rebecca.h@wsdistricts.co

Total This Invoice		\$2,012.00
Unpaid Previous Invoice		\$ 11,360.00
Payments/Credits		\$0.00
Customer Total Balance		\$13,372.00

DISTRICT COORDINATING SERVICES AGREEMENT

This **DISTRICT COORDINATING SERVICES AGREEMENT** (this “**Agreement**”) is made and entered with an effective date of July 13, 2021 (the “**Effective Date**”), by and among **BRADLEY HEIGHTS METROPOLITAN DISTRICT NO. 1** (the “**Coordinating District**”) and **BRADLEY HEIGHTS METROPOLITAN DISTRICT NOS. 2 and 3** (each a “**Financing District**,” and collectively the “**Financing Districts**”), individually referred to herein as a “**District**” or “**Party**” or, the Coordinating District and the Financing Districts collectively referred to herein as the “**Districts**” or “**Parties**,” as the context indicates. The Districts are each quasi-municipal corporations and political subdivisions of the State of Colorado.

RECITALS

WHEREAS, the Districts have been duly and validly organized as quasi-municipal corporations and political subdivisions of the State of Colorado, in accordance with the provisions of §§ 32-1-101, *et seq.*, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide for the financing, construction, installation, operation and maintenance of public infrastructure and improvements, as described in the Special District Act, within and without their respective boundaries, as authorized and in accordance with the Consolidated Service Plan for the Districts, as the same may be amended from time to time (collectively, the “**Service Plan**”); and

WHEREAS, pursuant to the Colorado Constitution Article XIV, Section 18(2)(a), and § 29-1-203, C.R.S., the Districts may cooperate or contract with each other to provide any function, service or facility lawfully authorized to each, and any such contract may provide, *inter alia*, for the sharing of costs, the imposition of taxes, and the incurring of debt; and

WHEREAS, § 29-1-201, C.R.S., permits and encourages governments to make the most efficient and effective use of their powers and responsibilities by cooperating and contracting with other governments; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the Districts are empowered to enter into contracts and agreements affecting the affairs of the Districts; and

WHEREAS, the Districts were organized for the purpose of providing for the financing, construction, installation, operation and maintenance of public infrastructure and improvements in the City of Colorado Springs (the “**City**”), El Paso County (the “**County**”), Colorado, referred to as “Bradley Heights” (the “**Development**”); and

WHEREAS, at elections of the qualified electors of each of the Districts, duly called and held (collectively, the “**Election**”), in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at the Election voted in favor of, *inter alia*, the imposition of taxes for the purpose of providing certain public improvements and facilities (such public improvements and facilities, to the extent authorized by the Service Plans, are referred to herein as the “**Public Improvements**”), and entering into intergovernmental agreements or other

contracts, without limit as to term, with other governmental entities and political subdivisions of the state; and

WHEREAS, certain of the Public Improvements have been or will be dedicated or otherwise conveyed to the City, the County, or other public entity, or to an owners' association within the boundaries of the Districts, and that the Coordinating District: (i) will own, operate and maintain all Public Improvements within the boundaries of the Districts that are not dedicated to the City, County, any other public entity, or an owners' association; and (ii) may provide trash service, architectural review, and covenant enforcement services to all or a portion of the property within the boundaries of the Districts; and

WHEREAS, the Districts have evaluated their respective roles, responsibilities and obligations with respect to the provision of administrative services, and ownership, operation and maintenance of certain of the Public Improvements, and desire to enter into this Agreement for the purpose of establishing the respective obligations of the Districts with respect to the coordination, oversight, and funding of certain administrative costs of the Districts and costs related to the continued operation and maintenance of certain of the Public Improvements within such Districts which serve, and are for the benefit of, the Districts and the residents and taxpayers thereof; and

WHEREAS, based on the integrated nature of the Public Improvements and that the Districts are part of an integrated project and coordination is necessary to maintain the integrity of the project, the Districts have independently determined that implementation of this Agreement is essential to the orderly administration of the affairs of the Districts and the coordinated operation and maintenance of Public Improvements benefiting the Districts, their residents and taxpayers; and

WHEREAS, the Districts have determined that coordination is also necessary to allow the Districts to operate in the most cost effective manner and to take advantage of economies of scale by eliminating the duplication of costs that would result without such coordination; and

WHEREAS, the Districts intend on entering into a capital pledge agreement which agreement will govern the roles, responsibilities and obligations of the Districts with respect to the financing of capital costs related to the Public Improvements; and

WHEREAS, the Districts acknowledge that this Agreement does not impose any obligations on the Districts with respect to capital costs for the Public Improvements; and

WHEREAS, it is in the best interest of the Districts and for the public health, safety, convenience, and welfare of the residents of the Districts and of the general public that the Districts enter into this Agreement for the purpose of coordination of the **Administrative Services** and **O&M Services**, both as defined herein.

TERMS AND CONDITIONS

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Administrative Services. The Coordinating District agrees to perform the administrative services described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “**Administrative Services**”), for and on behalf of the Financing Districts, in compliance with all applicable federal, state, county and local or municipal body or agency statutes, ordinances and regulations, provided that each Financing District observes and performs the covenants and agreements set forth in this Agreement. The Coordinating District may suspend or curtail Administrative Services in its discretion as necessary or appropriate to address funding shortfalls that have occurred or are anticipated. The Coordinating District shall have the authority to enter into service contracts with third-parties to provide any Administrative Services required to be provided by the Coordinating District. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in Exhibit A, the terms in the body of this Agreement shall govern.

2. Ownership, Operation and Maintenance of Public Improvements. The Coordinating District will own, operate and maintain all Public Improvements within the boundaries of the Districts that are not otherwise dedicated or conveyed to the City, the County or other public entity or owners’ association, in accordance with the Service Plans and any approved development plans for the Project. The Coordinating District agrees to provide those operation and maintenance services described in **Exhibit B**, attached hereto and incorporated herein by this reference (the “**O&M Services**”) for the benefit of the Districts, provided that each Financing District observes and performs the covenants and agreements set forth in this Agreement. The Coordinating District may suspend or curtail O&M Services in its discretion as necessary or appropriate to address funding shortfalls that have occurred or are anticipated. The Coordinating District shall have the authority to enter into service contracts with third-parties to provide any O&M Services required to be provided by the Coordinating District. The Coordinating District may adopt rules, regulations, policies and procedures governing the Coordinating District’s acceptance and, as applicable, reimbursement for any Public Improvements.

3. Payment for Administrative and O&M Services. The Financing Districts shall be responsible for any and all costs, fees, charges and expenses incurred by the Coordinating District (collectively, the “**Costs**”) in providing the Administrative Services and O&M Services (collectively, the “**Services**”). Costs may include but are not limited to, all fees of consultants (including managers, accountants, engineers, attorneys, auditors, and other consultants), utility charges, and service provider fees and charges. It is the desire and intent of the Districts that, to the extent possible, the Costs for the Services be paid by the imposition by each Financing District of an ad valorem mill levy against the taxable property lying within its boundaries. Nevertheless, nothing herein shall be construed as a limitation on the powers granted to the Financing Districts by Colorado law to use alternative sources of revenue to pay the Coordinating District for the Costs.

4. Budget Process

a. Preliminary Budget. Each year the Coordinating District shall prepare and submit to the Financing Districts a preliminary budget for the following fiscal year showing the Services to be provided and the proposed Costs anticipated to be incurred by the Coordinating District with respect to the Services (the “**Preliminary Budget**”). The Coordinating District shall deliver the Preliminary Budget to the Financing Districts on or before October 15 of each year.

b. Budget Review and Approval. Unless otherwise agreed to by the Districts, on or before November 1 of each year each Financing District shall either: (a) approve the Preliminary Budget (in which case the Preliminary Budget shall become the “Final Budget” for the applicable fiscal year, or (b) propose in writing to the Coordinating District additions to and/or deletions from the Preliminary Budget. If any Financing District does not provide a proposal for additions to and/or deletions from the Preliminary Budget in writing by November 1, such Financing District shall be deemed to have approved the Preliminary Budget as presented. If any Financing District does timely provide additions to and/or deletions from the Preliminary Budget, the Districts shall discuss and attempt in good faith to reach an agreement with respect to the Preliminary Budget on or before November 15 of each year.

c. Failure to Agree and Default Budget. In the event that the Coordinating District and the Financing Districts are unable to agree with regard to any proposed additions and/or deletions to the Preliminary Budget by November 15 of any year, then the Districts shall submit the Preliminary Budget to a mutually selected mediator in an attempt to reach agreement with respect to the Preliminary Budget. In the event the Districts cannot agree on a resolution to the dispute related to the Preliminary Budget by December 1st of any year, the Preliminary Budget with any revisions agreed to by the Districts to date shall be incorporated into and deemed to be the Final Budget; provided, however, that such Final Budget shall not include expenditures totaling the greater of: (1) 120% of the expenditures set forth and appropriated in the adopted budget for the current fiscal year, as the same may have been amended; or (2) 120% of the expenditures set forth in the Preliminary Budget that the Districts have agreed upon to date to be included in the Final Budget for the ensuing year. The budgeting, appropriation, and payments of the amounts called for in the Final Budget shall be made by the Financing Districts.

d. Budget Amendment. If after adoption of the Final Budget it appears to the Coordinating District that Costs for the year will exceed amounts as set forth in the Final Budget such that the Financing Districts will have to appropriate additional funds for the payment of the Costs for the year, the Coordinating District shall notify the Financing Districts as soon as reasonably practicable, and shall prepare and submit a proposed budget amendment to the Final Budget (each a “**Preliminary Budget Amendment**”) to the Financing Districts for review and comment. Within fifteen (15) days of submission of a Preliminary Budget Amendment to the Financing Districts, each Financing Districts shall either: (a) approve the Preliminary Budget Amendment (in which case the Preliminary Budget Amendment shall become the “Final Budget Amendment”, or (b) propose in writing to the Coordinating District additions to and/or deletions from the Preliminary Budget Amendment. If any Financing District does not provide a proposal for additions to and/or deletions from the Preliminary Budget Amendment in writing within fifteen (15) days as required herein, such Financing District shall be deemed to have approved

the Preliminary Budget Amendment as presented. If any Financing District does timely provide additions to and/or deletions from the Preliminary Budget Amendment, the Districts shall discuss and attempt in good faith to reach an agreement with respect to the Preliminary Budget Amendment within thirty (30) days of the submission of the Preliminary Budget Amendment to the Financing Districts from the Coordinating District. In the event that the Coordinating District and the Financing Districts are unable to agree with regard to any proposed additions and/or deletions to the Preliminary Budget Amendment within the time provided herein, then the Parties shall submit the Preliminary Budget Amendment to a mutually selected mediator in an attempt to reach agreement with respect to a Final Budget Amendment. In the event the Districts cannot agree on a Final Budget Amendment within the time set forth above, the Preliminary Budget Amendment, with any revisions agreed to by the Districts to date, shall be incorporated into and deemed to be the Final Budget Amendment; provided, however, that the Final Budget Amendment shall not include expenditures totaling the greater of: (1) 120% higher than the expenditures set forth and appropriated in Final Budget being amended by the Final Budget Amendment, or (2) 120% of the expenditures set forth in the Preliminary Budget Amendment that the Districts have agreed upon to date to be included in the Final Budget Amendment. The budgeting, appropriation, and payments of the amounts called for in said Final Budget Amendment shall be made by the Financing Districts.

5. Deposit. Unless otherwise agreed by the Coordinating District, the Financing Districts, on or before the 15th day of each month, shall deposit with the Coordinating District an amount equal to 1/12th of the annual Costs due from such Financing District as determined by the Final Budget. Notwithstanding the foregoing, the Districts acknowledge that the Financing Districts may fund the Costs via the imposition of an ad valorem mill levy, and in such case, may not have funds available during the first quarter of each fiscal year to make the payments set forth herein. In such event, the Coordinating District agrees to defer collection of such amounts until such time as the Financing Districts have collected the funds for the Costs via the collection of taxes imposed through an ad valorem mill levy. All Costs due to the Coordinating District from the Financing Districts shall be paid in lawful money of the United States of America by check mailed or delivered, or by wire transfer, to the Coordinating District, or such other method as may be mutually agreed to by the Districts. The Coordinating District shall keep a record of and account for all deposits made by the Financing Districts in accordance with generally acceptable accounting principles.

6. Fees and Charges. The Districts acknowledge that the Coordinating District will incur certain direct and indirect costs associated with the provision of the O&M Services in order to properly provide the O&M Services and to ensure that the health, safety and welfare of the Districts and their inhabitants may be safeguarded. The Financing Districts further recognize and acknowledge that the Coordinating District is providing the O&M Services for the direct benefit of the Financing Districts and the property owners within their boundaries, and that pursuant to § 32-1-1001(1)(j)(I), C.R.S., the Coordinating District is authorized to fix and impose fees, rates, tolls, penalties and charges for services or facilities furnished by the Coordinating District which, until paid, shall constitute a perpetual lien on and against the property served. The Districts agree that the Coordinating District may from time to time establish a fair and equitable fee to provide a source of funding to pay for the O&M Services (the "User Fees"), which User Fees are to be reasonably related to the overall cost of providing the O&M Services, and be imposed on

those who are reasonably likely to benefit from or use the O&M Services (the “Users”). The Financing Districts acknowledge that the Coordinating District will make a determinations as to the appropriate User Fees, taking into account mill levy revenues to be received from the Financing Districts in each fiscal year. The Financing Districts agree to cooperate with the Coordinating District in the collection of all User Fees due and owing, including but not necessarily limited to foreclosure as against the statutory perpetual lien associated with such User Fees.

7. Subject to Annual Appropriation and Budget. Notwithstanding anything contained herein to the contrary, the Districts agree that the Districts’ obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the Board of each District and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the Districts, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the Districts, including, without limitation, Article X, Section 20, or Article XI, Sections 1, 2 or 6 of the Constitution of the State of Colorado.

8. Rules and Regulations. The Districts acknowledge and agree that the Coordinating District may enact, from time to time, rules and regulations with respect to the Public Improvements and Services. All rules and regulations, and amendments thereto, adopted and placed in force by the Coordinating District from time to time shall be fully enforceable within all Districts and against all Users. The Financing Districts agree to exercise authority and/or power they may have to assist the Coordinating District in enforcing the Coordinating District’s rules and regulations.

9. General Representations. In addition to the other representations, warranties and covenants made by the Districts in this Agreement, the Districts make the following representations, warranties and covenants to each other:

a. Each District has the full right, power and authority to enter into, perform and observe this Agreement.

b. This Agreement is a valid, binding and legally enforceable obligation of the Districts and is enforceable in accordance with its terms.

c. The Districts shall keep and perform all of the covenants and agreements contained in this Agreement and shall take no action that could have the effect of rendering this Agreement unenforceable in any manner.

10. Default, Remedies and Enforcement.

a. Events of Default. The violation of any provision of this Agreement by any District, the occurrence of any one or more of the following events, and/or the existence of any one or more of the following conditions shall constitute an “Event of Default” under this Agreement.

i. The failure to pay any payment when the same shall become due and payable as provided herein and to cure such failure within three (3) business days of the giving of notice by a District of such failure;

ii. The failure to perform or observe any other covenants, agreements, or conditions in this Agreement on the part of any District and to cure such failure within ten (10) days of receipt of notice from any of the other Districts of such failure; provided, however, that if the applicable default is of a nature that the same is not reasonably susceptible of being cured within such 10-day period, then the cure period shall extend so long as the defaulting District commences its cure within such 10-day period and thereafter pursues the cure to completion by the exercise of due diligence, as determined by the non-defaulting District(s);

iii. The filing of a voluntary petition under federal or state bankruptcy or insolvency laws by a District or the appointment of a receiver for any of a District's assets which is not dismissed within thirty (30) days of such filing or appointment;

iv. Assignments by a Financing District for the benefit of a creditor and a failure to secure the release or termination of such assignments within thirty (30) days after the making of such assignments; or

v. The dissolution, insolvency, or liquidation of a District and a failure to cure such dissolution, insolvency or liquidation within ten (10) days of receipt of written notice.

b. Remedies on Occurrence of Events of Default. Upon the occurrence of an Event of Default, the non-defaulting District(s) hereto shall have the following rights and remedies:

i. In the event of breach of any provision of this Agreement, any non-defaulting District may ask a court of competent jurisdiction to enter a writ of mandamus to compel the Board of the defaulting District to perform its duties under this Agreement, and any non-defaulting District may seek from a court of competent jurisdiction temporary and/or permanent injunctions, or orders of specific performance, to compel the defaulting District to perform in accordance with the obligations set forth under this Agreement.

ii. The non-defaulting Districts may protect and enforce their rights under this Agreement by such suit, action, or special proceedings or remedies as they shall deem appropriate, including without limitation any proceedings for specific performance of any covenant or agreement contained herein, for the enforcement of any other appropriate legal or equitable remedy, or for the recovery of damages caused by breach of this Agreement, including attorneys' fees and all other costs and expenses incurred in enforcing this Agreement or exercising any available remedies. If, at any time, there shall cease to be electors in the Coordinating District, or if no electors of the Coordinating District are willing to act as directors of the Coordinating District, any Financing District may ask a court of competent jurisdiction to

designate the proper persons to assume control of the Coordinating District for purposes of causing the performance of the Coordinating District's obligations under this Agreement.

iii. In the event the Event of Default is non-payment by a Financing District, the Coordinating District may:

(a) Suspend the provision of the Services until such time as such Financing District cures such Event of Default; and/or

(b) Impose User Fees directly upon the Users for the provision of the O&M Services in lieu of collecting the Costs related to the O&M Services from such Financing District. In such event, methods of collection of the User Fees shall be determined by the Coordinating District. The Coordinating District shall have the right to delegate or assign such impositions and collection power to a billing or service entity of its choice.

iv. To terminate this Agreement for any Event of Default that causes the non-defaulting District(s) irreparable harm material to their aggregate interests under this Agreement.

v. To take or cause to be taken such other actions as the non-defaulting District(s) reasonably deem necessary.

c. Delay or Omission No Waiver. No delay or omission of any District to exercise any right or power accruing upon any Event of Default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein.

d. No Waiver of One Default to Affect Another; All Remedies Cumulative. No waiver of any Event of Default hereunder by any District shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the non-defaulting District(s) provided herein may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

11. Termination. The Districts acknowledge that they are part of an integrated project and community, that the Public Improvements are not easily partitioned among the Districts and that cooperation in the termination process will be necessary to ensure that the integrity and quality of the community is maintained.

a. Administrative Services. A Financing District may terminate this Agreement as it relates to the provision of Administrative Services by the Coordinating District for that Financing District upon ninety (90) days' written notice to the Coordinating District. If this Agreement is terminated by any Financing District in relation to Administrative Services, the Coordinating District shall be paid for Administrative Services performed for that Financing District prior to such termination. In the event of termination of the Administrative Services, as

of the effective date thereof, the Coordinating District shall be fully relieved of any and all obligation to provide such Administrative Services.

b. O&M Services. The Financing Districts' obligation to remit revenues to the Coordinating District, and the Coordinating District's obligation to provide the O&M Services, shall only terminate after a written notice has been provided by one of the Districts to the other Districts and an agreement is approved by each of the Financing Districts setting forth the matters required in this Section 11(b) (the "**Termination Agreement**"). It shall be required that any such Termination Agreement contain provisions to ensure that the Public Improvements are operated effectively and economically and that the public health, safety, prosperity, and general welfare of the residents and property owners within the Districts will be better served by the termination. Such Termination Agreement shall be required to include: (1) a plan for the manner in which ownership of the Public Improvements and ownership and maintenance shall be allocated and transferred as between the Districts; (2) a plan for payment associated with any outstanding obligations of the Coordinating District, as the same are incurred prior to the proposed date of termination; (3) to the extent any of the Public Improvements have been financed directly by the Coordinating District and such obligations remain outstanding, a plan for the payment of all such obligations and/or debts; and (4) the manner in which outstanding agreements of the Coordinating District may be terminated, cancelled, assigned or otherwise handled. The Termination Agreement shall be required to include an indemnification from the Financing Districts to the Coordinating District, which shall be acceptable to the Coordinating District and indemnify it against all injuries, losses and other events of damage associated with any such outstanding agreements.

In the event the Districts are not able to reach an agreement, they shall submit the issues to mediation and shall make a good faith effort to come to an agreement with the intent of reaching a cooperative solution that will best serve the residents and property owners of the Districts, as a whole. At such time as the provisions of the Termination Agreement are finalized in compliance with the requirements above, the Public Improvements shall be transferred in accordance with the provisions of the Termination Agreement and the Coordinating District shall be fully relieved of all further obligations absent any such obligations being specifically agreed to by the Coordinating District pursuant to the terms of the Termination Agreement.

12. Miscellaneous.

a. Relationship of Parties. This Agreement does not and shall not be construed as creating a joint venture, partnership, or employer-employee relationship between the Districts. The Districts intend that this Agreement be interpreted as creating only an ordinary contractual relationship between them, without any fiduciary or other special duties. The Districts hereby incorporate the RECITALS into this Agreement. It is also agreed that the conduct and control of the work and functions required by this Agreement shall lie solely with the Coordinating District which shall be free to exercise reasonable discretion in the performance of its duties under this Agreement. No District shall, with respect to any activity, be considered an agent or employee of any other District.

b. Assignment. Except as set forth herein or as contemplated in the Service Plan, neither this Agreement, nor any of a District's rights, obligations, duties or authority hereunder may be assigned in whole or in part by any District without the prior written consent of all the other Districts. Any such attempt of assignment without the requisite consent shall be deemed void and of no force and effect at the election of any District with consent rights. Consent to one assignment shall not be deemed to be consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment. Notwithstanding, nothing contained herein shall prohibit the Coordinating District from engaging contractors, consultants, employees or other third parties to perform the Services or any portion thereof, on behalf of the Coordinating District.

c. Modification. This Agreement may be modified, amended, changed or terminated, except as otherwise provided herein, in whole or in part, only by an agreement in writing duly authorized and executed by the Districts. No consent of any third party shall be required for the negotiation and execution of any such agreement.

d. Integration. This Agreement contains the entire agreement between and among the Districts regarding the subject matter hereof, and no statement, promise or inducement made by any District or the agent of any District that is not contained in this Agreement or separate written instrument shall be valid or binding.

e. Severability. If any covenant, term, condition or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition or provision shall not affect any other provision contained in the Agreement, the intention being that such provisions 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.

f. District Dissolution. In the event any District seeks to dissolve pursuant to §§ 32-1-701, *et seq.*, C.R.S., as amended, it shall provide written notification of the filing or application for dissolution to the other Districts concurrently with such filing. No District shall seek to dissolve so long as this Agreement is in effect without the prior written consent of the other Districts.

g. Survival of Obligations. Unfulfilled obligations of the Districts arising under this Agreement shall be deemed to survive the expiration of this Agreement or termination of this Agreement by court order. Said obligations shall be binding upon and inure to the benefit of the Districts and their respective successors and assigns.

h. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. Venue shall be proper in the county in which the Districts are located.

i. Headings for Convenience Only. The headings, captions and titles contained herein are intended for convenience and reference only and are not intended to construe the provisions hereof.

j. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or the date otherwise determined for the performance of any act required or permitted under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

k. Persons Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any Person other than the Districts, any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all of the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Districts shall be for the sole and exclusive benefit of the Districts acting through their respective Boards. This Agreement shall be construed as an intergovernmental agreement among the Districts only. It is expressly agreed by the Districts that no Person other than the Financing Districts shall obtain any enforceable rights to service from the Coordinating District, and, to this end, it is expressly declared by the Districts that no Person shall be construed as a third party beneficiary of any kind of this Agreement except as expressly stated herein.

l. Notices. Except as otherwise provided herein, all notices required under this Agreement shall be in writing and shall be (a) hand-delivered, and in such instance, considered effective upon delivery, (b) sent by registered or certified mail, return receipt requested, postage prepaid, and in such instance, considered effective seventy-two (72) hours after deposit in the United States mail with the proper address as set forth below, (c) sent by reputable overnight courier, and in such instance, considered effective on the next business day, or (d) sent via email, and in such instance considered effective upon receipt of an electronic delivery confirmation with a hard copy to be sent no later than three (3) business days after electronic delivery confirmation via one of the delivery methods specified in (a), (b) or (c) of this sentence, to the addresses of the Parties herein set forth. Any party by notice so given may change the address to which future notices shall be sent.

Coordinating District: Bradley Heights Metropolitan District No.1
c/o Walker Schooler District Managers
614 N. Tejon St.
Colorado Springs, CO 80903
Office: (719) 447-1777

With a copy to: White Bear Ankele Tanaka & Waldron
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122
Attention: Sean Allen
(303) 858-1800 (phone)
(303) 858-1801 (fax)
sallen@wbapc.com

Financing Districts: Bradley Heights Metropolitan District
Nos. 2 and 3
c/o Walker Schooler District Managers
614 N. Tejon St.
Colorado Springs, CO 80903
Office: (719) 447-1777

With a copy to: White Bear Ankele Tanaka & Waldron
Attorneys at Law
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122
Attention: Sean Allen
(303) 858-1800 (phone)
(303) 858-1801 (fax)
sallen@wbapc.com

m. District Records. The Districts shall have the right to access and review each other's records and accounts, at reasonable times during the Districts' regular office hours, for purposes of determining compliance by the Districts with the terms of this Agreement. Such access shall be subject to the provisions of Public Records Act of the State of Colorado contained in §§ 24-72-101, *et seq.*, C.R.S. and any policies adopted by the District. In the event of disputes or litigation between the Parties hereto, all access and requests for such records shall be made in compliance with the Public Records Act and any applicable discovery rules.

n. Recovery of Costs. In the event of any litigation between or among the Districts hereto concerning the subject matter hereof, the prevailing District(s) in such litigation shall receive from the losing District(s), in addition to the amount of any judgment or other award entered therein, all reasonable costs and expenses incurred by the prevailing District(s) in such litigation, including reasonable attorneys' fees.

o. Compliance with Law. The Districts agree to comply with all federal, state and local laws, rules and regulations which are now, or in the future may become applicable to the Districts, to their business or operations, or to services required to be provided by this Agreement.

p. Instruments of Further Assurance. The Districts each covenant that they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of their obligations hereunder.

q. 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 District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

r. Counterpart Execution. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

s. Negotiated Provisions. This Agreement shall not be construed more strictly against one Party than against another, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Districts hereto have executed this Agreement as of the day and year first above written.

**BRADLEY HEIGHTS METROPOLITAN
DISTRICT NO. 1**

By: _____
President [Officer of the District]

ATTEST:

**BRADLEY HEIGHTS METROPOLITAN
DISTRICT NO. 2**

By: _____
President [Officer of the District]

ATTEST:

Secretary

**BRADLEY HEIGHTS METROPOLITAN
DISTRICT NO. 3**

By: _____
President [Officer of the District]

ATTEST:

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law



General Counsel to District Nos. 1, 2 and 3

EXHIBIT A

ADMINISTRATIVE SERVICES TO BE PROVIDED BY THE COORDINATING DISTRICT

1. Serve as the “official custodian” and repository for the Financing Districts’ records, including, but not limited to, providing file space, incidental office supplies and photocopying, meeting facilities and reception services.
2. Coordination of all Board meetings to include:
 1. Preparation and distribution of agenda and information packets.
 2. Preparation and distribution of meeting minutes.
 3. Preparation, filing and posting of legal notices required in conjunction with the meeting.
 4. Other details incidental to meeting preparation and follow-up.
3. Ongoing maintenance of an accessible, secure, organized and complete filing system for the Financing Districts’ official records.
4. Monthly preparation of checks and coordination of postings with an accounting firm.
5. Periodic coordination with an accounting firm for financial report preparation and review of financial reports.
6. Insurance administration, including evaluating risks, comparing coverage, processing claims, completing applications, monitoring expiration dates, processing routine written and telephone correspondence, etc., and ascertaining that all contractors and subcontractors maintain required coverage for the Financing Districts’ benefit.
7. Election administration, including preparation of election materials, publications, legal notices, pleadings, conducting training sessions for election judges, and generally assisting in conducting the election.
8. Budget preparation, including preparation of proposed budget in coordination with an accounting firm, preparation of required and necessary publications, legal notices, resolutions, certifications, notifications and correspondence associated with the adoption of the annual budget and certification of the tax levy.
9. Response to inquiries, questions and requests for information from the Financing Districts’ property owners, residents and others.

10. Drafting proposals, bidding contract and construction administration, and supervision of contractors.
11. Analysis of financial condition and alternative financial approaches, and coordination and structuring of bond issue or other debt preparation.
12. Administration of the expenditure of any funds or proceeds related to any loans, bonds, or other financial obligations issued by one or more of the Districts.
13. Oversight of investment of the Districts' funds based on investment policies in accordance with state law.
14. Provide liaison and coordination with other governments.
15. Coordinate activities and provide information as requested to an external auditor engaged by the Coordinating District Board.
16. Supervise and ensure contract compliance of all service contractors.
17. Coordinate legal, accounting, management, engineering and other professional services.
18. Assist any auditors in the preparation of its annual audit as required by the laws of the State of Colorado.
19. Advise and assist the Financing Districts by analyzing the Financing Districts' long and short-term financial needs and presenting the Financing Districts with long and short-term financial proposals (including structuring of bond or other forms of debt issuance) to meet those needs.
20. Provide emergency communication services for the Coordinating District's facilities.
21. Perform such other services as may from time to time be reasonably necessary in furtherance of securing the Financing Districts' compliance with all applicable federal and state statutes and regulations and with applicable county and local laws; provided, however, that any and all expenditures in furtherance of these services shall be made and reimbursed in accordance with this Agreement.
22. Contracting for the design, planning, engineering, construction and/or acquisition, management, landscape architecture and engineering, soil testing and inspection, and line and systems testing and inspection attributable to the Public Improvements.
23. Obtaining any and all real property interests necessary for the provision of the Public Improvements.

24. Obtaining any and all governmental and/or administrative approvals necessary to the provision of the Public Improvements, including provision for the payment of fees associated therewith.

25. Performing and/or contracting for construction administration of construction contracts by which the Public Improvements are constructed.

26. Contracting for the acquisition of water rights to the extent necessary for the provision of the Public Improvements.

27. Administering collection of any amounts due to the Districts under any cost recovery or other reimbursement agreement relating to the Public Improvements.

28. Engagement of consultants necessary in connection with provision of the Administrative Services, including attorneys, accountants, engineers, managers, architects, soils consultants, and any other consultant determined by the Coordinating District to be necessary or appropriate to the provision of the Administrative Services.

29. In addition to these services, when other services are necessary in the opinion of the Coordinating District, the Coordinating District may recommend the same to the Financing Districts. The Coordinating District may, with the approval of the Financing Districts, provide any Administrative Services to the Financing Districts in lieu of retaining consultants or contractors to provide those services.

EXHIBIT B

O&M SERVICES TO BE PERFORMED BY THE COORDINATING DISTRICT

1. Operation and maintenance of any Public Improvements not otherwise dedicated or conveyed to any other governmental entity or owners association for the benefit of the Districts.
2. Maintain common areas, parks, entry monuments, landscaping, open space tracts, recreational facilities and other community amenities.
3. Provide trash service, architectural review, and covenant enforcement services (as applicable).

Administration

McGriff, Seibels & Williams

P.O. Box 1539

Portland OR 97207

Phone: (800) 318-8870

Fax: (503) 943-6622

INSTRUCTIONS AND CHECKLIST
FOR THE PROPER EXECUTION OF
THE RESOLUTION AND INTERGOVERNMENTAL AGREEMENT (IGA)

- ___ Please use the provided copies of the Resolution and IGA without alteration. When changes are warranted by the district please submit them prior to signing for review and acceptance by the Pool Board of Directors.
- ___ The board Chairman/President of the district must sign both the Resolution and IGA.
- ___ The board's Secretary or other board member must attest to the President's signature on both the Resolution and IGA. If attestment is not by the Secretary please indicate individual's title in the district.
- ___ Enter the current date on both the Resolution and IGA signature pages.
- ___ Enter the coverages and the effective dates on the second page of the Resolution. Subsequent renewal coverages or additions will be automatically recognized in the agreement.
- ___ Each district must designate on the Resolution specific individuals (not necessarily board members) to be the Primary and Alternative Pool Representatives. These may not be a company, and one person may not be both the Primary and Alternative Representative.
- ___ Please enter a current email and mailing address for the Primary and Alternative Representatives. You may specify the individual's mailing address as being in care of a company.
- ___ Groups of related districts must each provide separate signed documents if each is a separate legal entity. Each legal entity will have their own separate policy in the Pool.
- ___ Please indicate adoption of the Resolution by two Directors on Page 2 of the Resolution.
- ___ A copy of the Resolution and one original IGA document must be returned to McGriff, Seibels & Williams, the Pool Administrators. If the district wishes to retain an original copy please have duplicate originals signed at the same time.

PLEASE NOTE IT IS IMPORTANT THAT CURRENT REPRESENTATIVE
AND/OR ALTERNATE INFORMATION BE MAINTAINED WITH THE
POOL ADMINISTRATOR. WE REQUEST ANY CHANGES BE SUBMITTED
IN WRITING AS SOON AS POSSIBLE.

RESOLUTION NO. _____

WHEREAS, the Board of Directors of _____ (hereafter referred to as "the District") has authority under Article XIV, Section 18(2)(a) of the Colorado Constitution, and Sections 24-10-115.5, 29-13-102, and 29-1-201, et seq., Colorado Revised Statutes, as amended, to participate in a self-insurance pool for property and liability and/or workers' compensation coverages:

WHEREAS, the Board of Directors has reviewed a contract to cooperate with other Colorado Special Districts by participating in a self-insurance pool for property and liability coverages entitled "Intergovernmental Agreement for the Colorado Special Districts Property and Liability Pool", a copy of which is attached hereto as Exhibit A and incorporated into this Resolution: and,

WHEREAS, the Board of Directors finds that participation in such a pool would be in the best interest of the District, its employees, and its taxpayers:

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the District hereby:

1. Approves the contract entitled Intergovernmental Agreement for the Colorado Special Districts Property and Liability Pool, a copy of which is attached hereto as Exhibit A and incorporated into this Resolution by this reference.
2. Authorizes and directs the Chairman of the Board of Directors and President of the District to execute Exhibit A on behalf of the District.
3. Directs the Secretary of the Board of Directors to transmit to the Colorado Special Districts Property and Liability Pool (hereafter referred to as "Pool"), McGriff, Seibels & Williams, PO Box 1539, Portland, OR 97207-1539, an executed and attested copy of this Resolution and one original of Exhibit A.
4. Designates _____ as District's initial Representative to the Pool and designates _____ as the District's Alternative Representative.
5. Representative Email Address: _____
Representative Mailing Address: _____

Alternate Representative Email Address: _____
Alternate Representative Mailing Address: _____

6. Understands that, with the adoption of this Resolution, the District becomes a member of the Pool, with coverage to be provided by or through the Pool on such date as determined by the District and Pool. The District hereby requests, unless other dates are later designated by the District, that coverage should begin on the following dates for the following type of coverage:

<u>Date</u>	<u>Coverage</u>
_____	Workers' Compensation
_____	Property
_____	General Liability
_____	Automobile
_____	Public Officials Liability
_____	Inland Marine
_____	Equipment Breakdown / Boiler & Machinery
_____	Comprehensive Crime

Director _____ moved the adoption of the above Resolution.

Director _____ seconded the adoption of the above Resolution.

This Resolution was adopted by a majority vote of the Board of Directors of the District on the _____ day of _____, 20 _____

Chairman of the Board and
President of the District

ATTEST:

Secretary of the Board

**INTERGOVERNMENTAL AGREEMENT FOR THE
COLORADO SPECIAL DISTRICTS
PROPERTY AND LIABILITY POOL**

As Amended
SEPTEMBER 14, 2011

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INTERGOVERNMENTAL AGREEMENT FOR THE COLORADO SPECIAL DISTRICTS PROPERTY AND LIABILITY POOL

ARTICLE 1. Definitions

As used in this Pool Agreement, the following terms shall have the meaning hereinafter set out:

- 1.1 BOARD: Board of Directors of the Pool.
- 1.2 CLAIM YEAR: Any twelve consecutive month period established by the Board. The "initial" claim year is the first claim year established for the Pool.
- 1.3 DIRECTOR: A person serving on the Board.
- 1.4 MEMBER: A Special District which enters into this Pool Agreement. An "initial" member of the Pool is a member which obtains coverage through the Pool during the initial claim year.
- 1.5 MEMBER REPRESENTATIVE: That person who has been designated in writing by a Member as its representative to the Pool.
- 1.6 POOL: The Colorado Special Districts Property and Liability Pool established pursuant to the Constitution and the statutes of this state by this Pool Agreement.
- 1.7 POOL AGREEMENT: This Intergovernmental Agreement for the Colorado Special Districts Property and Liability Pool.
- 1.8 SPECIAL DISTRICT: A political subdivision of the State of Colorado that is a unit of local government pursuant to Article 13, Title 29, C.R.S., as amended, that is a public entity pursuant to 24-10-103(5), C.R.S., as amended, and that is eligible for membership in the Special District Association of Colorado according to the Association's bylaws as amended and in effect from time to time. "Special District" also includes any separate entity created by intergovernmental agreement authorized by Part 2, Article 1, Title 29, C.R.S., as amended, if at least one of the contracting entities is a special district and if all of the contracting entities are units of a local government pursuant to Article 13, Title 29, C.R.S., as amended, and are public entities pursuant to 24-10-103(5), C.R.S., as amended.
- 1.9 SDA BOARD: The Board of Directors of the Special District Association of Colorado.

ARTICLE 2. Creation of Pool

- 2.1 The Colorado Special Districts Property and Liability Pool is hereby formed by this Pool Agreement by Member Special Districts as a separate and independent governmental and legal entity pursuant to the provisions of Article XIV, Section 18(2) of the Colorado Constitution and

Constitution and Sections 29-1-201et. seq., 8-44-101(1)(C) and (3), 8-44-204, 24-10-115.5, and 29-13-102, C.R.S., as amended.

- 2.2 Each Special District entering into this Pool Agreement has the power under Colorado law to make provision for the property and liability coverages, workers' compensation benefits, and risk management, claims handling, and other functions and services which constitute the specific functions and services jointly provided by means of the Pool.

ARTICLE 3. Purposes

- 3.1 The purposes of the Pool are to provide defined property, liability, workers' compensation and associated coverages, and claims and risk management services related thereto, for Member Special Districts through a self-insurance pool.
- 3.2 It is the intent of the Members to use Member contributions to defend and indemnify, in accordance with this Pool Agreement, any Member against stated liability or loss to the extent of the coverage provided by or through the Pool.
- 3.3 All income and assets of the Pool shall be at all times dedicated to the exclusive benefit of its Members.

ARTICLE 4. Non-Waiver of Governmental or Other Immunity

- 4.1 All Pool money, plus earned interest, is money derived from its Members which consist solely of Special Districts within the State of Colorado. It is the intent of the Members that, by entering into this Pool Agreement, they do not waive and are not waiving any immunity provided by any law to the Members or their public employees, as defined in 24-10-103(4), C.R.S., as amended.

ARTICLE 5. Participation

- 5.1 The Board shall have the authority to limit the Members of the Pool to those Colorado Special Districts which are members of the Special District Association of Colorado and which properly enter into and adopt this Pool Agreement.
- 5.2 New Members, including special districts which have previously withdrawn or been expelled from the Pool, shall be admitted only upon approval by the Board, subject to the payment of such sums and under such conditions as the Board in each case or from time-to-time establishes.

- 5.3 A Member may participate in the Pool for either or both of the following purposes:
1. The property and liability coverages authorized by sections 24-10-115.5 and 29-13-102, C.R.S., as amended, and risk management, claims handling and other functions and services related to such coverages;
 2. The workers' compensation coverages authorized by sections 8-44-101(1)(C) and (3) and 8-44-204, C.R.S., as amended, and risk management, claims handling, and other functions and services related to such coverages.
- 5.4 A Member who is participating in the Pool for one of the purposes set forth in Paragraph 5.3 of this Article may be authorized to participate in the Pool for the other of those purposes upon further compliance, as necessary, with Paragraph 5.1 of this Article and approval of the Board, subject to the payment of such sums and under such conditions as the Board in each case or from time-to-time establishes.

ARTICLE 6. Board of Directors and Officers

- 6.1 The Pool Board of Directors shall be composed of nine persons to be appointed by the SDA Board. Directors shall be appointed from among the Member Representatives, each from a different Member. At least one (1) Pool Director shall be appointed by the SDA Board from among the SDA directors. Pool Directors who are not SDA directors shall be appointed by the SDA Board from nominations received from Members. In no event may more than three Pool Directors be appointed from any one of the following types of special districts: Ambulance, Fire, Metropolitan, Park and Recreation, Sanitation, Water, Water and Sanitation, Hospital, or Library Districts. Nominations from the Members shall be submitted to the SDA Board at such time as the SDA Board may provide, and any nomination must be approved by the Board of Directors of the Member submitting the nomination.
- 6.2 The Executive Director of the SDA shall serve as an ex-officio, non-voting Director on the Board.
- 6.3 Terms of the Directors shall be two-year, overlapping terms or until their successors have been appointed, except as provided herein. The term of office shall begin on a January 1, and end at midnight on a December 31, except that the Directors appointed to the first Board following the formation of the Pool shall begin their term prior to a January 1 if the SDA Board so directs. Directors may serve successive terms. The SDA Board shall appoint to the first Board following formation of the Pool, three Directors to serve one-year terms and four Directors to serve two year terms, with the successors of each appointed for two-year terms. Of the two additional persons to be appointed to the Board upon expansion of the Board from seven to nine persons, one shall be appointed to serve a one-year term and one shall be appointed to serve a two-year term, with the successors of each appointed for two-year terms; the terms of office of the two additional persons initially appointed may begin prior to a January 1 if the SDA Board so directs.

- 6.4 The officers of the Pool shall be: president, one or more vice presidents, secretary, one or more assistant secretaries, and comptroller. The officers shall be elected annually by and from among the Directors at the first meeting of the Board following each December 31.
- 6.5 A vacancy shall occur on the Board when a Director:
1. Submits a written resignation to the Board.
 2. Dies.
 3. Ceases to be a Member Representative.
 4. Fails to attend three consecutive regular meetings of the Board without the Board having entered upon its minutes an approval for an additional absence or absences, except that such additional absence or absences shall be excused for temporary mental or physical disability or illness.
 5. Is convicted of a felony.
- 6.6 Any vacancy on the Board shall be filled by appointment by the SDA Board for the unexpired portion of the term.

ARTICLE 7. Meetings of the Board of Directors

- 7.1 The Board may set a time and place for regular meetings which may be held without further notice. The Members shall be notified of the time and place set for regular meetings.
- 7.2 Special meetings may be called by the President or by a majority of the Directors by mailing written notice at least ten (10) days in advance to all Directors or by unanimously executed waiver of notice.
- 7.3 Five Directors shall constitute a quorum to do business. All acts of the Board shall require approval of a majority of the Directors present, except as otherwise specifically provided in this Pool Agreement.
- 7.4 One or more or all Directors may participate in any meeting of the Board by means of a conference telephone or similar communications equipment by which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence at the meeting.
- 7.5 Any action of the Board may be taken without a meeting if a consent in writing setting forth the action so taken is signed by all Directors appointed to the Board. Such consent shall have the same effect as a unanimous vote. The consent may be executed in counterparts.

ARTICLE 8. Powers and Duties of the Board of Directors

- 8.1 The business and affairs of the Pool shall be managed by the Board which shall exercise all the authority and powers and discharge all the duties of the Pool, except as is otherwise provided in this Pool Agreement.
- 8.2 In addition to all other powers of the Board set out in this Pool Agreement, the Board shall have the power to:
1. Exercise all powers necessary to carry out the purposes of the Pool.
 2. Retain agents, independent contractors and employees necessary to administer and achieve the purposes of the Pool, including, but not limited to, attorneys, accountants, investigators, experts, consultants, and others.
 3. Purchase, sell, encumber, and lease real property, and purchase, sell, encumber or lease equipment, machinery, and personal property.
 4. Invest money as allowed for the Pool by Colorado statutes or by lawful regulations adopted pursuant to Colorado statutes, as from time-to-time amended.
 5. Purchase excess insurance, stop-loss insurance, and reinsurance as the Board deems prudent.
 6. Adopt and adjust the coverages provided through the Pool.
 7. Adopt and adjust contributions to the Pool.
 8. Enter into contracts including, but not limited to, contracts for risk management, claim adjustment, and brokerage services.
 9. Reimburse Directors for reasonable and approved expenses, including expenses incurred in attending Board meetings, and pay compensation to each Director for his or her services in a sum not to exceed the maximum sum which may by statute be paid as compensation for services of directors on Colorado special district boards of directors.
 10. Purchase fidelity bonds from an insurance company approved by the Insurance Commissioner of the State of Colorado to do business in Colorado.
 11. Establish reasonable and necessary loss reduction, prevention and risk management policies and procedures to be followed by the Members.
 12. Appoint committees from time to time as the Board considers desirable.

13. Provide for claims and loss control procedures, and establish conditions to be met prior to the payment or defense of claims.
 14. Establish rules governing its own conduct and procedure, and the authority of its officers, not inconsistent with this Pool Agreement.
 15. Approve attorneys or firms of attorneys to represent Members in claims covered through the Pool.
 16. Delegate in writing fiduciary responsibilities or ministerial powers and duties to individual Directors or committees of the Board or to such agents, employees, and independent contractors as the Board considers desirable.
- 8.3 In addition to all other duties of the Board set out in this Pool Agreement, the Board shall have the duty to:
1. Have an audit of the financial affairs of the Pool be made annually by a certified public accountant in accordance with applicable laws and regulations, and provide a copy thereof to each Member.
 2. Select a qualified actuary to conduct periodic reviews of the Pool's funds and any reviews required by the Insurance Commissioner of Colorado, and make recommendations to the Board based on such reviews.
 3. Designate one or more persons or entities to administer the Pool.
 4. Adopt a budget annually and report the budget to the Members.
 5. Three persons shall be appointed annually to an expulsion committee to serve until January 1 of the year following the appointment. One person, to be appointed by the Board, shall be a director on the board, one person, to be appointed by the Board, shall be a representative of the person(s) or entity(ies) providing general administrative services to the Pool, and one person, to be appointed by the SDA Board, shall be a member of the SDA Board.

ARTICLE 9. Members' Powers and Meetings

- 9.1 The Members shall have the power to:
- a. Amend the Pool Agreement by a two thirds (2/3) vote of the Members present at a meeting. Written notice of any proposed amendment shall be provided to each Member at least forty-five (45) days in advance of any vote on the amendment.
 - b. Dissolve the Pool and disburse its assets by a two thirds (2/3) vote of the Members present at a meeting, pursuant to such notice and in keeping with such procedure as shall be

shall be established by the Board. Notice of the dissolution and plan for disbursement of assets and payment of the remaining obligations of the Pool shall be mailed to the Insurance Commissioner of Colorado at least ninety (90) days prior to the effective date of the dissolution. The plan for disbursement of assets and payment of the remaining obligations of the Pool shall not take effect until approved by the Insurance Commissioner of Colorado. Upon dissolution of the Pool, the assets of the Pool not used or needed for the purposes of the Pool, as determined by the Board and subject to approval by the Insurance Commissioner of Colorado, shall be distributed exclusively to Special Districts which are members of the Pool prior to dissolution to be used for one or more public purposes.

9.2 Meetings of the Members shall be held as follows:

- a. Members shall meet at least once annually at a time and place to be set by the Board, with notice mailed to each Member at least thirty (30) days in advance.
- b. Special meetings may be called by the Board upon its own motion and shall be called by the Board upon written request of thirty (30) percent of the Members, with notice mailed to each Member at least thirty (30) days in advance.
- c. The president of the Pool shall preside at the meetings; a vice president of the Pool shall preside in the absence of the president.
- d. Twenty (20) percent of the Members shall constitute a quorum to do business.
- e. Proxy voting shall be allowed, pursuant to such procedures as the Board may determine.
- f. Each Member shall be entitled to one vote on each issue, to be cast by its Member Representative.
- g. Notwithstanding any other provision of the Pool Agreement, any amendment to the Pool Agreement, except an amendment relating to dissolution of the Pool, may be adopted without a meeting if an approval in writing, setting forth the amendment approved, is signed by the Member Representatives of at least two thirds (2/3) of the Members. The approval may be executed in counterparts.

ARTICLE 10. Obligations of Members

10.1 Each Member shall have the obligation to:

- a. Pay all contributions or other payments to the Pool at such times and in such amounts as shall be established by the Board. Any delinquent payments shall be paid with interest pursuant to a policy established by the Board and uniformly applied.

- b. Designate in writing, a Member Representative and one or more alternates for the Members' meetings. The Representative and any alternate shall be an elected official, employee, or other designee of the Member, and may be changed from time-to-time. Any alternate may exercise all the powers of the Representative during a Member meeting in the absence of the Member Representative.
- c. Allow the Pool and its agents, contractors, employees and officers reasonable access to all facilities and records of the Member as required for the administration of the Pool.
- d. Cooperate fully with the Pool and all agents, contractors, employees and officers thereof in matters relating to the Pool.
- e. Provide information requested by the Pool, and all agents, contractors, employees, and officers thereof, as reasonably required for the administration of the Pool.
- f. Allow the Pool to make decisions regarding, and to designate attorneys to represent the Member in, the investigation, settlement and litigation of any claim within the scope of coverage furnished through the Pool.
- g. Comply with the claims, loss reduction, prevention and risk management policies and procedures established by the Board.
- h. Promptly report to the Pool all incidents or occurrences which could reasonably be expected to result in the Pool being required to consider a claim, in any form required by the Board and in compliance with any applicable excess insurance or reinsurance.
- i. Promptly report to the Pool the addition of new programs and facilities or the significant reduction or expansion of existing programs and facilities or other acts, as directed by the Board and in compliance with any applicable excess insurance or reinsurance.

ARTICLE 11. Contributions

- 11.1 The Board shall establish Member contributions pursuant to guidelines established by the Board from time-to-time. The contributions may include an annual contribution and any additional contributions at such times and in such amounts as the Board deems necessary to insure the solvency and avoid impairment of the Pool or which the Board otherwise deems beneficial to protect the financial condition of the Pool. The Board may provide for disbursement of non-surplus credit balances which are, pursuant to guidelines adopted by the Board from time to time, due a member, and such disbursements shall not be subject to the provisions of paragraphs 11.2 or 15.1.
- 11.2 Any excess funds which the Board determines are not needed for the purposes of the Pool, may be

may be distributed among the Members and former Members, subject to Paragraph 15.1, pursuant to the following:

1. Any such distribution may be in the form of credits against future contributions or in the form of payments, or a combination thereof, as the Board may determine.
2. Money distributed for any claim year shall be distributed only to those Members and former Members which were Members during that claim year and shall be distributed in order of claim year contribution, with Members and former Members of the initial claim year to receive the initial credits.
3. The amount which may be distributed for any claim year shall be established by the Board which shall have discretion as to the amount and timing of any distribution. That amount may not exceed the net sum of (i) the net income of the Pool for that claim year less (ii) the portion of the Pool's net income which equals the amount of the excess loss reserve of the claim year prior to the claim year (which is subject to the distribution) which was taken into income in that claim year plus (iii) the excess loss reserve for the claim year which is subject to the distribution.
4. For the purpose of this paragraph 11.2, the term "excess loss reserves" means the amount by which the amounts credited to loss reserves and charged to operating expenses in any claim year exceed the actual losses (including loss adjustment expenses) for that claim year.
5. The amount established by the Board for a claim year pursuant to paragraph c., above, shall be distributed among each Member and former Member which was a Member during that claim year based on the ratio which each Member's and former Member's contribution (excluding any surplus contribution) for the claim year bears to the total contributions (excluding surplus contributions) for the claim year and less the contributions of former Members which are not eligible for a distribution pursuant to Paragraph 15.1.
6. Excess surplus funds contributed by Members and former Members may be distributed only among such contributing Members or former Members, subject to the five year membership requirement of Paragraph 15.1. The Board has discretion to determine, from time to time, the amount and timing of any distribution of such funds. The amount established by the Board shall be distributed among each Member and eligible former Member based on the ratio which each Member's and former Member's surplus contribution bears to the total amount of surplus funds contributed to the Pool by Members and former Members.
7. No distribution of excess funds, including excess surplus funds contributed by Members, shall be made to any Member or former Member which owes any amount to the Pool until the amount so owed is paid, and any amount so owed may be deducted from the distribution to the Member or former Member.

8. No distribution of excess funds, including excess surplus funds contributed by Members, shall cause the Pool to become impaired or insolvent.
- 11.3 The total amount of surplus shall be determined by the Board from time-to-time, but in no event shall be less than that required by the Insurance Commissioner of Colorado, and the Board may require all Members to make additional contributions to surplus as the Board deem necessary, or the Insurance Commissioner of Colorado may require.
- 11.4 The Pool shall account separately for contributions made for the property and liability coverages authorized by sections 24-10-115.5 and 29-13-102, C.R.S., as amended, and for contributions made for the workers' compensation coverage authorized by sections 8-44-101(1)(C) and (3) and 8-44-204, C.R.S., as amended.
- 11.5 Notwithstanding any provision of this Agreement to the contrary, the Pool Board may establish from any contributions or other assets of the Pool the initial minimum surplus for workers' compensation coverage required by the Insurance Commissioner of Colorado; provided that contributions or other assets derived from coverages other than workers' compensation shall not be used to establish such minimum surplus unless and until the Board first determines that workers' compensation contributions are or will be insufficient to fund such surplus in the amounts and within the time required by the Insurance Commissioner of Colorado; and provided further, that such minimum surplus shall be established from contributions for workers' compensation coverage as soon as the Board determines practicable consistent with ensuring the solvency and avoiding the impairment of the Pool. The Board may issue subordinated debt to establish such minimum surplus consistent with applicable requirements of the Insurance Commissioner of Colorado.
- 11.6 The Pool shall repay the Special District Association of Colorado for its ongoing services to the Pool, provided subsequent to the creation of the Pool, within such time and in such amount as the SDA Board and Pool Board may agree.

ARTICLE 12. Liability of Directors, Officers and Employees

- 12.1 No Director, officer, committee member, or employee of the Pool shall be personally liable for any acts performed or omitted in good faith. The Pool shall indemnify each Director, officer, committee member, and employee of the Pool against any and all expense including attorney fees and liability expenses sustained by them, or any of them in connection with any suit or suits which may be brought against them involving or pertaining to any of their acts or duties performed for this Pool or omitted in good faith. This provision shall not be deemed to prevent compromises of any such litigation where the compromise is deemed advisable in order to prevent greater expense or cost in the defense or prosecution of such litigation.
- 12.2 The Pool shall obtain a fidelity bond or other bond to guarantee the faithful performance of each Director's, officer's and employee's duties hereunder, and shall make reasonable effort to obtain errors and omissions coverage for each Director, officer, committee member, and employee of the

employee of the Pool. The Pool shall obtain bonds for all Directors, officers, committee members, and employees who handle or have access to Pool funds, in an amount which the Board deems appropriate but no less than the minimum amount deemed necessary by the Insurance Commissioner of Colorado.

ARTICLE 13. Withdrawal of Members

- 13.1 Any Member may withdraw from the Pool by giving written notice to the Board of its intent to withdraw at least sixty (60) days prior to the Member's coverage renewal date. A Member which has different renewal dates for different coverages must give such written notice at least sixty (60) days prior to the first renewal date following any January 1. Unless a different date is agreed to by the Board and the Member, the withdrawal shall be effective on the Member's coverage renewal date but, if the Member has different renewal dates for different coverages, the withdrawal shall be effective the latest renewal date following the written notice of withdrawal. After the notice of withdrawal is given, no coverage will be renewed but all coverages will remain in effect only until their respective expiration dates.
- 13.2 Except as otherwise provided in this paragraph, any Member which dissolves or which is consolidated with another Special District shall be considered a withdrawn Member with the same rights and obligations under this agreement as any other withdrawn Member, such withdrawal to be effective on the date of dissolution or consolidation, as the case may be. Notwithstanding paragraph 15.1 and under the following circumstances only, a Special District shall receive the credits against its future contributions to the Pool otherwise allocable to a dissolved or consolidated Member pursuant to paragraph 11.2:
1. If the Special District was formed by a consolidation which included such a Member, the Special District assumed all rights of that Member under this agreement, and the Special District is a Member no later than one year after the effective date of the consolidation; or,
 2. If the Special District assumed all rights of a dissolved Member under this agreement, and the Special District is a Member no later than one year after the effective date of the dissolution.

A Special District entitled to receive such credits of a dissolved or consolidated Member shall not be obligated for any liabilities to the Pool of the dissolved or consolidated Member in excess of the amount of such credits.

ARTICLE 14. Expulsion of Members

- 14.1 A Member which fails to make a contribution or other payment due to the Pool shall be automatically expelled from the Pool on the sixtieth (60) day following the due date, unless time for payment is extended by the Board and payment is made within any extended period. A notice of failure to make a contribution or other payment due to the Pool shall be mailed to the Member at least thirty (30) days prior to the date of automatic expulsion. If payment is not made within

not made within any extended period, the automatic expulsion shall occur on a date, no later than twenty (20) days after the last day of the extended period, set by the Board. An expulsion under this paragraph 14.1 shall not be subject to the provisions of paragraph 14.2.

- 14.2 A Member may be expelled by the Board for failure to carry out any other obligation of the Member, or for failure to maintain its membership in the Special District Association of Colorado if such membership was required by the Board at the time the Member was admitted to the Pool, subject to the following:
1. The Member shall receive notice from the Board of the alleged failure and not less than thirty (30) days in which to cure the alleged failure, along with notice that expulsion may result if the failure is not so cured.
 2. The Member shall receive at least thirty (30) days prior notice from the Board, of the date, place and time when the Board will consider expelling the Member from the Pool, and the Member shall be entitled to be present at that meeting and to present evidence and reasons why it should not be expelled. The decision of the Board shall be effective as of the date and upon the terms and conditions set forth in the Pool Agreement and applicable excess or reinsurance policies and otherwise specified by the Board, except as provided in paragraph c.
 3. The Member may appeal the Board's decision to the expulsion committee, which shall schedule a hearing thereon. The Member and the Board shall be provided at least ten (10) days prior written notice of the date, time and place of the hearing. The appealing Member shall be entitled to be present at that hearing and to present evidence and reasons why it should not be expelled and the Board may present evidence and reasons why expulsion is proper. The decision of the expulsion committee shall be final and any expulsion effective as of the date and upon the terms and conditions set forth in the Pool Agreement and applicable excess or reinsurance policies, and otherwise specified by the Board.

ARTICLE 15. Effect of Withdrawal or Expulsion

- 15.1 No withdrawn or expelled Member shall be entitled to any reimbursement of contributions or distribution or excess funds, including excess surplus funds contributed by Members, unless the Member was a Member for at least five consecutive years.
- 15.2 A withdrawn or expelled Member shall remain obligated for all amounts owing at the time of withdrawal or expulsion for the years during which the member was an active member of the Pool and for all amounts which thereafter become owing for such years pursuant to the Pool Agreement and any other Pool documents which are in effect at the time of withdrawal.
- 15.3 A withdrawn or expelled Member shall be considered a Member of the Pool for the purpose of payment of the Member's claims and expenses related thereto which remain covered under the terms of coverage existing at the time of withdrawal. A withdrawn or expelled Member shall

shall remain subject to all conditions of coverage and obligations of a Member which are in effect at the time of withdrawal. A withdrawn or expelled Member shall have no right to vote on any matter pending before the Pool membership.

- 15.4 No withdrawn or expelled Member may be adversely affected by any change in the Pool Agreement or other Pool documents adopted subsequent to the effective date of the Member's withdrawal or expulsion.
- 15.5 Unless disapproved by an affected excess carrier or reinsurer, the Pool shall offer a withdrawing or expelled Member, no later than forty-five (45) days after the expulsion or Board's receipt of the written notice of withdrawal, at least twenty-four (24) months extended reporting period on any claims-made coverage provided through the Pool, at a cost reasonably calculated by the Board and subject to any contracts existing at the time of withdrawal or expulsion.

ARTICLE 16. Miscellaneous

- 16.1 This document constitutes an intergovernmental agreement among those Special Districts which become Members of the Pool. The terms of this agreement may be enforced in court by the Pool or by any of its Members. The consideration for the duties herewith imposed on the Members to take certain actions and to refrain from certain other actions shall be based upon the mutual promises and agreements of the Members set forth herein.
- 16.2 A certified or attested copy of the resolution of approval for each Member shall be attached to the Member's Pool Agreement on file with the Pool.
- 16.3 Except to the extent of the limited financial contributions to the Pool agreed to herein or such additional obligations as may come about through amendments to this Pool Agreement, the contracting parties intend in the creation of the Pool to establish an organization to operate only within the scope herein set out and have not otherwise created as between Member and Member any relationship of surety, indemnification or responsibility for the debts of or claims against any other Member.
- 16.4 The provisions of this Pool Agreement and of the other documents referred to herein, and the assets of the Pool, are for the benefit of the Members of the Pool only, and no other persons or entities shall have any rights or interest in this Pool Agreement or in any of the other documents referred to herein, or in any such assets, as a third party beneficiary or otherwise. The assets of the Pool shall not be subject to attachment, garnishment, or any equitable proceeding.
- 16.5 It is the intention of the Members that the Pool and any income of the Pool not be subject to taxation, and the Members shall cooperate in such respects, including amending this Pool Agreement, as reasonably necessary to establish and maintain the non-taxable status of the Pool.

- 16.6 The Insurance Commissioner of Colorado shall have such authority with respect to the formation and operation of the Pool as is provided by applicable Colorado law.
- 16.7 Except as permitted in this Pool Agreement, and amendments hereto, neither the Board nor any other person or entity is authorized to incur liabilities or obligations or enter into contracts on behalf of the Members.
- 16.8 "Insolvency" as applied to the Pool shall have the meaning as defined in Section 10-3-212, C.R.S., as amended, or as the Insurance Commissioner of Colorado may otherwise provide.
- 16.9 The statutory reporting period for the Pool shall be the calendar year or such other period as the Insurance Commissioner of Colorado may provide.
- 16.10 If any provision of this Pool Agreement is held invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the other provisions, and this Pool Agreement is expressly declared to be severable.
- 16.11 If the Board or its authorized representative and a Member disagree on whether a loss is covered through the Pool or on the amount of a covered loss, the Board or its authorized representative or the Member may request that the disagreement be submitted to binding arbitration as follows:
1. Unless otherwise agreed by the Board or its authorized representative and the Member, three persons shall be selected for the arbitration panel, one by the Board or its authorized representative, one by the Member, and one by the two so selected to act as umpire to decide the items upon which the other two disagree. If the two so selected fail for fifteen days to agree upon the umpire, the umpire shall be selected by a judge of a court of record agreed to by the Board or its authorized representative and the Member.
 2. The decision of the panel shall be binding on the Board or its authorized representative and the Member.
 3. The Pool shall pay the fees and expenses of the panelist selected by the Board or its authorized representative, the Member shall pay the fees and expenses of the panelist selected by it, and the fees and expenses of the umpire shall be shared equally by the Pool and the Member.

Dated: _____

Special District: _____

By: _____

Title: Chairman, Board of Directors and President

Date: _____

Attest:

By: _____
Title: Secretary