

EAST BEND METROPOLITAN DISTRICT

450 E. 17th Avenue, Suite 400

Denver, Colorado 80203

Phone: 303-592-4380

NOTICE OF SPECIAL MEETING AND AGENDA

DATE:	August 19, 2022
TIME:	1:30 p.m.
ACCESS:	<p>This meeting will be held via video or teleconference without any persons (neither District Representatives nor the general public) attending in person. Members of the public who wish to attend this meeting may use the access information below:</p> <p>To attend via video conference: https://us02web.zoom.us/j/88923072360?pwd=aG1JRFPtB0JIR2FCT2MrN2lsV3M4dz09</p> <p>To attend via telephone conference, dial 1-253-215-8782 and enter the following information:</p> <p>Phone Conference ID: 889 2307 2360 Passcode: 417931</p>

<u>Board of Directors</u>	<u>Office</u>	<u>Term Expires</u>
Michael Matthew Hengel	President	May, 2023
Jason Pock	Secretary	May, 2023
Jeffrey Kutzer	Treasurer	May, 2025
Eric Kubly	Assistant Secretary	May, 2025
Vacant	Assistant Secretary	May, 2023

I. ADMINISTRATIVE MATTERS

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

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

C. Public Comment.

Members of the public may express their views to the Board on matters that affect the District that are otherwise not on the agenda. Comments will be limited to three (3) minutes per person.

D. Review and consider approval of minutes from the June 10, 2022, special board meeting (enclosure).

E. Acknowledge the resignation of Matthew Jenkins from the Board of Directors.

F. Discuss Board vacancy. Consider appointment of eligible elector David Lee to the Board of Directors of the District. Administer Oath of Office.

G. Consider appointment of officers.

President:

Secretary:

Treasurer

Assistant Secretary:

Assistant Secretary:

II. FINANCIAL MATTERS

A. Review and ratify acceptance of final Cost Certification Report No. 1 dated June 10, 2022, from Independent District Engineering Services, LLC in the amount of \$3,120,182.68, acceptance of District Reimbursable Costs, and authorize necessary actions in conjunction therewith (to be distributed).

- B. Conduct public hearing to consider an amendment to the 2022 Budget. If necessary, consider adoption of Resolution No. 2022-08-01, Resolution of East Bend Metropolitan District to Amend the 2022 Budget (enclosure).

- C. Discuss and consider adoption of the Amended and Restated Resolution Regarding the Imposition of Operation and Maintenance Fees (enclosure).

- D. Other.

III. LEGAL MATTERS

- A.

IV. COVENANT ENFORCEMENT / DESIGN REVIEW

- A. Discuss covenant enforcement and design review services for the District.

- B. Review and consider acceptance of the Design Guidelines for East Bend Metropolitan District (to be distributed).

V. OTHER BUSINESS

- A.

VI. ADJOURNMENT

The next regular meeting is scheduled for November 4, 2022 at 10:00 a.m.

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF
THE BOARD OF DIRECTORS OF THE
EAST BEND METROPOLITAN DISTRICT (THE “DISTRICT”)
HELD
June 10, 2022

A special meeting of the Board of Directors of the East Bend Metropolitan District (referred to hereafter as the “Board”) was convened on Friday, June 10, 2022, at 11:00 a.m., via video conference. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Matthew Hengel
Jason Pock
Jeffrey Kutzer
Eric Kubly

Absent and excused was Director Jenkins.

Also, In Attendance Were:

Paula Williams, Esq., Erica Montague, Esq.; McGeady Becher P.C.
Gigi Pangindian; CliftonLarsonAllen LLP (“CLA”)
Jerry Jacobs; Timberline District Consulting, LLC (“Timberline”)

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

The Board discussed the requirements of Colorado law to disclose any potential conflicts of interest or potential breaches of fiduciary duty of the Board of Directors to the Secretary of State. The members of the Board were requested to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting, and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with statute. It was noted by Attorney Williams that disclosures of potential conflicts of interest were filed with the Secretary of State for all directors, and no additional conflicts were disclosed at the meeting.

ADMINISTRATIVE MATTERS

Quorum/Confirmation of Meeting Location/Posting of Notice: A quorum was confirmed.

The Board discussed the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District's Board meeting. Following discussion, and upon motion duly made by Director Kutzer, seconded by Director Pock, and upon vote unanimously carried, the Board determined to conduct the meeting at the above-stated date, time and location. It was further noted that notice of the time, date and location was duly posted and that no objections to

RECORD OF PROCEEDINGS

the location or any requests that the meeting place be changed by taxpaying electors within the District's boundaries have been received.

Agenda: The Board reviewed the Agenda for the meeting. Following discussion, upon motion duly made by Director Kutzer, seconded by Director Pock, and upon vote unanimously carried, the Board approved the Agenda, as presented, and excused the absence of Director Jenkins.

Public Comment: There were no public comments.

Minutes of May 18, 2022 Special Meeting: The Board reviewed the Minutes of the May 18, 2022 Special Meeting. Following review and discussion, upon motion duly made by Director Kutzer, seconded by Director Pock, and upon vote unanimously carried, the Board approved the Minutes.

FINANCIAL MATTERS

Cost Verification Report from Independent District Engineering Services, LLC ("IDES"): The Board reviewed the cost verification report from IDES. Following review and discussion, upon a motion duly made by Director Pock, seconded by Director Kutzer, and upon vote unanimously carried, the Board approved the cost verification report in the amount of \$2,700,362.34, subject to final review by legal counsel.

Requisition(s) under the District's General Obligation Limited Tax Bonds, Series 2022 and reimbursement to Richmond American Homes of Colorado, Inc. under that certain 2021-2025 Facilities Funding and Acquisition Agreement: Following discussion, upon a motion duly made by Director Kutzer, seconded by Director Kubly, and upon vote unanimously carried, the Board approved the Requisition(s) under the District's General Obligation Limited Tax Bonds, Series 2022 and reimbursement to Richmond American Homes of Colorado, Inc., under that certain 2021-2025 Facilities Funding and Acquisition Agreement.

Resolution Regarding Imposition of Operations and Maintenance Fee: Following discussion, upon a motion duly made by Director Kutzer, seconded by Director Kubly, and upon vote unanimously carried, the Board adopted the Resolution Regarding Imposition of Operations and Maintenance Fee.

LEGAL MATTERS

Resolution Regarding Continuing Disclosure Policies and Procedures: Following discussion, upon a motion duly made by Director Kutzer, seconded by Director Kubly, and upon vote unanimously carried, the Board adopted the Resolution Regarding Continuing Disclosure Policies and Procedures.

RECORD OF PROCEEDINGS

COVENANT ENFORCEMENT/ DESIGN REVIEW

Policies Regarding Covenant Enforcement and Design Review Services:
Following discussion, the Board directed District Counsel to work with Timberline regarding the development and implementation of same.

OTHER BUSINESS

There were no other matters presented for discussion.

ADJOURNMENT

There being no further business to come before the Board at this time, the meeting was adjourned.

Respectfully submitted,

By _____
Secretary for the Meeting

RESOLUTION NO. 2022-08-01

RESOLUTION TO AMEND BUDGET

**RESOLUTION OF THE EAST BEND METROPOLITAN DISTRICT TO AMEND THE
2011 BUDGET**

Pursuant to Section 29-1-109, C.R.S., the Board of East Bend Metropolitan District (the “**District**”), hereby certifies that a special meeting of the Board of Directors of the District, was held on December 10, 2021 via video and teleconference. The meeting was open to the public.

A. At such meeting, the Board of Directors of the District adopted that certain Resolution No. 2021-12-04 to Adopt Budget appropriating funds for the fiscal year 2022 as follows:

General Fund	\$50,000
Special Reserve Fund	\$0.00

B. The necessity has arisen for additional General Fund and Special Reserve Fund appropriations requiring the expenditure of funds in excess of those appropriated for the fiscal year 2022.

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

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the East Bend Metropolitan District shall and hereby does amend the budget for the fiscal year 2022 as follows:

General Fund	\$90,000
Special Reserve Fund	\$123,000

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

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO RESOLUTION OF THE EAST BEND METROPOLITAN
DISTRICT TO AMEND THE 2022 BUDGET]**

RESOLUTION APPROVED AND ADOPTED on August 19, 2022.

**EAST BEND METROPOLITAN
DISTRICT**

By: _____
President

Attest:

By: _____
Secretary

EXHIBIT A

Original and Amended Budget Appropriations

**EAST BEND METROPOLITAN DISTRICT
GENERAL FUND
AMENDED 2022 BUDGET SCHEDULE**

8/11/2022

	ORIGINAL BUDGET 2022	AMENDED BUDGET 2022
BEGINNING FUND BALANCES	\$ -	\$ -
REVENUES		
Developer advance	35,498	78,000
Property Taxes	11,002	12,041
Specific Ownership Taxes	3,500	900
Total revenue	50,000	90,941
TRANSFERS IN		
Special Fund Revenue	-	-
Total transfers in	-	-
Total funds available	50,000	90,941
EXPENDITURES		
<u>General and administration</u>		
Audit/ Exemption	1,000	5,000
Election	2,000	2,000
Insurance and Dues	12,000	2,850
Accounting	10,000	25,000
Legal	15,000	45,000
Management	5,000	-
Miscellaneous	1,000	1,500
Contingency	2,500	5,269
Treasurer's Fees	-	181
Director's Fees	-	2,000
Other Fees & Licenses		1,200
Emergency Reserve	1,500	-
	50,000	90,000
TRANSFERS OUT		
Total transfers out	-	-
Total expenditures and transfers out requiring appropriation	50,000	90,000
ENDING FUND BALANCES	\$ -	\$ 941

**EAST BEND METROPOLITAN DISTRICT
SPECIAL SERVICE FUND
AMENDED 2022 BUDGET SCHEDULE**

8/11/2022

	ORIGINAL BUDGET 2022	AMENDED BUDGET 2022
BEGINNING FUND BALANCES	\$ -	\$ -
REVENUES		
Annual District Fees	-	154,008
Total revenue	-	154,008
TRANSFERS IN		
General Fund	-	-
Total transfers in	-	-
Total funds available	-	154,008
EXPENDITURES		
<u>Operations</u>		
Billing Services	-	6,458
Legal - Covenant Control		5,000
Admin Management/Achitectural Control	-	5,520
District Management	-	25,000
Covenant Control	-	5,000
Events	-	1,000
Contingency	-	3,041
<u>Maintenance</u>		
Irrigation Repairs	-	2,000
Landscape Maintenance		20,000
Locates	-	1,200
Maintenance & Repairs	-	10,500
Mosquito Control	-	500
Pest Control	-	500
Plant Material Replacements	-	19,239
Snow Removal Streets		8,940
Street Sweeping	-	1,500
Utilities - Electric	-	840
Utilities - Storm Drainage	-	500
Utilities - Water	-	3,000
Winter Watering	-	3,262
Total expenditures	-	123,000
TRANSFERS OUT		
Total transfers out	-	-
Total expenditures and transfers out requiring appropriation	-	123,000
ENDING FUND BALANCES	\$ -	\$ 31,008
Capital Reserve	-	\$ 30,000

When recorded return to:
McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203

NOTICE TO TITLE COMPANIES: THE FOLLOWING RESOLUTION IMPOSES FEES WHICH, UNTIL PAID, CONSTITUTE A STATUTORY AND PERPETUAL LIEN ON AND AGAINST THE PROPERTY SERVED. CONTACT THE DISTRICT MANAGER, TIMBERLINE DISTRICT CONSULTING, LLC, AT (303) 359-9330 TO VERIFY PAYMENT.

RESOLUTION NO. 2022-08-__

**AMENDED AND RESTATED RESOLUTION OF THE BOARD OF DIRECTORS OF
EAST BEND METROPOLITAN DISTRICT
REGARDING THE IMPOSITION OF OPERATION AND MAINTENANCE FEE**

A. East Bend Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in the City of Aurora, Arapahoe County, Colorado.

B. The District’s boundaries are described in the legal description attached hereto as **Exhibit A**, which legal description may be amended from time to time, pursuant to the inclusion and/or exclusion of property into or from the District (the “**Property**”).

C. Pursuant to the authority granted to the District by its Service Plan, as approved by the City Council for the City of Aurora, Colorado on August 9, 2021, as it may be amended from time to time (the “**Service Plan**”), the District is responsible for the ownership, operation, maintenance and construction of facilities to benefit the Property (the “**Improvements and Services**”).

D. The District is authorized pursuant to Section 32-1-1001(1)(j), C.R.S., as amended from time to time, and its Service Plan to fix and impose fees, rates, tolls, charges and penalties for services of facilities provided by the District, which, until paid, shall constitute a perpetual lien on and against all property served.

E. The District has determined that, to meet the costs of the provision, operation, and maintenance of the Improvements and Services, it is necessary and equitable to impose an operations and maintenance fee for each residential dwelling unit (the “**Residential Units**”) located within the Property (the “**Operation and Maintenance Fee**”).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE EAST BEND METROPOLITAN DISTRICT, AS FOLLOWS:

1. The Board of Directors hereby finds, determines and declares that it is in the best interests of the District, its inhabitants and taxpayers to exercise its power by imposing an Operations and Maintenance Fee on the Property and to use the revenues from the Operations

and Maintenance Fee for the payment of the costs concerning the provision, operations, and maintenance of the Improvements and Services.

2. An Operations and Maintenance Fee is hereby established for all Residential Units within the District at the following rate:

(a) \$155 per month for each Residential Unit, to be increased by 2% annually.

(b) The first Operations and Maintenance Fee payment for any Residential Unit shall become due and payable to the District upon the sale or transfer of a Residential Unit from a builder to an owner or from an owner to another owner, and shall be billed quarterly.

(c) The District reserves the right to amend this resolution in the future to increase or decrease the amount of the Operations and Maintenance Fee or to otherwise modify this resolution.

3. An invoice for the Operations and Maintenance Fee for a given quarter will be mailed to each property owner (“**Owner**”) on or before the 15th day of the month following the end of the subject quarter (e.g., on or before April 15th for the quarter ending on March 31st, on or before July 15th for the quarter ending on June 30th, on or before October 15th for the quarter ending on September 30th, and on or before January 15th for the quarter ending on December 31st) (the “**Bill Date**”). If payment in full is not received within thirty (30) calendar days after the Bill Date, the fee is deemed past due and otherwise outstanding. A reminder notice may be, but is not required to be, sent at such time. Strict compliance with this invoice procedure is not required in order for the District to enforce its rights as set forth herein.

4. Failure to make payment of the Operations and Maintenance Fee due hereunder shall constitute a default in the payment of such Operations and Maintenance Fee. Upon default, simple interest shall accrue on such total amount of the Operations and Maintenance Fee due at the rate of eighteen percent (18%) per annum until paid, as permitted by Section 29-1-1102(7), C.R.S., as amended from time to time.

5. If the Owner does not make payment of all past due amounts, including interest (the “**Delinquent Balance**”), within sixty (60) days from the Bill Date, the District may deliver to the Owner a Notice of Intent to File a Lien Statement (a “**Lien Notice**”). The Lien Notice shall give notice to the Owner that the District intends to perfect its lien against the Property by recording a Lien Statement in the office of the Arapahoe County Clerk and Recorder if the Delinquent Balance is not paid in full within thirty (30) days after said Lien Notice is served upon Owner by certified mail, return receipt requested, pursuant to Section 38-22-109(3), C.R.S., as amended from time to time. The District is under no obligation to deliver a Lien Notice as the Delinquent Balance constitutes a perpetual charge and lien upon the Property served by operation of law.

6. The Operations and Maintenance Fee shall not be imposed on real property actually conveyed or dedicated to non-profit owners’ associations, governmental entities or utility providers.

7. The Operations and Maintenance Fee, in the amount of the Delinquent Balance, shall constitute a statutory and perpetual charge and lien upon the Property pursuant to Section 32-1-1001(1)(j), C.R.S., as amended from time to time, from the date the same becomes due and payable until paid. The lien shall be perpetual in nature as defined by the laws of the State of Colorado on the Property and shall run with the land and such lien may be foreclosed by the District in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens. In addition, any and all attorney fees incurred related to the collection of any defaulted amounts are included in the balance of the Delinquent Balance and constitute a lien on the Property. This Resolution shall be recorded in the real property records of the Clerk and Recorder of Arapahoe County, Colorado.

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

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

10. Any inquiries pertaining to the Operations and Maintenance Fee may be directed to the District's Manager at: Timberline District Consulting, LLC, 25633 Roxana Pointe Drive, Evergreen, CO 80439.

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

[SIGNATURE PAGE FOLLOWS]

APPROVED AND ADOPTED THIS 19th day of August, 2022.

**EAST BEND METROPOLITAN
DISTRICT**, a quasi-municipal corporation and
political subdivision of the State of Colorado

By: _____
President

Attest:

By: _____
Secretary

EXHIBIT A

Legal Description of the Property

All of East Bend Subdivision Filing No. 1