

EAST CREEK METROPOLITAN DISTRICT NO. 2

141 Union Boulevard, Suite 150
Lakewood, Colorado 80228-1898
Tel: 303-987-0835 • 800-741-3254
Fax: 303-987-2032

NOTICE OF A SPECIAL MEETING AND AGENDA

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expiration:</u>
Glenn Nier	President	2022/May 2022
Michele Trujillo	Treasurer	2022/May 2022
Michael Bird	Assistant Secretary	2020/May 2020
Matthew Larsen	Assistant Secretary	2020/May 2020
<i>VACANT</i>		2022/May 2022
Lisa A. Johnson	Secretary	

DATE: **October 28, 2019**

TIME: **3:00 P.M.**

PLACE: Meritage Homes of Colorado
8400 E. Crescent Parkway, #200
Greenwood Village, Colorado

I. ADMINISTRATIVE MATTERS

- A. Present Conflict Disclosures and confirm quorum.

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

- C. Review and approve Minutes of the April 3, 2019 Special Meeting/Work Session and April 10, 2019 Continued Special Meeting (enclosures).

- D. Discuss new legislation regarding posting requirements (enclosure).

- E. Discuss and consider approval of Eligible Governmental Entity Agreement (“EGE”) between the District and The Statewide Internet Portal Authority (“SIPA”) of the State of Colorado and East Creek Metropolitan District No. 2 for the establishment of a District Website (enclosure).

- F. Consider regular meeting dates for 2020. Review and consider approval of Resolution No. 2019-10-01; Resolution Establishing 2020 Regular Meeting Dates, Times and Location, and Designating Locations for Posting of 24-Hour Notices and District Website, if needed (to be distributed).
-

- G. Discuss §32-1-809, C.R.S. reporting requirements and mode of eligible elector notification for 2020.
-

II. FINANCIAL MATTERS

- A. Consider appointment of District Accountant to prepare the 2019 Application for Exemption from Audit.
-

- B. Conduct Public Hearing to consider Amendment to 2019 Budget and consider adoption of Resolution to Amend the 2019 Budget and Appropriate Expenditures, if necessary.
-

- C. Conduct Public Hearing on the proposed 2020 Budget and consider adoption of Resolution to Adopt the 2020 Budget and Appropriate Sums of Money and Set Mill Levies for General Fund _____, Debt Service Fund _____, and Other Fund(s) _____ for a total mill levy of _____ (enclosures –Preliminary Assessed Valuation, draft 2020 Budget, and Resolutions).
-

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

III. LEGAL MATTERS

- A. Consider adoption of Resolution No. 2019-10-__; Resolution Calling a Regular Election for Directors on May 5, 2020, appointing the Designated Election Official (“DEO”), and authorizing the DEO to perform all tasks required for the conduct of mail ballot election (enclosure). Self-Nomination forms are due by February 28, 2020. Discuss the need for ballot issues and/or questions.
-

B. _____

IV. CONSTRUCTION MATTERS

A. Discuss 2019 development / construction outlook.

VI. OTHER BUSINESS

A. _____

VII. ADJOURNMENT **THERE ARE NO MORE REGULAR MEETINGS SCHEDULED FOR 2019.**

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING/ WORK SESSION OF THE BOARD OF DIRECTORS OF THE EAST CREEK METROPOLITAN DISTRICT NO. 2 (THE "DISTRICT") HELD APRIL 3, 2019

A special meeting/ work session of the Board of Directors of the East Creek Metropolitan District No. 2 (the "District") was convened on Wednesday, April 3, 2019, at 1:00 p.m., at the offices of Meritage Homes of Colorado, 8400 E. Crescent Parkway, #200, Greenwood Village, Colorado 80111. The meeting was open to the public. The meeting was open to the public.

Directors In Attendance Were:

Glenn Nier
Michael Bird
Matthew Larsen

Following discussion, upon motion duly made by Director Nier, seconded by Director Bird and, upon vote, unanimously carried, the absence of Michele Trujillo was excused.

Also In Attendance Were:

Lisa A. Johnson and Judy Leyshon; Special District Management Services, Inc. ("SDMS")

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

Tiffany Leichman; Sherman & Howard (via speakerphone)

Brooke Hutchens; DA Davidson (via speakerphone)

Lucy Dinneen; Board Candidate

**DISCLOSURE OF
POTENTIAL
CONFLICTS OF
INTEREST**

The Board noted that disclosures of potential conflict of interest statements for each of the Directors were filed with the Secretary of State seventy-two hours in advance of the meeting. Attorney Williams requested that the Directors consider whether they had any additional conflicts of interest to disclose. Attorney Williams noted for the record that there were no new disclosures made by the Directors present at the meeting and incorporated for the record those applicable disclosures made by

RECORD OF PROCEEDINGS

the Board Members prior to this meeting and in accordance with the statutes. It was noted that disclosure statements had been filed for all Directors.

ADMINISTRATIVE MATTERS

Agenda: Ms. Johnson distributed for the Board's review and approval a proposed Agenda for the District's special meeting/work session.

Approval of Meeting Location: The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the Districts' Board meeting. Following discussion, upon motion duly made by Director Nier, seconded by Director Bird and, upon vote, unanimously carried, the Board determined that because there was not a suitable or convenient location within its boundaries that the District is located to conduct this meeting, it was determined to conduct the meeting at the above-stated location. The Board further noted that notice of this location was duly posted within the boundaries of the District but was not filed with the Clerk and Recorder and that they have not received any objections to the location or any requests that the meeting place be changed by taxpaying electors within its boundaries.

Minutes: The Board deferred discussion.

Resignation of Director: The Board deferred discussion.

Appointment of Officers: The Board deferred discussion.

FINANCIAL MATTERS

2018 Application for Exemption from Audit: The Board deferred discussion.

2019 Budget Amendment Hearing: The Board deferred discussion.

LEGAL MATTERS

Resolution Authorizing the Incurrence of Debt in the Form of a Multiple Fiscal Year Financial Obligation Consisting of a Capital Pledge Agreement: Ms. Leichman and Ms. Hutchens presented to the Board a Resolution authorizing the incurrence of debt in the form of a multiple fiscal year financial obligation consisting of a Capital Pledge Agreement relating to the East Creek Metropolitan District No. 1 General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds, Series 2019A and Subordinate General Obligation Limited Tax Bond Series 2019B.

No action was taken.

RECORD OF PROCEEDINGS

CONSTRUCTION MATTERS

2019 Development / Construction Outlook: Director Bird gave an update. No action was taken.

ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made, seconded, and upon vote, unanimously carried, the meeting was continued to Wednesday, April 10, 2019 at 9:30 a.m. at the regular meeting location.

Respectfully submitted,

By _____
Secretary for the Meeting

RECORD OF PROCEEDINGS

MINUTES OF A CONTINUED SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE EAST CREEK METROPOLITAN DISTRICT NO. 2 (THE "DISTRICT") HELD APRIL 10, 2019

A continued special meeting of the Board of Directors of the East Creek Metropolitan District No. 2 (the "District") was convened on Wednesday, April 10, 2019, at 9:30 a.m., at the offices of Meritage Homes of Colorado, 8400 E. Crescent Parkway, #200, Greenwood Village, Colorado 80111. The meeting was open to the public. The meeting was open to the public.

Directors In Attendance Were:

Glenn Nier
Michelle Trujillo
Michael Bird
Matthew Larsen

Also In Attendance Were:

Lisa A. Johnson and Judy Leyshon; Special District Management Services, Inc. ("SDMS")

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

Natalie Schutzius; Meritage Homes of Colorado, Inc.

**DISCLOSURE OF
POTENTIAL
CONFLICTS OF
INTEREST**

The Board noted that disclosures of potential conflict of interest statements for each of the Directors were filed with the Secretary of State seventy-two hours in advance of the meeting. Attorney Williams requested that the Directors consider whether they had any additional conflicts of interest to disclose. Attorney Williams noted for the record that there were no new disclosures made by the Directors present at the meeting and incorporated for the record those applicable disclosures made by the Board Members prior to this meeting and in accordance with the statutes. It was noted that disclosure statements had been filed for all Directors.

**ADMINISTRATIVE
MATTERS**

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

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director Nier, seconded by Director Bird and, upon vote, unanimously carried, the Agenda was approved.

Approval of Meeting Location: The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District's Board meeting. Following discussion, upon motion duly made by Director Nier, seconded by Director Bird and, upon vote, unanimously carried, the Board determined that because there was not a suitable or convenient location within its boundaries that the District is located to conduct this meeting, it was determined to conduct the meeting at the above-stated location. The Board further noted that notice of this location was duly posted and that they have not received any objections to the location or any requests that the meeting place be changed by taxpaying electors within its boundaries.

Minutes: The Board reviewed the Minutes of the November 29, 2018 special meeting.

Following discussion, upon motion duly made by Director Nier, seconded by Director Larsen and, upon vote, unanimously carried, the Minutes of the November 29, 2019 special meeting were approved.

Resignation of Director: The resignation of Director Timothy Buschar effective as of January 9, 2019 was acknowledged by the Board. The appointment to fill the vacant seat was deferred.

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

President	Glenn Nier
Treasurer	Michele Trujillo
Secretary	Lisa A. Johnson
Assistant Secretary	Matthew Larsen
Assistant Secretary	Michael Bird

FINANCIAL MATTERS

2018 Application for Exemption from Audit: The Board reviewed the Application for Exemption from Audit for 2018.

Following discussion and review, upon motion duly made by Director Nier, seconded by Director Larsen and, upon vote, unanimously carried, the Board ratified approval of the Application for Exemption from Audit for 2018.

RECORD OF PROCEEDINGS

2019 Budget Amendment Hearing: The President opened the public hearing to consider a Resolution to Amend the 2019 Budget and discuss related issues.

It was noted that publication of Notice stating that the Board would consider adoption of a Resolution to Amend the 2019 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to this public hearing. No public comments were received and the public hearing was closed.

Following review and discussion, Director Nier moved to adopt the Resolution to Amend 2019 Budget, Director Larsen seconded the motion and, upon vote, unanimously carried, the Board adopted Resolution No. 2019-04-01 to Amend the 2019 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

LEGAL MATTERS

Resolution Authorizing the Incurrence of Debt in the Form of a Multiple Fiscal Year Financial Obligation Consisting of a Capital Pledge Agreement: The Board discussed a Resolution authorizing the incurrence of debt in the form of a multiple fiscal year financial obligation consisting of a Capital Pledge Agreement relating to the East Creek Metropolitan District No. 1 General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds, Series 2019A and Subordinate General Obligation Limited Tax Bond Series 2019B.

Following discussion, upon motion duly made by Director Nier, seconded by Director Larsen and, upon vote, unanimously carried, the Board adopted a Resolution authorizing the incurrence of debt in the form of a multiple fiscal year financial obligation consisting of a Capital Pledge Agreement relating to the East Creek Metropolitan District No. 1 General Obligation (Limited Tax Convertible to Unlimited Tax) Bonds, Series 2019A and Subordinate General Obligation Limited Tax Bond Series 2019B in the approximate aggregate principal amount of \$5,500,000, by which the District obligates itself to impose taxes and to pay over such taxes to East Creek Metropolitan District No. 1 ("District No.1") for the purpose of paying general obligation limited tax (convertible to unlimited tax) bonds to be issued by District No. 1.

CONSTRUCTION MATTERS

2018 Development / Construction Outlook: There was nothing new to report to the Board.

RECORD OF PROCEEDINGS

OTHER BUSINESS

There was no other business for discussion at this time.

ADJOURNMENT

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

Respectfully submitted,

By _____
Secretary for the Meeting



MEMORANDUM

To: Special District Board of Directors
From: McGeady Becher
Date: October 23, 2019
Re: Legislative Changes to Public Meeting Notice Requirements

Introduction

The Colorado legislature recently passed House Bill 19-1087 (“HB 19-1087”) which changes public meeting notice requirements of local public bodies, including counties, municipalities and special districts. The intent of the legislation is for local governments to transition from posting notices of public meetings in physical locations to posting notices online at the local government’s website, social media account or other official online presence of the local government.

Under Colorado’s Open Meetings Law, a local government is deemed to have given full and timely notice so long as the notice of the meeting is posted in a designated public place within the boundaries of the local government (“**Designated Public Place**”) no less than 24 hours prior to the holding of the meeting (see Section 24-6-402(2)(c)(I), C.R.S.). This provision remains the same in HB 19-1087. However, with the passage of HB 19-1087, special districts will no longer have the additional requirement under Title 32 to post notices in three different places within the boundaries of the district and at the office of the local county clerk and recorder. In addition, special districts will no longer be required to post notices of special board meetings be at least 72 hours prior to the meeting. Instead, special meetings will now have the same 24-hour posting requirements as regular meetings.

New Public Meeting Notice Requirements pursuant to HB 19-1087

With the passage of HB 19-1087, effective as of August 2, 2019, special districts have the option of satisfying the public notice requirements of the Open Meetings Law and Title 32 by posting notices of regular and special meetings, with specific agenda information if available, on a public website of the special district (“**District Website**”) instead of posting at the Designated Public Place at least 24 hours in advance of the meeting. If a district is unable to post a notice on its District Website--for example, if a district is in the process of establishing the website--the

district will be deemed to have given full and timely notice if it posts its meeting notices in the Designated Public Place at least 24 hours prior to the meeting.

When meeting notices are posted online, they must be posted on a public website of the local government. The notices must be accessible to the public at no charge. To the extent feasible, the local government shall make the notices searchable by type of meeting, date of meeting, time of meeting and agenda contents, and shall consider linking the notices to any appropriate social media accounts of the local government.

Establishing a District Website

The legislature recognizes that a number of factors may affect a local government's ability to easily establish a website and post meeting notices online, including the availability of reliable broadband, the lack of cellular telephone and other data services, and fiscal or staffing constraints of local governments. Accordingly, the legislature encourages local governments to avail themselves of existing public resources for creating a website and receiving content management assistance from the Colorado Statewide Internet Portal Authority ("SIPA") or other statewide associations representing local government entities. The SIPA website is at www.colorado.gov/sipa.

A question has arisen as to whether posting public meeting notices on the website of a district management company will satisfy the public notice requirement. Posting meeting notices on the website of a district management company will most likely not satisfy the posting requirements of Colorado's Open Meetings Law, as amended by HB 19-1087. The legislation specifies that a local public body will be deemed to have given full and timely notice when the meeting notice is posted *on a public website of the local public body* (emphasis added). This language is repeated several times throughout the bill. When read in concert with the provision of HB 19-1087 encouraging local governments to avail themselves of free public resources such as SIPA when creating their websites, it is reasonable to conclude that the legislature intends a local government to post meeting notices on its own public website in order to satisfy public notice requirements.

Designate a Physical Posting Location

A local government must identify a Designated Public Place within its boundaries at which it may physically post its regular and special meeting notices at least 24 hours prior to the meetings. If the local government has not yet established a website, it must post meeting notices at the Designated Public Place. If it has a website and posts meeting notices online, it may also choose to post at the Designated Public Place at its discretion. However, if an exigent or emergency circumstance such as a power outage or interruption in internet service occurs which would prevent online posting 24 hours prior to the meeting, the local government must post at the Designated Public Place in order to give proper notice.

Recommended Action

The legislature will be closely monitoring the transition to providing notices of public meetings online over the next two years and, if significant progress is not made, it will enact legislation mandating the online posting, except in very narrow circumstances that are beyond the control of a local government.

In light of the passage of HB 19-1087, which will be codified as Section 24-6-402(2)(c)(I)-(IV), C.R.S. and will amend Section 32-1-903(2), C.R.S., we recommend our special district clients do the following:

1. Approve a resolution to establish a District Website and designate location for 24-hour posting.

2. Establish a District Website if such website does not already exist.

a. Should a district need assistance in creating its District Website or receiving content management assistance, it is encouraged to avail itself of existing public resources such as SIPA at www.colorado.gov/sipa.

3. Beginning August 2, 2019, post regular and special meeting notices and the meeting agenda on the district website at least 24 hours prior to the meeting.

a. To the extent feasible, the notices shall be searchable by type of meeting, date of meeting, time of meeting and agenda contents and shall be linked to any appropriate social media accounts of the district;

b. Although HB 19-1087 requires posting of specific agenda information *if available* (emphasis added), our special district clients should continue to post the meeting agenda 24 hours prior to meetings because of conflicts requirements.

c. Note: the requirement to file conflict disclosures with the Secretary of State at least 72 hours prior to a regular and special meeting pursuant to Section 32-1-902(3)(b) is not affected by HB 19-1087 and remains the same.

4. Designate a physical posting location within the district's boundaries—the Designated Public Place—for posting of meeting notices at least 24 hours before a meeting if the district has not yet established a District Website or if the district cannot post online due to exigent or emergency circumstances.

5. Provide the address of the District Website to the Colorado Department of Local Affairs.

Please contact McGeady Becher P.C. with any questions related to HB 19-1087 or this Memorandum.



**ELIGIBLE GOVERNMENTAL ENTITY AGREEMENT BETWEEN
THE STATEWIDE INTERNET PORTAL AUTHORITY OF THE STATE OF
COLORADO AND EAST CREEK METROPOLITAN DISTRICT NO. 2**

This Eligible Governmental Entity Agreement ("Agreement") by and between the Colorado Statewide Internet Portal Authority ("SIPA"), and East Creek Metropolitan District No. 2 ("EGE") (each a "Party" and collectively "Parties"), is made and entered into on this _____ day of _____, 2019.

RECITALS

WHEREAS, SIPA and EGE wish to enter into a cooperative agreement under which services can be provided at the discretion of both Parties; and

WHEREAS, pursuant to § 24-37.7-105 C.R.S., SIPA operates to provide electronic access for members of the public, state agencies, and local governments to electronic information, products, and services; and

WHEREAS, pursuant to §§ 24-37.7-102 and 24-37.7-104, C.R.S., SIPA operates as a political subdivision of the State of Colorado; and

WHEREAS, pursuant to § 24-37.7-104, SIPA is authorized to enter into agreements and contracts with state agencies and local governments, and all state agencies and local governments are authorized to enter into and do all things necessary to perform any such arrangements or contracts; and

WHEREAS, § 29-1-203, C.R.S., authorizes local governments to cooperate or contract with each other to provide any function or service lawfully authorized to each other; and

WHEREAS, SIPA provides for the dissemination, sharing, and use of information, products, and services via the internet; and

WHEREAS, neither Party is committing funds or required to perform services as part of this agreement; and

WHEREAS, SIPA has entered into certain contracts with its contractors to operate the Colorado.gov Portal and to provide an array of electronic information, products, and services via the internet (e.g., "Colorado Statewide Internet Portal Authority Portal Integrator Contract with Colorado Interactive, LLC", as may be amended (hereinafter "Master Contract") and "COPE

Master Contract With Implementation Contractor to Support SaaS Collaboration, Office Productivity, & Email Solution" (hereinafter "COPE Contract") and other contracts to expand its array of electronic information, products, and services available to EGE; and

WHEREAS, SIPA will provide applications and services to EGE pursuant to Task Orders, Statements of Work, Work Orders; or any agreed-upon documentation under this Agreement; and

WHEREAS, a Task Order, Statement of Work, Work Order, or other agreed-upon documentation will be prepared for each application or service and mutually signed by SIPA and EGE;

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, SIPA and EGE agree as follows:

1. EGE shall make available to SIPA electronic information maintained and owned by EGE as is necessary to complete the agreed-upon work as set forth in a Work Order, Task Order, Statement of Work, or any agreed-upon documentation under this Agreement. As mutually agreed upon in subsequent Work Orders, Task Orders, Statements of Work, or any other agreed-upon documentation under this Agreement, EGE will provide reasonable levels of support in placing online with SIPA certain EGE-owned electronic information, as mutually agreed by EGE and SIPA, with due regard to the workload and priorities of EGE and SIPA.
2. SIPA may, with the authorization of EGE, through the Portal, make public electronic information made available to it available to the general public, including EGE's public electronic information. The Parties agree to use their best efforts to provide adequate and uninterrupted service under the terms of this Agreement. However, neither Party shall be liable for interruption of service when the same shall be due to circumstances beyond the reasonable control of either Party, its agents or employees, including but not limited to unanticipated equipment malfunction, periodic maintenance or update of the computer systems upon which such EGE electronic information reside, or interruption of service due to problems with the Colorado statewide area network or due to problems with any telecommunications provider.
3. SIPA and EGE may enter into Task Orders, Purchase Orders, Statements of Work, or any agreed-upon documentation under this Agreement. Task Orders, Purchase Orders, Statements of Work, or any agreed-upon documentation under this Agreement shall describe specific Services and/or Applications to be provided to EGE. EGE acknowledges that Services and/or Applications are usually offered by SIPA's contractors. Task Orders, Purchase Orders, Statements of Work, or any agreed-upon documentation shall cover the purchase of goods and services from SIPA through the use of EGE funds. All Task Orders, Purchase Orders, Statements of Work, or any agreed-upon documentation involving EGE funds may be approved by the EGE official with authority to execute such agreement. Task Orders, Purchase Orders, Statements of Work, or any agreed-upon documentation shall contain specific time or performance milestones for SIPA's contractor(s), timelines for completion of relevant Task Orders, Purchase Orders, Statements of Work, or any agreed-upon documentation, including design specifications and other criteria relevant to the completion of applicable Task Orders, Purchase Orders, Statements of Work, or any

agreed-upon documentation, criteria and procedures for acceptance by EGE and remedying incomplete or inaccurate work for each phase of relevant Task Orders, Purchase Orders, Statements of Work, or any agreed-upon documentation.

4. SIPA shall be responsible for the operation of, and all costs and expenses associated with, establishing and maintaining electronic access to EGE electronic information, databases or other software applications, including (but without limitation) the cost of purchasing, developing, and maintaining programs used to interface with EGE software applications that provide access to EGE-owned electronic information, products, and services. EGE acknowledges SIPA may at its discretion use Contractors to perform certain obligations. EGE's maximum financial obligation for establishing and maintaining electronic access to EGE databases or other software applications shall be limited to the amount(s) set forth and appropriated pursuant to each individual Work Order, Task Order, Statement of Work, or any agreed-upon documentation under this Agreement.
5. Each Party shall have the right to terminate this Agreement by giving the other Party 10 days' written notice. Unless otherwise specified in such notice, this Agreement will terminate at the end of such 10-day period, and the liabilities of the Parties hereunder for further performance of the terms of this Agreement shall thereupon cease, but the Parties shall not be released from any duty to perform up to the date of termination. Work authorized under an individual Work Order, Task Order, Statement of Work or any other agreed-upon documentation under this Agreement, will be subject to the terms and conditions of that document.
6. None of the terms or conditions of this Agreement gives or allows any claim, benefit, or right of action by any third person not a party hereto. Nothing in this Agreement shall be deemed as any waiver of immunity or liability limits granted to SIPA or EGE by the Colorado Governmental Immunity Act or any similar statutory provision.
7. This Agreement (and related Task Orders, Work Orders, Statements of Work, and agreed-upon documentation) constitutes the entire agreement of the parties hereto and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended, modified, or changed, in whole or part, only by written agreement approved by each party.
8. Neither SIPA nor its contractors have responsibility for the accuracy or completeness of the electronic information contained within EGE's databases. SIPA and its contractors shall be responsible only for the accurate and complete transmission of electronic information to and from such EGE databases, in accordance with the specifications of any EGE-owned software. For the purposes of the Colorado Open Records Act, EGE shall at all times be the custodian of records. Neither SIPA nor its contractors shall be deemed to be either the custodian of records or the custodian's agent.
9. This Agreement and any written amendments thereto may be executed in counterpart, each of which shall constitute an original and together, which shall constitute one and the same agreement. Delivery of an executed signature page of this Agreement by facsimile or email

transmission will constitute effective and binding execution and delivery of this Agreement.

10. Confidential information for the purpose of this Agreement is information relating to SIPA's or EGE's research, development, trade secrets, business affairs, internal operations, management procedures, and information not disclosable to the public under the Colorado Open Records Act or some other law or privilege. Confidential information does not include information lawfully obtained through third parties, which is in the public domain, or which is developed independently without reference to a Party's confidential information. Neither Party shall use or disclose, directly or indirectly, without prior written authorization, any confidential information of the other. SIPA shall use its reasonable best efforts to ensure that its contractors protect EGE confidential information from unauthorized disclosure. Notwithstanding anything to the contrary herein, each Party acknowledges that given the subject matter of this Agreement, such Party shall not disclose confidential information of the other (whether in written or electronic form) to any third party, except as required by law or as necessary to carry out the specific purpose of this Agreement; provided, however, that if such disclosure is necessary, any third party who receives such confidential information shall also be bound by the nondisclosure provisions of this Section 10. Upon termination of this Agreement, the Parties shall return or destroy (at the other Party's request) all confidential information of the other and if such information is destroyed, each Party shall demonstrate evidence of such destruction to the other.

11. Miscellaneous Provisions

A. Independent Authority. SIPA shall perform its duties hereunder as an independent authority and not as an employee of EGE. Neither SIPA nor any agent or employee of SIPA shall be deemed to be an agent or employee of EGE. SIPA and its agents shall pay when due all required employment taxes and income tax and local head tax on any monies paid by EGE pursuant to this Agreement. SIPA acknowledges that SIPA and its employees or agents are not entitled to EGE employment or unemployment benefits unless SIPA or a third party provides such benefits and that EGE does not pay for or otherwise provide such benefits. SIPA shall have no authorization, express or implied, to bind EGE to any agreements, liability, or understanding except as expressly authorized by EGE. SIPA and its agents shall provide and keep in force workers' compensation (and provide proof of such insurance when requested by EGE) and unemployment compensation insurance in the Agreement required by law, and shall be solely responsible for the acts of SIPA, its employees and agents.

B. Non-discrimination. SIPA agrees to comply with the letter and the spirit of all applicable state and federal laws respecting illegal discrimination and unfair employment practices.

C. Choice of Law. The laws of the State of Colorado (except Colorado laws related to choice of law or conflict of law) and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution, and enforcement of this Agreement. At all times during the performance of this Agreement, SIPA shall strictly adhere to all applicable

federal and state laws, rules, and regulations that have been or may hereafter be established. Any legal action related to this Agreement shall be brought in either a state or federal court within the City and County of Denver, Colorado.

D. Software Piracy Prohibition. No State or other public funds payable under this Agreement shall knowingly be used for the acquisition, operation, or maintenance of computer software in violation of United States copyright laws or applicable licensing restrictions. SIPA hereby certifies that, for the term of this Agreement and any extensions, SIPA has in place appropriate systems and controls to prevent such improper use of public funds. If EGE determines that SIPA is in violation of this paragraph, EGE may exercise any remedy available at law or equity or under this Agreement, including, without limitation, immediate termination of the Agreement and any remedy consistent with United States copyright laws or applicable licensing restrictions.

F. Notices. All notices required or permitted under this Agreement shall be in writing and delivered personally, by facsimile, by email or by first class certified mail, return receipt. If delivered personally, notice shall be deemed given when actually received. If delivered by facsimile or email, notice shall be deemed given upon full transmission of such notice and confirmation of receipt during regular business hours. If delivered by mail, notice shall be deemed given at the date and time indicated on the return receipt. Notices shall be delivered to:

If to SIPA:

Statewide Internet Portal Authority

Attn: EGE Administrator

Street Address: 1300 Broadway, Suite 440

City, State, Zip: Denver, CO 80203

Phone: (720) 409-5634

Fax: (720) 409-5642

Email: sipa@cosipa.gov

If to EGE: East Creek Metropolitan District No. 2

c/o Special District Management Services, Inc.

Attn: Lisa A. Johnson, District Manager

Street Address: 141 Union Boulevard, Suite 150

City, State, Zip: Lakewood, CO, 80228

Phone: 303/987-0835

Fax: 303/987-2032

Email: ljohnson@sdmsi.com

And/or: McGeady Becher P.C.

Attn: Paula Williams, Esq.

Street Address: 450 E. 17th Avenue, Suite 400

City, State, Zip: Denver, CO 80203

Phone: 303/592-4380

Fax: 303/592-4385

Email: pwilliams@specialdistrictlaw.com

And to other address or addresses as the parties may designate in writing.

G: Third Party Beneficiary: EGE shall enjoy those rights of a third party as may be set forth expressly in any contract between SIPA and its contractors under which SIPA provides electronic information, products, and services to EGE, including the Master Contract Section 20.M., as may be amended.

H. Disputes. Any failure of either Party to perform in accordance with the terms of this Agreement shall constitute a breach of the Agreement. Any dispute concerning the performance of this Agreement which cannot be resolved at the operational level shall be referred to superior management and staff designated by each Party. Failing resolution at this level, EGE may ask the SIPA Board of Directors to address the dispute. If the dispute is not resolved after reference to the SIPA Board of Directors, the Parties may use whatever procedures may be available, including but not limited to termination of the Agreement.

This Agreement is entered into as of the day and year set forth above.

_____ Date: _____

Name:

Title:

Entity: Statewide Internet Portal Authority

_____ Date: _____

Name: Glenn Nier

Title: President

Entity: East Creek Metropolitan District No. 2

Address: 141 Union Boulevard, Suite 150, Denver, CO 80228

Phone: 303/987-0835

Email: ljohnson@sdmsi.com -- glenn.nier@meritagehomes.com



PK Kaiser, MBA, MS

Assessor

OFFICE OF THE ASSESSOR
5334 S. Prince Street
Littleton, CO 80120-1136
Phone: 303-795-4600
TDD: Relay-711
Fax:303-797-1295
www.arapahoegov.com/assessor

August 23, 2019

AUTH 4263 EAST CREEK METROPOLITAN
DISTRICT #2
SPECIAL DISTRICT MANAGEMENT
SERVICES INC
C/O LISA A JOHNSON
141 UNION BLVD SUITE 150
LAKEWOOD CO 80228

Code # 4263

CERTIFICATION OF VALUATION

The Arapahoe County Assessor reports a taxable assessed valuation for your taxing entity for 2019 of:

\$490,237

The breakdown of the taxable valuation of your property is enclosed.

As further required by CRS 39-5-128(1), you are hereby notified to officially certify your levy to the Board of County Commissioners no later than December 15.

CRS 39-1-111(5) requires that this office transmit a notification by December 10 of any changes to valuation made after the original certification.

PK Kaiser, MBA, MS
Arapahoe County Assessor

enc

CERTIFICATION OF VALUATION BY ARAPAHOE COUNTY ASSESSOR

New Tax Entity

YES NO

Date: August 23, 2019

NAME OF TAX ENTITY: EAST CREEK METRO DISTRICT #2

USE FOR STATUTORY PROPERTY TAX REVENUE LIMIT CALCULATION ("5.5%" LIMIT) ONLY

IN ACCORDANCE WITH 39-5-121(2)(a) AND 39-5-128(1), C.R.S., AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES THE TOTAL VALUATION FOR ASSESSMENT FOR THE TAXABLE YEAR 2019:

1. PREVIOUS YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	1.	\$		23,484
2. CURRENT YEAR'S GROSS TOTAL TAXABLE ASSESSED VALUATION: †	2.	\$		490,237
3. LESS TOTAL TIF AREA INCREMENTS, IF ANY:	3.	\$		0
4. CURRENT YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	4.	\$		490,237
5. NEW CONSTRUCTION: *	5.	\$		0
6. INCREASED PRODUCTION OF PRODUCING MINE: ≈	6.	\$		0
7. ANNEXATIONS/INCLUSIONS:	7.	\$		0
8. PREVIOUSLY EXEMPT FEDERAL PROPERTY: ≈	8.	\$		0
9. NEW PRIMARY OIL OR GAS PRODUCTION FROM ANY PRODUCING OIL AND GAS LEASEHOLD OR LAND (29-1-301(1)(b), C.R.S.): Φ	9.	\$		0
10. TAXES RECEIVED LAST YEAR ON OMITTED PROPERTY AS OF AUG. 1 (29-1-301(1)(A), C.R.S.). Includes all revenue collected on valuation not previously certified:	10.	\$		0
11. TAXES ABATED AND REFUNDED AS OF AUG. 1 (29-1-301(1)(a), C.R.S.) and (39-10-114(1)(a)(I)(B), C.R.S.):	11.	\$		0

- ‡ This value reflects personal property exemptions IF enacted by the jurisdiction as authorized by Art. X, Sec 20(8)(b), Colo. Constitution
- * New construction is defined as: Taxable real property structures and the personal property connected with the structure.
- ≈ Jurisdiction must submit to the Division of Local Government respective Certifications of Impact in order for the values to be treated as growth in the limit calculation; use Forms DLG 52 & 52A.
- Φ Jurisdiction must apply to the Division of Local Government before the value can be treated as growth in the limit calculation; use Form DLG 52B.

USE FOR TABOR "LOCAL GROWTH" CALCULATION ONLY
--

IN ACCORDANCE WITH ART X, SEC.20, COLO. CONSTITUTION AND 39-5-121(2)(b), C.R.S., THE ASSESSOR CERTIFIES THE TOTAL ACTUAL VALUATION FOR THE TAXABLE YEAR 2019:

1. CURRENT YEAR'S TOTAL ACTUAL VALUE OF ALL REAL PROPERTY: ¶	1.	\$		1,690,472
ADDITIONS TO TAXABLE REAL PROPERTY				
2. CONSTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS:	2.	\$		0
3. ANNEXATIONS/INCLUSIONS:	3.	\$		0
4. INCREASED MINING PRODUCTION: §	4.	\$		0
5. PREVIOUSLY EXEMPT PROPERTY:	5.	\$		0
6. OIL OR GAS PRODUCTION FROM A NEW WELL:	6.	\$		0
7. TAXABLE REAL PROPERTY OMITTED FROM THE PREVIOUS YEAR'S TAX WARRANT: (If land and/or a structure is picked up as omitted property for multiple years, only the most current year's actual value can be reported as omitted property.):	7.	\$		0

DELETIONS FROM TAXABLE REAL PROPERTY

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

- ¶ This includes the actual value of all taxable real property plus the actual value of religious, private school, and charitable real property.
- * Construction is defined as newly constructed taxable real property structures.
- § Includes production from new mines and increases in production of existing producing mines.

IN ACCORDANCE WITH 39-5-128(1), C.R.S., AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES TO SCHOOL DISTRICTS:

1. TOTAL ACTUAL VALUE OF ALL TAXABLE PROPERTY	1.	\$		0
---	----	----	--	---

NOTE: ALL LEVIES MUST BE CERTIFIED TO THE COUNTY COMMISSIONERS NO LATER THAN DECEMBER 15.

EAST CREEK METROPOLITAN DISTRICT NO. 2
Assessed Value, Property Tax and Mill Levy Information

	2018 Actual	2019 Adopted Budget	2020 Preliminary Budget
Assessed Valuation	\$ -	\$ 23,484	\$ 490,237
Mill Levy			
General Fund	-	40.000	10.000
Debt Service Fund	-	-	30.000
Aurora Regional Improvement (ARI)	-	-	1.000
Total Mill Levy	<u>-</u>	<u>40.000</u>	<u>41.000</u>
Property Taxes			
General Fund	\$ -	\$ 939	\$ 4,902
Debt Service Fund	-	-	14,707
Aurora Regional Improvement (ARI)	-	-	490
Actual/Budgeted Property Taxes	<u>\$ -</u>	<u>\$ 939</u>	<u>\$ 20,099</u>

EAST CREEK METROPOLITAN DISTRICT NO. 2

**GENERAL FUND
2020 Preliminary Budget
with 2018 Actual, 2019 Adopted Budget, and 2019 Estimated**

	2018 Actual	01/19-09/19 YTD Actual	2019 Adopted Budget	2019 Estimated	2020 Preliminary Budget
BEGINNING FUND BALANCE	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUE					
Property Tax Revenue	-	934	939	939	4,902
Specific Ownership Taxes	-	42	-	56	294
Developer Advance	-	-	50,000	-	-
ARI Fee	-	-	-	-	490
Total Funds Available	-	976	50,939	995	5,686
EXPENDITURES					
Accounting	-	-	8,000	-	-
Management	-	-	15,000	-	-
Audit	-	-	1,000	-	-
Election	-	-	-	-	-
Legal	-	-	15,000	-	-
Director's Fees	-	-	-	-	-
Insurance/SDA Dues	-	-	3,500	-	-
Miscellaneous	-	-	3,000	-	-
Treasurer's Fees	-	-	-	14	74
Contingency	-	-	3,000	-	-
Total Expenditures	-	-	48,500	14	74
Transfers and Other Uses					
Emergency Reserve	-	-	1,500	-	-
Transfer to District No.1	-	-	-	981	5,124
ARI Fee	-	-	-	-	490
Total Expenditures Requiring Appropriation	-	-	50,000	14	5,688
ENDING FUND BALANCE	\$ -	\$ 976	\$ 939	\$ -	\$ -

EAST CREEK METROPOLITAN DISTRICT NO. 2

**DEBT SERVICE FUND
2020 Preliminary Budget
with 2018 Actual, 2019 Adopted Budget, and 2019 Estimated**

	2018 Actual	01/19-09/19 YTD Actual	2019 Adopted Budget	2019 Estimated	2020 Preliminary Budget
BEGINNING FUND BALANCE	\$ -	\$ -	\$ -	\$ -	\$ -
REVENUE					
Property Tax Revenue	-	-	-	-	14,707
Specific Ownership Tax	-	-	-	-	882
Total Revenue	-	-	-	-	15,589
Total Funds Available	-	-	-	-	15,589
EXPENDITURES					
Treasurer's Fees	-	-	-	-	221
Total Expenditures	-	-	-	-	221
Transfer to District No. 1					15,369
Total Expenditures Requiring Appropriation	-	-	-	-	15,590
ENDING FUND BALANCE	\$ -	\$ -	\$ -	\$ -	\$ -

RESOLUTION NO. 2019 - 10 - ____
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST CREEK METROPOLITAN DISTRICT NO. 2
TO ADOPT THE 2020 BUDGET AND APPROPRIATE SUMS OF MONEY

WHEREAS, the Board of Directors of the East Creek Metropolitan District No. 2 ("District") has appointed the District Accountant to prepare and submit a proposed 2020 budget to the Board at the proper time; and

WHEREAS, the District Accountant has submitted a proposed budget to this Board on or before October 15, 2019, for its consideration; and

WHEREAS, upon due and proper notice, published or posted in accordance with the law, said proposed budget was open for inspection by the public at a designated place, a public hearing was held on October 28, 2019, and interested electors were given the opportunity to file or register any objections to said proposed budget; and

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

WHEREAS, whatever increases may have been made in the expenditures, like increases were added to the revenues so that the budget remains in balance, as required by law.

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

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Creek Metropolitan District No. 2:

1. That the budget as submitted, amended, and summarized by fund, hereby is approved and adopted as the budget of the East Creek Metropolitan District No. 2 for the 2020 fiscal year.
2. That the budget, as hereby approved and adopted, shall be certified by the Secretary of the District to all appropriate agencies and is made a part of the public records of the District.

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

ADOPTED this 28th day of October, 2019.

Secretary

(SEAL)

EXHIBIT A
(Budget)

I, Lisa A. Johnson, hereby certify that I am the duly appointed Secretary of the East Creek Metropolitan District No. 2, and that the foregoing is a true and correct copy of the budget for the budget year 2020, duly adopted at a meeting of the Board of Directors of the East Creek Metropolitan District No. 2 held on October 28, 2019.

By: _____

RESOLUTION NO. 2019 - 10 - ____
A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE EAST CREEK METROPOLITAN DISTRICT NO. 2
TO SET MILL LEVIES

WHEREAS, the Board of Directors of the East Creek Metropolitan District No. 2 (“District”) has adopted the 2020 annual budget in accordance with the Local Government Budget Law on October 28, 2019; and

WHEREAS, the adopted budget is attached to the Resolution of the Board of Directors to Adopt the 2020 Budget and Appropriate Sums of Money, and such budget is incorporated herein by this reference; and

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

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

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Creek Metropolitan District No. 2:

1. That for the purposes of meeting all general fund expenses of the District during the 2020 budget year, the District determined to levy mills upon each dollar of the total valuation for assessment of all taxable property within the District, as set forth in the budget, to raise the required revenue.

2. That for the purposes of meeting all debt service fund expenses of the District during the 2020 budget year, the District determined to levy mills upon each dollar of the total valuation for assessment of all taxable property within the District, as set forth in the budget, to raise the required revenue.

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

ADOPTED this 28th day of October, 2019.

Secretary

(SEAL)

EXHIBIT A
(Certification of Tax Levies)

RESOLUTION NO. 2019-10-_____

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
EAST CREEK METROPOLITAN DISTRICT NO. 2
CALLING A REGULAR ELECTION FOR DIRECTORS
MAY 5, 2020**

A. The terms of the offices of Directors Michael Bird and Matthew Larsen shall expire upon the election of their successors at the regular election, to be held on May 5, 2020 (“**Election**”), and upon such successors taking office.

B. A vacancy currently exists on the Board of Directors of the District.

C. In accordance with the provisions of the Special District Act (“**Act**”) and the Uniform Election Code (“**Code**”), the Election must be conducted to elect one (1) Director to serve until the next regular election, to occur May 3, 2022, and two (2) Directors to serve until the second regular election, to occur May 2, 2023.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the East Creek Metropolitan District No. 2 (the “**District**”) of the County of Arapahoe, Colorado:

1. Date and Time of Election. The Election shall be held on May 5, 2020, between the hours of 7:00 A.M. and 7:00 P.M. pursuant to and in accordance with the Act, Code, and other applicable laws. At that time, one (1) Directors shall be elected to serve until the next regular election, to occur May 3, 2022, and two (2) Directors shall be elected to serve until the second regular election, to occur May 2, 2023.

2. Precinct. The District shall consist of one (1) election precinct for the convenience of the eligible electors of the District.

3. Conduct of Election. The Election shall be conducted as an independent mail ballot election in accordance with all relevant provisions of the Code. The Designated Election Official shall have on file, no later than fifty-five (55) days prior to the Election, a plan for conducting the independent mail ballot Election.

4. Designated Election Official. Lisa Johnson shall be the Designated Election Official and is hereby authorized and directed to proceed with any action necessary or appropriate to effectuate the provisions of this Resolution and of the Act, Code or other applicable laws. The Election shall be conducted in accordance with the Act, Code and other applicable laws. Among other matters, the Designated Election Official shall appoint election judges as necessary, arrange for the required notices of election (either by mail or publication) and printing of ballots, and direct that all other appropriate actions be accomplished.

5. Absentee Ballot Applications. NOTICE IS FURTHER GIVEN, pursuant to Section 1-13.5-1002, C.R.S., that applications for and return of absentee ballots may be filed with the Designated Election Official of the District, c/o Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228, between the hours of 8:00

a.m. and 5:00 p.m., until the close of business on the Tuesday immediately preceding the Election (April 28, 2020).

6. Self-Nomination and Acceptance Forms. Self-nomination and acceptance forms are available at the office of the Designated Election Official located at the above address. All candidates must file a self-nomination and acceptance form with the Designated Election Official no later than 3:00 P.M. on February 28, 2020.

7. Cancellation of Election. If the only matter before the electors is the election of Directors of the District and if, at 5:00 P.M. on March 3, 2020, there are not more candidates than offices to be filled at the Election, including candidates timely filing affidavits of intent, the Designated Election Official shall cancel the Election and declare the candidates elected. Notice of such cancellation shall be published and posted in accordance with law.

8. Severability. If any part or provision of this Resolution is adjudged to be unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution, it being the Board of Director's intention that the various provisions hereof are severable.

9. Repealer. All acts, orders and resolutions, or parts thereof, of the Board of Directors which are inconsistent or in conflict with this Resolution are hereby repealed to the extent only of such inconsistency or conflict.

10. Effective Date. The provisions of this Resolution shall take effect as of the date adopted and approved by the Board of Directors of the District.

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO RESOLUTION
CALLING A REGULAR ELECTION FOR DIRECTORS
MAY 5, 2020]**

RESOLUTION APPROVED AND ADOPTED on October ____, 2019.

**EAST CREEK METROPOLITAN
DISTRICT NO. 2**

By: _____
President

Attest:

Secretary