

# **EBERT METROPOLITAN DISTRICT**

c/o Special District Solutions, Inc.  
2370 Antelope Ridge Trail  
Parker, CO 80138  
303-662-1999

<https://www.ebertmetrodistrict.org/>

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## **Special Meeting Notice & Agenda**

### **Board of Directors**

### **Term Expires**

Bruce Shibles, President & Co-Treasurer	May 2025
Cynthia Barclae, Secretary	May 2025
Louis Kennedy, Treasurer	May 2027
Katherine Haynes, Assistant Secretary	May 2025*
Michael Williams, Assistant Secretary	May 2027*

*\* This term will be a two-year term at the May 2025 Election.*

**DATE:**                    **Wednesday – January 15, 2025**

**TIME:**                    **7:00 p.m.**

**LOCATION:**              **Virtual via Zoom at**  
<https://us06web.zoom.us/j/5988306396?omn=87304630224>  
**or via telephone at 719-359-4580, then 598 830 6396#, or**  
**720-707-2699, then 598 830 6396#**

1. Call to Order:
  - A. Roll Call of the Board of Directors / Declaration of a Quorum
  - B. Director Qualifications and Disclosures
2. Review and Approval of Agenda:
3. Public Comment: The Board and District staff truly value the public's input. Please keep comments restricted to the topics of the District and its business, and time limited to a maximum of three (3) minutes.

**Unfinished Business:**

4. Update on Landscape Committee Status report – Tree Replacement Strategy. (enclosure)

**New Business:**

5. Discuss and consider approval of Resolution Establishing the District’s 2025 Regular Meeting Schedule. (enclosure)
6. Discuss and consider approval of Resolution Establishing Policies, Procedures and Penalties for the Enforcement of the District’s Governing Documents. (enclosure)
  - A. Discuss and consider approval of Design Review Committee Charter.
  - B. Discuss and consider approval of Design Standards.
7. Discuss and consider approval of a Resolution establishing a Policy for the Collection and Processing of Delinquent Fees and Charges.
8. Discuss and consider appointment of an Ebert Metropolitan District representative to TCMD Board.

**Executive Session:**

1. Executive Session for the purposes of receiving legal advice on specific legal questions concerning the proposed consolidation of Town Center Metropolitan District and Ebert Metropolitan District, including the terms, timing, and election for such consolidation, tax issues related to such consolidation, the stayed litigation between Ebert Metropolitan District and Town Center Metropolitan District, and determination of positions subject to negotiations, developing strategy for negotiations, and instructing negotiators concerning said consolidation and litigation per §24-6-402(4)(a), (b), and (e)(I), C.R.S.

**Other Business:**

1. Discuss and consider approval of a Resolution approving an intergovernmental agreement with Town Center Metropolitan District for consolidation of Town Center Metropolitan District and Ebert Metropolitan District in 2025. (enclosure)

2. Discuss and consider approval of a Resolution approving procedures necessary to accomplish the consolidation of Town Center Metropolitan District and Ebert Metropolitan District.  
(enclosure)
3. Other matters that may come before the Board
4. Adjourn

**Next Regular Meeting: Tuesday - March 4, 2025 @ 7:00 p.m.**

# 2024 Landscape Committee Status Report, including plans for Tree Replacement

Town Center Metro District Landscape Committee Members:

Al Morie, Chairperson

Bill Schmidt and Joe Knopinski; TCMD Board members

Louis Kennedy, Khadija Haynes, and Mike Williams; Ebert Board members – alternating so no more than 2 at a time attended the meetings.

Jeff Shelton and Teresa Latimer; Metro District residents, Brittany Barnett and Steve Metz; Timberline District Consulting through 2024, and Sabrina Lopez, Goodwin & Co., the new District Manager starting December 2024.

In 2019 TCMD moved to establish a Landscape Committee, in conjunction with the Ebert Metro District Board, covering the entire Ebert Metro District and the TCMD Subdistricts outside the Ebert Metro District boundaries. The “Joint” Committee was initially comprised of 2 at-large representatives of both Metro Districts, and one representative from each Subdistrict, along with the TCMD District Manager.

After the initial year, there was a considerable falloff in representation. The direction and effectiveness of the Committee has varied as it struggled to attract resident volunteers from each of the subdistricts, and the effectiveness of the District Manager in terms of implementing the concerns of the committee also varied. The Ebert board withdrew in an official capacity from the committee. Aging and deterioration of the developer installed District landscaping within the Ebert Metro District contributed to Ebert filing a lawsuit against TCMD for non-performance.

In 2024 in response to the lawsuit, and a MOU between the parties, the committee was repopulated incorporating two board members from each metro district. With new resident leadership, and a new District Manager, the Joint Landscape Committee has refocused and accomplished numerous projects and established a direction for the revitalization of the appearance of the district.

Accomplishments in 2024:

- Work with a consultant to study the issues of water quality sources and its impact on tree health. The intent is to provide an economic evaluation comparing well water with recycled water costs to better inform any decision-making regarding water source supply.
- Establishment of agreed upon responsibilities for native grass area maintenance and frequency in areas around the golf course, between the golf course and TCMD.
- Clarification of native grass area maintenance and frequency in areas around the metro district beyond the area of the golf course.
- Clarification of snow removal responsibilities between Denver, TCMD, the various subdistricts, and the Golf course on the various trails and paths within the metro district.
- Removal of 334 dead trees to address the appearance of the metro district until a new plan for replacing them could be designed and funded.
- Reinforcement with district management that prior practices for replacement tree planting have not been following tree planting specification from the City of Denver, or the specification requirements for tree planting by the developer when doing the original filing buildouts, and that this practice needed to be changed to conform.
- Required the District Manager to have irrigation personnel look at many areas where the drip irrigation systems appeared to not be working.

- Implementation of a second phase plan of a multi-phase plan to refresh the planting bed landscaping throughout the Metro district.
- Establishment of a Tree Subcommittee to focus on the issue of tree death and how to successfully move forward when planting new replacements to have a better outcome with survival rates.

#### Tree Subcommittee

Members: Teresa Latimer, Chairperson; Jeff Shelton and Al Morie

One of the major issues within the districts has been the issue of tree mortality. The budgets haven't been sufficient to cover one-for-one replacement, leading to many trees that have died being left in place as a continual visual reminder of the prior replacement procedures not working. This led to the realization that all the metro district was doing, in prior years, was throwing good money after bad. Results were mixed at best. When comparing the tree planted areas within our metro district to the areas in Green Valley Ranch Metro District (GVR South), in some area within the district, and on private properties within the metro district, it was clear that outcomes in tree health were significantly different.

Issues were identified that need to be addressed as part of the recommendation to move forward with replanting trees:

- 1) Recommendations for tree species with a higher probability of survival given our environment.
- 2) Confirm Best Planting Practices to be followed – strict conformance to Denver and GVR North Development plan requirements for planting.
- 3) Soils types and their influence upon tree species to be planted in the different soils type locations.
  - a) Determine if Soil Amendments are needed at planting time
  - b) Ongoing nutrient needs as determined by the vendor responsible for monitoring tree health.
- 4) Water quality – Well Water vs. Recycled and/or Potable water.
  - a) A significant portion of the common areas are watered by a Metro District water infrastructure system that is tied into the golf course irrigation system, and controlled by the master golf course computer software irrigation control program.
    - i) Until 2024, the primary water source for this system was well water. The water was drawn from 8 wells that have adjudicated water rights.
    - ii) The quality of the well water is worse than the other water sources within the district. (Denver recycled and potable) The water has a high salinity content, and some dissolved minerals that, according to golf course personnel, interact with the minerals in the soils to prevent the ability of the tree roots to absorb water – essentially killing the trees because they don't get enough water to survive. The salinity content also affected the regular grass turf areas on the golf course. This despite the efforts of the golf course to do chemical treatment of the well water before distribution.
    - iii) During 2024, the golf course switched the water source to be primarily recycled water, with supplemental water as needed derived from the well water. They also treated the water with different chemicals in an effort to reduce/remove the salt build-up in the soils. This seasonal use will be a baseline to use for the water cost comparisons the water consultant is working on.
      - (1) Anecdotal evidence from several different sources indicates the change in water has made a significant difference in the appearance of the golf course, and the common areas around the district where this water source is used. This occurs in spite of the fact that this summer season was abnormally dry. In addition to the reported results, this season also provided a good test for the current delivery system that demonstrated it could adequately provide the need water for both the golf course and the common areas.
  - b) Some areas are serviced with Denver Water Department recycled water.

- c) Some areas are serviced with Denver Water Department potable water.
  - d) The extent of the infrastructure (meter locations, water supply piping, irrigation controllers, and the geographic areas served by each of these different water source supplies is being mapped to assist the new district management, and the landscape company responsible for the operation and maintenance of the disparate metro district irrigation systems within the district.
- 5) Maintenance practices:
- a) Mulch rings around tree bases
  - b) Staking practice, maintenance, and appropriate time for their removal.
  - c) Possibility of using tree trunk wrapping for an initial period of time after planting.
  - d) Mowing and grass trimming best practices
  - e) Monitoring of tree health after planting
    - i) Establish Planting vendor ongoing responsibilities
      - (1) Stress verification monitoring
      - (2) Insect and biologic control
      - (3) Nutritional deficiencies when apparent.
  - f) Drip Zone verification in those areas where that is primary water source for the tree(s), that the systems are working. Trees planted in tree lawns will rely exclusively on the watering regime for the adjacent turf grass.
  - g) Winter watering requirements, determination when it is necessary, and action to perform the watering.
  - h) Pruning for appearance and tree health

During the period that the dead trees were being removed, the Landscape Committee repeatedly sought and received assurances that records were being kept regarding the locations where trees had been removed. After that work was completed, we received a marked-up map of the district with “red dot” locations where trees had been removed. We used that information to build our own map that had the ability to extract data. The result was the missing tree count came to a little over 400. We used that information to inform the recommendations the tree subcommittee made for where the first phase of 100 new trees would be installed. That map is attached to this report.

The map shows significant geographic area west of Dunkirk/Himalaya Rd, and in the Ebert area southwest of Tower Road and GVR Blvd. (the CP Bedrock area) where there are no trees showing that are either dead or were removed that need to be replaced. That is simply a result of the data set we were given by Timberline and High Plains Landscaping not showing any “red dots” in those areas. The map isn’t intended to imply no tree planting work needs to be done, just that the need hasn’t been established yet.

Initial Tree Planting Location Recommendations: The 2025 budget is built around the assumption that we would have enough money to plant 100 trees for the first phase. We decided to concentrate the first phase in four areas where the most trees had been removed that have a detrimental visual affect. Within those areas, we allocated a number of trees to be planted within each area, amounting to about 50% of the total number of missing trees in each area, to try to create some instant visual affect and the beginnings of tree canopy improvement. We also took note that there are two schools in the vicinity of the proposed planting zones. During one of our earlier Landscape Committee meetings, at the suggestion of Ebert Director Haynes, she proposed the idea of attempting to involve students in projects to monitor the tree planting results as a way of improving community engagement for the Metro district.

There are a couple areas – Green Valley Ranch Blvd, and 56<sup>th</sup> Ave. where the subcommittee decided to wait until more research could be completed. The subject of the research is the winter chemicals (Mag Chloride

solutions) that Denver uses on major roadways for snow storm traffic assistance. Discussions with district management pointed to these areas being problematic, with the used chemicals affecting tree survival rates.

The tree subcommittee had several discussions about the nature of the soils that are in the metro district. Within the subcommittee member makeup, we identified two vastly different soil types that we knew from experience caused problems with certain tree species not being compatible with those soil types. In conversations with district management during landscape committee meetings in years prior to 2024, the committee had repeatedly requested soils testing be performed to ascertain if we had differences, and if there were, what those differences were. Repeatedly we were promised that would be done, but it never happened. Therefore, as part of the current effort we felt it absolutely necessary to get soils testing accomplished. We looked at several different ways to accomplish this, including sending samples that we would have to take ourselves, to CSU for lab analysis. We determined that we had no way of knowing what the costs would be, and also didn't have a comfort level with the time frame that might be involved. Brittany Barnett, the District Manager at the time, suggested we consult with Davey Tree, as they have that capability. Sabrina Lopez, the new District Manager, also had connections with Davey Tree.

In early December District Management contacted Davey Tree to ask about performing soil sampling for the purpose of identifying specific soil conditions and how conditions might affect tree species selections for future tree replacement as well as give insight as to the causes of tree death within TCMD. They responded, and indicated that we had a narrow time window to take samples before the ground freezes to get results for use as soon as possible. Matt Shovel, Certified Arborist from Davey Tree, took some preliminary soil samples along Dunkirk as well as visually inspected the entire district to get an idea of the tree population, diversity of tree species and problems that may be contributing to the rate of tree death. He contacted Sabrina to let her know what he had done, and Sabrina determined it would be a good idea to arrange a meeting with the Subcommittee and, if available, representatives with TCMD and Ebert Metro districts to review his observations and talk further about soils testing.

That meeting took place on Dec. 13, with available members of the Tree Subcommittee, Sabrina, Matt Shovel with Davey Tree, and Bill Schmidt representing TCMD.

Mr. Shovel stated that soil samples taken from the Dunkirk area showed that soil texture is favorable for growing trees. He noted that as a Certified Arborist, there are a litany of issues with the tree population but noted that not knowing past tree management plans in terms of Plant Care Health applications, winter watering, fertilization, etc. his comments were based on his visual inspection and were, at that point, his opinion.

Mr. Shovel's observations validated the Subcommittee's findings on tree deaths in TCMD. While there are many factors at play here, he felt the main cause of tree death had been mismanagement, and lack of tree health management.

Tree failure causes from his initial observations were:

- Damage from mowers and trimmers to young and newly planted trees
- Improper planting practices
- Lack of a tree health management program (winter watering, fertilization, etc.)
- Water quality (potable water vs recycled water vs well water). He stated that well water was the least preferred water source for tree health, and further noted that recycled water does have a higher salinity content than potable water. Water sources will have a role in the species selection for planting.
- Irrigation practices

Mr. Shovel's recommended implementation of a Tree Management Plan as key to improving the health of our tree population and increasing tree survival rates.

His company, Davey Tree, can provide comprehensive tree care solutions with a Tree Management Program. This service would include planting new trees, monitoring newly planted and established trees, winter watering and fertilization. Their plan would be an all-encompassing service for tree health by expert, certified arborists with the goal of improving our established tree population, and developing a canopy for future generations.

Of importance to note is that Mr. Shoval and Davey Tree have worked with GVR Metropolitan District for over twenty years. Twenty plus years ago Mr. Shoval found the conditions in the neighboring district very similar to the conditions we are now experiencing in the Ebert area - tree die-off, poor tree health etc. GVR Metropolitan District adopted a Tree Management Program and now has a healthy tree population as a result. Mr. Shovel is confident that we can improve our tree population with proper maintenance and tree health care.

The Subcommittee would like to stress that efforts to improve the health of established trees and increase survival of newly planted trees should be of the utmost importance to our district.

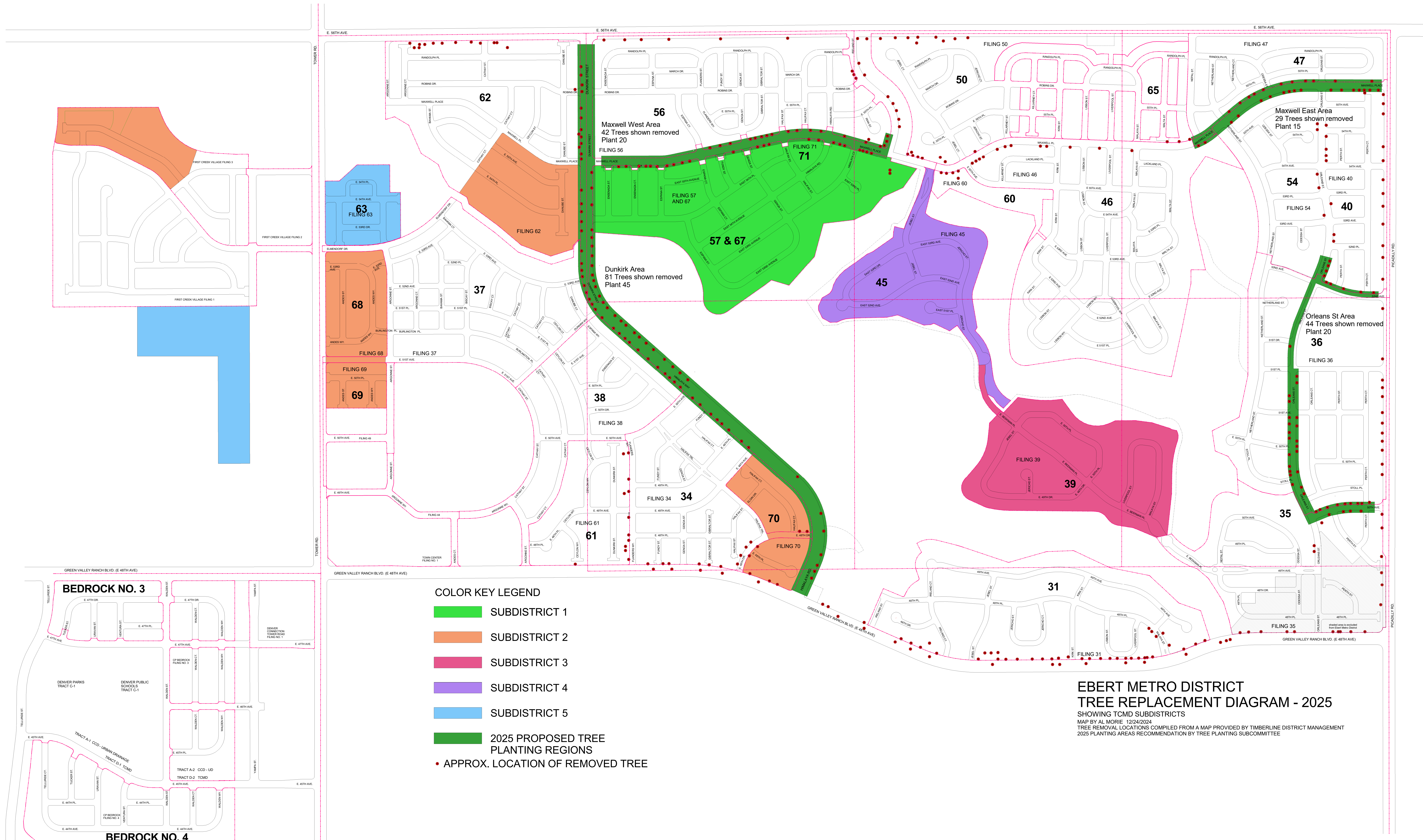
Trees are a community asset. In the past these assets have been depleted by mismanagement and lack of oversight.

During the meeting, Davey Tree was asked to perform representative soil sampling for the entire Metro district, for an agreed upon price. We also requested that Mr. Shoval submit a proposal for planting 100 trees, the incremental cost to add another 100 trees to the effort, to provide recommendations for species selection based upon the results of the soils samples and knowledge of our particular environment, and a Tree Management Plan.

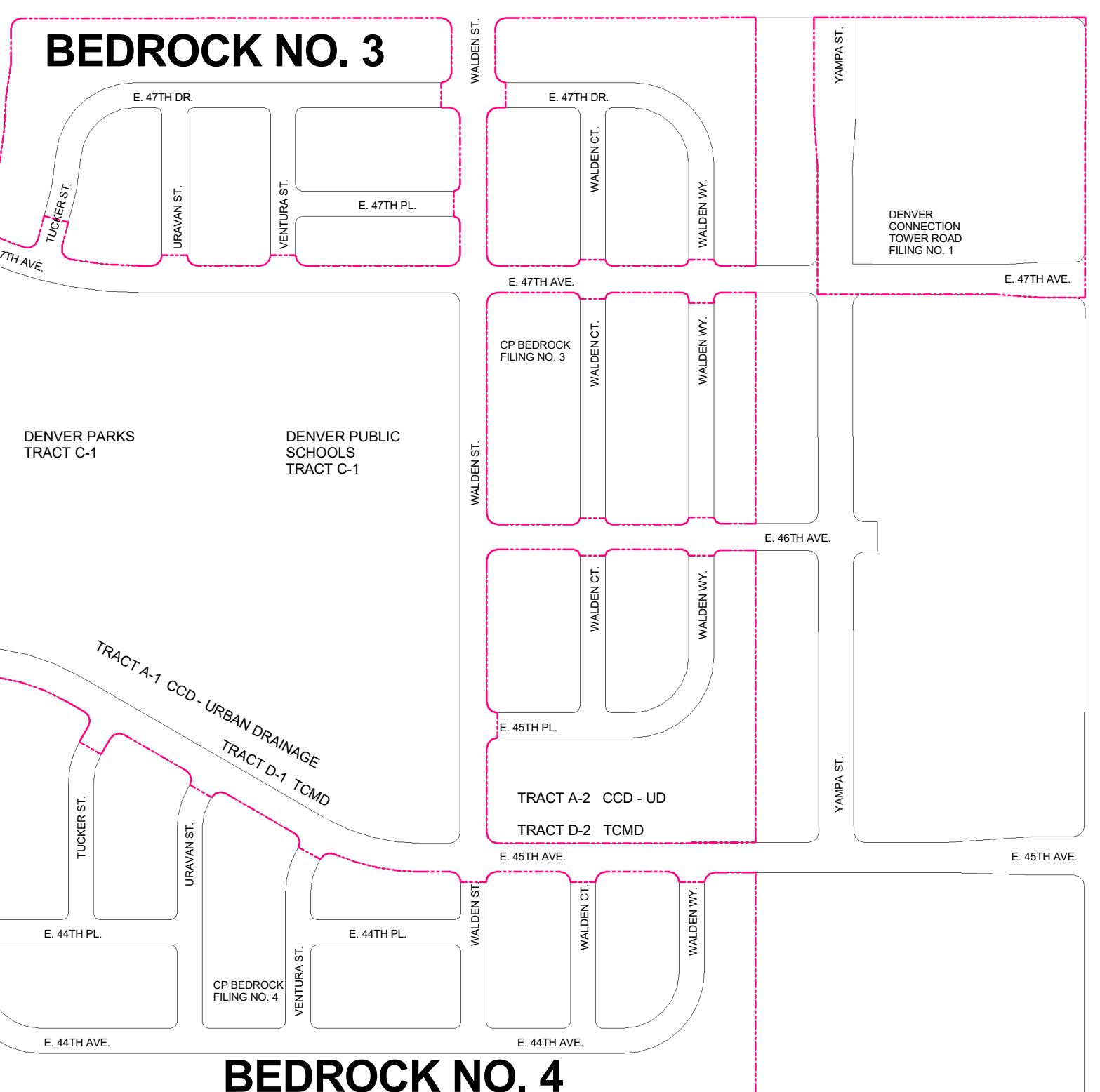
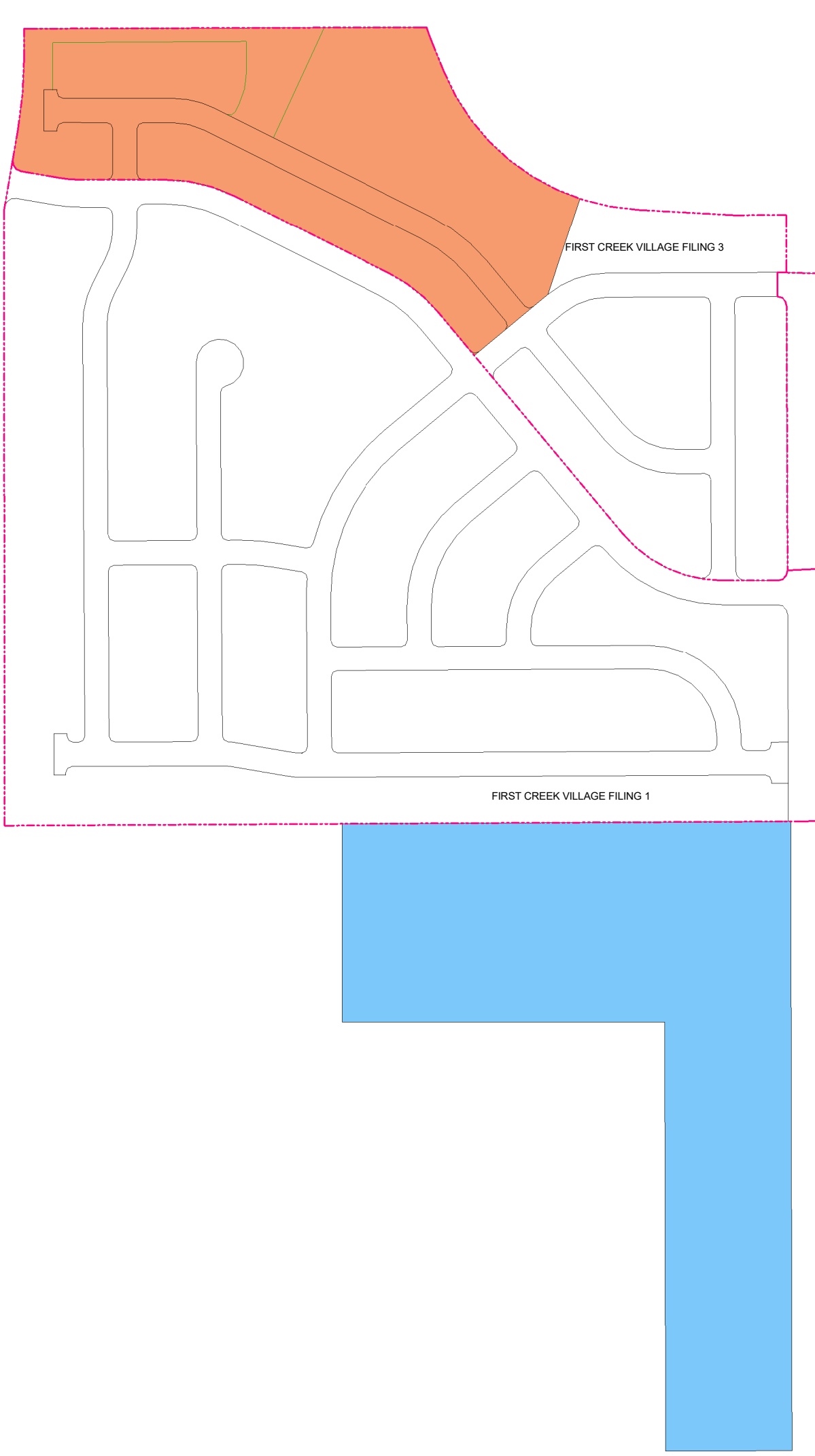
As of this time we expect to soon receive the Davey Tree proposal, and get the results of the soils tests. Once we have the proposal, the Landscape Committee will be meeting to review and determine next steps.

Lastly, there is an effort underway to update the Metro District mapping documentation for a number of different assets. One of the mapping objectives is to identify the geographic areas within the District where each of the watering sources and distribution systems are utilized, and how they are controlled. That differentiation will come into play when recommending species for planting in specific areas.





- COLOR KEY LEGEND**
- SUBDISTRICT 1
  - SUBDISTRICT 2
  - SUBDISTRICT 3
  - SUBDISTRICT 4
  - SUBDISTRICT 5
  - 2025 PROPOSED TREE PLANTING REGIONS
  - APPROX. LOCATION OF REMOVED TREE



**EBERT METROPOLOITAN DISTRICT**

**RESOLUTION 2025-01-01**

**ESTABLISHING THE REGULAR MEETING SCHEDULE  
OF THE EBERT METROPOLITAN DISTRICT BOARD OF DIRECTORS  
FOR CALENDAR YEAR 2025**

**WHEREAS**, at the first regular meeting of each calendar year the Ebert Metropolitan District ("District") Board of Directors ("Board") is required to establish a regular meeting schedule and pursuant to § 24-6-402(2)(c), C.R.S., designate the public place(s) for posting all notices of special and regular Board meetings; and

**WHEREAS**, pursuant to § 24-6-402(2)(c), C.R.S. the Board is authorized to designate the District's website as the official posting place for meeting notices as long as certain requirements are met, including but not limited to identifying an alternate posting place if the website is non-operational.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS FOR THE EBERT METROPOLITAN DISTRICT THAT:**

- (1) The regular meetings of the Board shall be conducted virtually on the following dates

March 4, 2025 at 7:00 PM.  
June 3, 2025 at 7:00 PM  
September 9, 2025 at 7:00 PM  
December 2, 2025 at 7:00 PM

- (2) Notices of all regular and special meetings of the Board shall be posted on the District's website <https://www.ebertmetrodistrict.org/> at least 24 hours prior to the scheduled meeting time. If the website is non-operational for any reason, all notices shall be posted at the Green Valley Ranch Recreation Center, 4890 Argonne Way, Denver, CO. The Board directs staff to undertake all actions necessary to comply with § 24-6-402(2)(c), C.R.S., regarding the posting and archiving of meeting notices.

Dated: January 15, 2025.

**EBERT METROPOLITAN DISTRICT**

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

Bruce Shibles, President

**ATTEST:**

\_\_\_\_\_  
Cynthia Barclae, Secretary

**RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
EBERT METROPOLITAN DISTRICT**

**Regarding Policies, Procedures and Penalties for the Enforcement of the Governing Documents**

WHEREAS, Ebert Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, pursuant to § 32-1-1004(8)(a)(II), C.R.S. and consistent with the terms and conditions of the Master Declaration of Covenants, Conditions, and Restriction for Green Valley Ranch North (the “**Covenants**”), the District has the authority to provide covenant enforcement and design review services within the District; and

WHEREAS, consistent with the Service Plan governing the Ebert Metropolitan District, as modified pursuant to the procedures established by § 32-1-207(3)(b), C.R.S. and accomplished by a) notice provided to the Denver City Council and Denver County Clerk on June 17, 2024, b) notice properly published on June 19, 2024, c) notice provided to the District Court in and for the City and County of Denver on June 19, 2024, and d) resolution passed by the District on September 10, 2024, the District is authorized to provide design review and covenant enforcement services within the District; and

WHEREAS, prior to the calendar year of 2025, design review and covenant enforcement services within the District have been provided by the Town Center Metropolitan District (“**TCMD**”) through the Second Amended and Restated District Facilities Construction, Funding and Service Agreement effective November 1, 2018 and prior agreements between the District and TCMD; and

WHEREAS, the District is proceeding to complete a consolidation with the TCMD during 2025 and at such time will become the sole entity with design review and covenant enforcement authority within the consolidated district territory; and

WHEREAS, the District and TCMD have collaboratively hired a management company (“**Goodwin**”) as the District Representative to manage all aspects of services provided by both districts in 2025 and therefore the District finds it necessary to establish its policy for design review and covenant enforcement that will provide enforcement services consistent with pre 2025 conditions and also comply with recent statutes passed by the Colorado Legislature during its 2024 session; and

WHEREAS, consistent with § 32-1-1001(1)(j)(I), C.R.S., the Board of Directors of the District (the “**Board**”) is authorized to send demand letters and notices, to charge interest and/or late charges, to levy and collect fines, to negotiate, settle and/or take any other actions with respect to any violation(s), or alleged violation(s), of any of the Design Standards (as defined in the Covenants) or Covenants (together, with the Design Standards, the “**Governing**

**Documents**”), and to impose liens, fix and from time to time increase or decrease fees, rates, tolls, penalties, or charges (collectively, the “**Fees**”); and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., until paid, the Fees shall constitute a perpetual lien on and against the property served; and

WHEREAS, the District is authorized by § 32-1-1004.5, C.R.S., to collect such Fees, including the District’s costs for collection, by certification to the Denver County Treasurer; and

WHEREAS, by this resolution (the “**Resolution**”), the District desires to set forth guidelines for the District’s provision of services, enforcement, and the imposition of Fees related to the Governing Documents, all as further set forth herein; and

WHEREAS, notwithstanding anything in this Resolution to the contrary, the guidelines set forth in this Resolution are intended to create orderly and fair procedures for the enforcement of the Governing Documents and any deviation from the guidelines shall not alter, amend, or impact the Covenants in any way.

NOW, THEREFORE, be it RESOLVED by the Board of Directors of the Ebert Metropolitan District as follows:

1. **Intent of District.** This Resolution is adopted to ensure the protection of the health, safety and welfare of the residents and property owners of the District, to preserve property values, enhance the quality of life for all District residents, and provide a fair and consistent enforcement process of the Governing Documents. While many violations may be resolved through a courtesy/warning notice (see below), there are instances when further action is required. The imposition of Fees is intended to bring properties into conformance with the Governing Documents, which includes but is not limited to the Covenants, in a timely manner while providing due notice and appeal rights to property owners as described herein.

2. **Covenant Review Committee.** The Board hereby provides for the establishment of a Covenant Review Committee to receive and decide on all applications presented by the District Representative for proposed residential improvements. The committee shall be comprised of residents of the District that fairly represent neighborhoods within the District and otherwise in compliance with the charter of the committee. The Board hereby approves of the Covenant Review Committee Charter, attached hereto as **Exhibit A**.

3. **Design Standards.** The Board hereby adopts the Design Standards, Rules and Regulations, dated January 2025, and attached hereto as **Exhibit B**. These design standards are identical to the pre-existing standards enforced by TCMD and its representatives prior to 2025. The Board reserves the right to revise or modify the design standards and rules and regulations as necessary to remain consistent with the Governing Documents or as desired, after public notice of such proposed revisions, but never in violation of the Covenants.

4. **Enforcement Policy.** The District may enforce the Governing Documents as set forth herein, and any non-compliance with the Governing Documents by any owner, renter or guest will be the responsibility of the owner of the respective property subject to this Resolution (the “**Owner**”). This Resolution is intended to serve as guidance to the Board and the District’s

authorized representative(s) (the “**District Representative**”), and does not limit or restrict the authority of the Board. The Board may intervene at any time with respect to any authority granted to or action undertaken by the District Representative. In addition, this Resolution shall not supersede the procedures for approval, disapproval, or notice of noncompliance related to improvements as set forth in the Governing Documents.

5. **Investigative Procedure.** Upon receipt of a written complaint alleging a violation of the Governing Documents, the District Representative will conduct an investigation to determine whether a violation of the Governing Documents has occurred.

6. **Enforcement Process for Continuous Violations.** Upon determining that a “Continuous Violation” (defined as a violation that is ongoing, uninterrupted by time and may take time to cure) has occurred, the District Representative and the Board shall take the following steps:

a. **Notice of Alleged Violation.** If the District Representative determines that a Continuous Violation of the Governing Documents exists, either through the investigative process as set forth in Section 3, or through independent inspections or observations of the District Representative, the District Representative will send a Notice of Alleged Violation (“**Notice of Alleged Violation**”) to the Owner by first-class United States mail to the address of the Owner on record according to the records of the Denver County Assessor (“**Owner’s Address**”), notifying the Owner: (i) of the Continuous Violation, (ii) the date of the Continuous Violation or the date the Continuous Violation was observed, (iii) that the Owner must have the Continuous Violation corrected within 15 calendar days of the date of the Notice of Alleged Violation, (iv) that failure to timely cure the Continuous Violation may result in potential Fees or other sanctions, and (v) that the Owner has the opportunity for a hearing before the District Board or its designee. This notice shall satisfy the requirements of Article 4, Section 4.2.2 of the Covenants relating to notice and opportunity for a hearing before the governing board of the District prior to the imposition of any Fees. The process for the hearing is set forth in Exhibit C attached hereto and incorporated herein by this reference (the “**Dispute Resolution Process**”). If, at the discretion of the District Representative, the Continuous Violation requires more than 15 calendar days to cure, the District Representative may extend the cure period or require the Owner to commence such cure within 15 calendar days of the date of the Notice of Alleged Violation and diligently prosecute the same to completion.

b. **Right to Submit Written Position Statement.** An Owner who receives a Notice of Alleged Violation, in lieu of attending a hearing before the Board or its designee, may respond to the violation by sending a written position statement via certified mail to the District or its designee, at the address(es) listed on the Notice of Alleged Violation, within 15 calendar days of the date of the Notice of Alleged Violation, but not less than 15 calendar days before the hearing date contained in the Notice of Alleged Violation. The Board or its designee may consider the written position statement and any other information coming before it regarding the violation, in the same manner as though a hearing were conducted.

c. **Notice and Imposition of Fees.** If the Owner fails to cure the Continuous Violation within the timeframe set forth in the Notice of Alleged Violation and fails to request or attend a hearing, or submit a position statement to the Board or its designee, and the Board or its

designee determines a violation is present or has occurred, the District shall send the Owner a Notice of Finding of Violation (“**Notice of Finding of Violation**”), which shall state that the Owner has been found in violation of the Governing Documents and may be assessed Fees for the Continuous Violation in accordance with the schedule of Fees approved by the Board, as amended from time to time, and that failure by Owner to cure the Continuous Violation within the period stated in the Notice of Finding of Violation may result in additional Fees to the Owner.

d. **Further Failure to Comply.** In the event that a Continuous Violation continues to exist uninterrupted 30 calendar days after the time period to cure as set forth in the Notice of Alleged Violation, the Board may in its discretion, in addition to any other lawful remedy, send the Owner a notice of daily fines (“**Daily Fine Notice**”) and thereafter impose a daily fine of \$10 for each day that a Continuous Violation so continues.

7. **Enforcement Process for Repetitious Violations.** Upon determining that a “Repetitious Violation” (defined as a violation that occurs at a set point in time and does not require time to cure, such as the parking of a restricted vehicle in the community or leaving trash cans out beyond the time allowed) has occurred, the District Representative and Board shall take the following steps:

a. **Notice of Alleged Violation.** If the District Representative determines that a Repetitious Violation of the Governing Documents has occurred, either through the investigative process as set forth in Section 3, or through independent inspections or observations of the District Representative, the District Representative will send a Notice of Alleged Violation (“**Notice of Alleged Violation**”) to the Owner by first-class United States mail to the Owner’s Address, notifying the Owner: (i) of the Repetitious Violation, (ii) the date of the Repetitious Violation or the date the Repetitious Violation was observed, and (iii) that any subsequent violations of the same restriction within 90 calendar days of the date of the Notice of Alleged Violation may result in the imposition of Fees.

b. **Notices of Repetitious Violations.** If an Owner subsequently violates the same covenant or rule within 90 days of date of the Notice of Alleged Violation, each such instance shall constitute a separate Repetitious Violation for which fines may be imposed pursuant to the fine schedule set forth in Section 6. Upon the occurrence of each subsequent Repetitious Violation, the District Representative shall send the Owner a notice advising the Owner of the Repetitious Violation and the fine to be imposed (“**Repetitious Violation Notice**”). The first such Repetitious Violation Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 15 calendar days of the date of the Repetitious Violation Notice. This notice shall satisfy the requirements of Article 4, Section 4.2.2 of the Covenants relating to notice and opportunity for a hearing before the Board prior to the imposition of any Fees. The process for the hearing is set forth in **Exhibit A**. The District may impose additional fines with each Repetitious Violation Notice sent after the first Repetitious Violation Notice without the necessity of providing the Owner with an opportunity for a hearing thereafter.

8. **Fees Schedule.** The following Fees schedule is adopted for any and all violations of the Governing Documents.

<b><u>Continuous Violations</u></b>	
Notice of Alleged Violation	Advisory Letter
Notice of Finding of Violation	\$25.00
Daily Fine Notice	\$10.00 each day
<b><u>Repetitious Violations</u></b>	
Notice of Alleged Violation	Advisory Letter
Repetitious Violation Notice	\$50.00 for each Repetitious Violation for which a Notice of Alleged Violation has already been sent

9. **Violations or Offenses that Constitute a Present Danger.** If a violation concerns a serious or immediate risk to the health, safety, or welfare of person or property, the District Representative shall seek to obtain prompt action by the Owner to correct the violation and avoid any reoccurrence, and the procedural requirements under this Resolution may be waived by the Board any a hearing scheduled as soon as possible. The Board may impose sanctions as necessary to abate any threat to health, safety, or welfare of any person or property.

10. **Failure to Pay Outstanding Fees.** Any outstanding Fees shall be assessed interest, late fees, and additional charges as set forth in the Resolution of the Board of Directors of the Ebert Metropolitan District – Establishing Guidelines for the Processing and Collection of Delinquent Fees and Charges, as approved as an independent policy of the District in accordance with HB24-1267, consumer protection legislation passed by the Colorado Legislature in 2024. Such policy is incorporated herein by this reference, is attached as **Exhibit D** hereto, and known as the Guidelines for Processing and Collection of Delinquent Fees and Charges. Such policy applies to the collection of delinquent fees and charges of any type imposed by the District.

11. **Waiver of Fees.** Each of the District Manager, Board President, General Counsel and Special Counsel, has authority and discretion to waive or reduce all or portions of the Fees. The authority to waive Fees is as follows:

a. Each of the District Manager, Board President, General Counsel and Special Counsel may waive Fees not to exceed \$1,000.

b. In the case of Fees exceeding \$1,000, the person or entity owing such amount must submit a request for a waiver, in writing, to the Board, which determination shall be made by the Board at an open meeting in the Board's sole discretion.

c. Any waiver or reduction of Fees granted pursuant to this Section shall not be construed as a waiver or reduction of future Fees or as the promise to waive or reduce future Fees.

d. The Board hereby ratifies any waiver or reduction of Fees granted pursuant to this Section prior to the adoption date of this Resolution.

12. **Other Enforcement Means.** The provisions of this Resolution shall be in addition to all other enforcement means which are available to the District through the Governing Documents, or by law. Application of this Resolution does not preclude the District from using any other enforcement means, including, but not limited to the recording of liens, notices of non-compliance, and any other legal or equitable remedies available to the District.

13. **Certification of Account to County Treasurer.** Pursuant to § 32-1-1004.5, C.R.S., the Board may elect to certify any delinquent account satisfying the criteria established therein to the Denver County Treasurer for collection with ad valorem property taxes. The certification process may be in addition to or in lieu of any procedures set forth in this Resolution in the Board's sole discretion. The fees for the certification process shall be in accordance with Colorado law and Denver City & County policy.

14. **Legal Action.** Any violation of the Governing Documents may, in the discretion of the Board, be turned over to legal counsel to take appropriate legal action either in lieu of, or in addition to, the imposition of any fines or other penalties under this Resolution, and Owners shall be responsible for all attorneys' fees and costs incurred in enforcing this Resolution and in collection amounts due and owing the District.

15. **Deviations:** The District may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

16. **Amendment.** The policies, procedures and Fees schedule set forth herein may be supplemented and/or amended from time to time by the District, in its sole and absolute discretion.

17. **Payment.** Payment for all Fees shall be by check or equivalent form acceptable to the District, made payable to "Ebert Metropolitan District" and sent to the following address, on or before the due date: Ebert Metropolitan District, [insert information].

18. **Supersedes Prior Resolutions:** This Resolution shall supersede and replace in their entirety all prior resolutions addressing the policies, procedures and penalties for the enforcement of the Governing Documents. To the extent that any term or provision in this Resolution conflicts with any term or provision in a previously enacted and valid resolution of the District, the term or provision in this Resolution shall prevail.



19. **Severability:** If any term, condition or provision of this Resolution shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such term, condition or provision shall not affect any other provision contained in this Resolution, 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 Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

*[Remainder of page intentionally left blank, signature page follows.]*

ADOPTED this 15<sup>th</sup> day of January, 2025

EBERT METROPOLITAN DISTRICT

By: \_\_\_\_\_  
Bruce Shibles, President

Attest:

By: \_\_\_\_\_  
Cynthia Barclae, Secretary

**EXHIBIT A**

**Covenant Review Committee Charter**

**EXHIBIT B**

**Design Standards, Rules and Regulations**

**EXHIBIT C**

**Dispute Resolution Process**

**EXHIBIT D**

**Resolution of the Board of Directors of the Ebert Metropolitan District – Establishing  
Guidelines for the Processing and Collection of Delinquent Fees and Charges**

## SECTION 1 – NOTICE

1. Any Owner who receives a Notice of Alleged Violation for Continuous Violations, Repetitious Violation Notice, or imposition of Fees may be heard regarding such violation by the Board or its designee. Such hearing will be scheduled as set forth in the notice. Fees set forth in any notice from the District may continue to accrue during the hearing process so that the process is not used to delay effective enforcement of the District's Governing Documents, as amended from time to time.

2. In lieu of a hearing, an Owner may submit a written position statement no less than 15 days before the noticed hearing, which written position statement shall be considered by the Board or its designee in the same manner that verbal testimony would be considered.

## SECTION 2 – HEARING PROCESS

1. The hearing shall be held before the Board in open session or its designee in an open forum unless the Owner requests that the hearing be closed.

2. The Board President or Board's designee shall summarize the violation to be heard before the Board or its designee and introduce all parties.

3. The Owner shall be afforded 10 minutes to state his or her case and to present to the Board or its designee any evidence that is applicable to the Owner's position.

4. Each Board Member or the Board's designee shall have an opportunity to question the Owner regarding the violation.

5. Any Board Member or the Board's designee may receive additional evidence to aid in the determination of the matter including, but not limited to, any relevant documentation and/or information from third parties.

6. Upon completion of the question and answer period, the Board President or the Board's designee will state that the violation has been heard and the Board or its designee will make their decision following an executive session if the Board or the designee deems an executive session to be available under applicable law and necessary in the given circumstances. In reaching a decision, the Board or its designee may consider the Owner's statements and other evidence presented, the Owner's willingness to work towards compliance, and any other factors that may be pertinent as determined by the Board or its designee.

7. The Board or its designee may continue the hearing if it determines that additional information is required from the Owner before making an informed decision. The Board or its designee shall notify the Owner of the date and time of the continued hearing and the additional information that the Owner must present on the continued hearing date.

8. The minutes of the meeting shall contain a written statement of the results of the hearing and the fine, if any, imposed. The Owner shall be given written notice of the results of the hearing within 5 days from the date of the hearing.

SECTION 3 – FINDING OF VIOLATION

1. All decisions of the Board or its designee are final and may not be further appealed through the District.



**RESIDENTIAL COVENANT REVIEW COMMITTEE CHARTER  
EBERT METROPOLITAN DISTRICT**

**SECTION 1.     PURPOSE.** The Board of Directors of the Ebert Metropolitan District (the “**District**”) establishes the Residential Covenant Review Committee (the “**Committee**”) to assist with enforcement of the Master Declaration of Covenants, Conditions, and Restrictions for Green Valley Ranch North (the “**Covenants**”). Specifically, the Committee is charged with carrying out the responsibilities as set forth in Article 6 of the Covenants, which provide that, “Prior to commencement of work to accomplish any proposed Improvement to Property, the Person proposing to make such Improvement to Property (“**Applicant**”) shall submit to the Town Center District at its offices or at such place as it may designate for such purpose such descriptions, sketches, surveys, plot plans, drainage plans, elevation drawings, construction plans, specifications, and samples of materials and colors as the Town Center District shall reasonably request showing the nature, kind, shape, height, width, color, materials, and location of the proposed Improvement to Property. The Town Center District may require submission of additional plans, specifications, or other information prior to approving or disapproving the proposed Improvement to Property. Until receipt by the Town Center District of all required design review fees and materials in connection with the proposed Improvement to Property, the Town Center District may postpone review of any materials submitted for approval.”

**SECTION 2.     GOALS.** To abide by the Covenants and the Design Standards (the “**Design Standards**”), as adopted from time to time by the District’s Board of Directors (the “**Board**”), in decision making regarding applications for modification or completion of Improvements to any Site (as defined in the Covenants).

**SECTION 3.     MEMBERSHIP.**

- a.     Qualifications. Membership on the Committee shall be limited to natural persons who own property and are residents in the District that are in good standing (no more than 30 days late in the payment of any District-imposed fees, and who have had none of their membership privileges suspended). Corporate entities, partnerships, trusts, associations, or non-individual entities can designate an affiliated resident to hold membership positions on the Committee. Such qualification expires immediately when a member ceases to own property in the District
- b.     Candidates. Individuals wishing to serve as a member of the Committee will be asked to submit their interest in writing to be reviewed by the Board.
- c.     Composition. The Committee shall be composed of up to seven members approved by the Board. Membership will include at least one, but no more than two, members of the Board. Five of the Committee members must each reside in a different subdistrict within Ebert, ensuring representation from all five subdistricts. One member must reside within Ebert but outside of any of the subdistricts. To promote diversity and fairness, it is recommended that no more than one member from the same household serve on the Committee.

- d. Appointment. The Chair, Vice Chair, and the members of the Committee are appointed by the Board to serve 3-year terms. Members may be reappointed by the Board to serve multiple consecutive or non-consecutive terms on the Committee.
- e. Removal. A Committee member may be removed from the Committee at any time by a majority of the Board.
- f. Resignation. A Committee member may choose to resign at any time.

**SECTION 4. COMMITTEE OFFICERS.**

- a. Chair. The Board will select a Board member to serve as the Chair of the Committee on at least a tri-annual basis. The Chair will direct, supervise, coordinate and have general control over the affairs of the Committee.

The Chair will have voting privileges and also preside at all meetings of the Committee and act as a liaison to the Board. In addition, the Chair is responsible for ensuring that members act within the scope of the Committee’s Charter and remain focused on the Committee’s responsibilities. Duties include but are not limited to the following:

- 1. Ensure matters are dealt with in an orderly, efficient manner.
- 2. Bring impartiality and objectivity to meetings and decision-making.
- 3. Follow up on action items.
- 4. Prepare written recommendations to the Board.
- 5. Present Committee reports, if any, at the Board meetings.

- b. Vice Chair. The Vice Chair will be elected by a majority of the Committee members on at least a tri-annual basis. The Vice Chair will have voting privileges and preside over Committee meetings in the Chair’s absence and will appropriately communicate any issues to the Chair, if available, or to the President of the Board.
- c. Staff Liaison. The Chair will appoint a Staff Liaison to the Committee who shall serve until replaced by the District Manager. The Staff Liaison will have no voting privileges. The Staff Liaison will coordinate communications between the Committee and homeowner applicants.

**SECTION 5. RESPONSIBILITIES.**

- a. The Committee shall review each proposal and plan that is submitted to the Committee to ascertain conformity of such plans and specifications with the Covenants.

- b. Consider and act upon all proposals and plans submitted and shall furnish a written decision to the applicant within 45 days after the complete submission of the plans, specifications, and other materials and information required by the Committee. Proposals and plans submitted shall be voted on by the Committee with the majority vote rendering the decision. Any applicant's failure to complete the proposed Improvement within one year after the date of approval shall be in noncompliance, subject to enforcement by the District. The Board may grant extensions of time for completion of any proposed Improvements.
- c. Maintain a file that documents all requests submitted to the Committee and subsequent Committee decisions relating to those requests.
- d. Recommend variances from the provisions of the Covenants when application would result in practical difficulties or unnecessary hardship, and if the granting of such variances would not materially harm other owners or the environment.
- e. Recommend to the Board that an Owner be fined or penalized for non-compliance with a regulation or policy only after the Owner has been notified by the Committee and has not rectified the situation within the timeframe specified by the Committee.
- f. Report in writing quarterly to the Board all currently-active projects and a completion report on all projects completed during the past quarter.
- g. Prepare financial reports as required.

**SECTION 6. MEETINGS.**

- a. Electronic Communication. The Committee may conduct business via electronic means. If the Committee decides to hold formal meetings, the Committee shall follow the directives of this section.
- b. Regular Meetings. The Committee shall meet as necessary to fulfill their assigned functions. The Committee Chair will call all meetings. Regularly scheduled committee meetings should be open to attendance by all members of the District. Committee members are expected to attend not less than 75% of all Committee meetings within a twelve-month period. Committee members who miss 25% or more meetings, or two consecutive meetings are considered to have submitted a request to resign their position on the Committee. A majority of the other members of the Committee may make exceptions to the attendance requirement for serious illness or other good cause.

**SECTION 7. RESTRICTIONS.** The Committee does not have the authority to give directions and/or instructions to contractors, management, or employees and will not communicate or represent the District's or Committee's business or political interests or positions to other persons outside the District or seek bids or make contracts for services or any other matters without the explicit request of the Board.

**SECTION 8. ANNUAL BUDGET.** An annual budget request will be prepared and submitted to the Board as required.

**SECTION 9. REVISIONS TO CHARTER.** The Board may revise this Charter at its discretion at any time and shall provide notice to the Committee of any revisions to the Charter's terms.

**ADOPTED** this 15<sup>th</sup> day of January, 2025, by the Board of Directors of the Ebert Metropolitan District.

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**EBERT METROPOLITAN DISTRICT**  
**DESIGN STANDARDS**  
**RULES & REGULATIONS**

January 2025

**EBERT METROPOLITAN DISTRICT  
DESIGN STANDARDS — RULES AND REGULATIONS  
2025**

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## EBERT METROPOLITAN DISTRICT

### DESIGN STANDARDS — RULES AND REGULATIONS

#### 1. Introduction

These Design Standards are intended to assist Owners living in Ebert Metropolitan District (“**Ebert**”) community (the “**Community**”) in preparing plans for submittal to the Residential Covenant Review Committee (hereafter referred to as the “**Committee**”). Pursuant to the Master Declarations of Covenants, Conditions, and Restrictions for Green Valley Ranch North (the “**Master Declaration**”) as may be amended from time to time, the Committee is authorized to adopt architectural guidelines for the Community.

#### 2. Purpose of the Master Declaration (Copied directly from Master Declaration)

The Master Declaration exists to (a) further a common and general plan for the Community area, (b) enhance and protect the quality, value, aesthetic nature, desirability, and attractiveness of the Community area, (c) provide a mechanism to review additions and changes to commercial, industrial, and residential structures located within the Community area, (d) provide a mechanism for the enforcement of the provisions of this Master Declaration, and (e) define certain duties, powers, and rights of homeowners of Sites within the Community area.

#### 3. Design Standards

Compliance with these Standards will help preserve the inherent architectural and aesthetic quality of Green Valley Ranch North (“**GVRN**”). It is important that Improvements to any property be made in harmony with and not detrimental to, the rest of the Community. A spirit of cooperation with Ebert will go far in creating an optimum environment, which will benefit all homeowners and the Community as a whole. By following these Design Standards and obtaining approvals for Improvements to your property from the Committee, homeowners will be protecting their financial investment and will help make sure that the Improvements to their property are compatible with standards established for GVRN.

#### 4. Definitions

All capitalized words and phrases used in these Design Standards shall have the meaning provided in the Master Declaration unless otherwise defined herein.

#### 5. Design Review Procedures

All Site Improvements, including but not limited to, walks, fencing, patios, lighting, landscaping or other exterior Improvements are subject to review under these Design Standards. Unless otherwise specifically stated herein, drawings and/or plans for the proposed Improvement(s) must be submitted to the Committee and **written approval** must be obtained **before** the Improvements are made.



**6. Committee Contact Information**

The contact information of the Committee, persons, committee or representative authorized to administer the architectural review process is:

COMPANY NAME	OFFICE	FAX	E-MAIL

**7. Submission of Drawings and Plans**

**7.1 Architectural Plan Review**

For major Improvements, such as room additions, remodels, structural changes or accessory building construction, the homeowner must submit to the Committee two sets of construction documents to include the following (scale of 1/4" = 1 0"):

- Architectural elevations (front, side and rear), indicating typical proposed grade lines, finish floor elevations, top of slab elevations and building height calculations Floor plans, including square footage for each floor
- Roof plans indicating pitches, ridges, etc.
- Indication of all proposed exterior materials
- Exterior details
- Any other proposed Improvements (i.e. decks, awnings, hot tubs, etc.)
- Samples of all finished exterior materials and colors
- Specifications or catalog sheets for exterior lighting

**7.2 Landscape Plan and Other Site Improvements Review**

Approval must be obtained **prior** to installation of any landscaping or any other Site Improvements including, but not limited to, dog runs, play equipment, fencing, Site lighting, patios, etc. The materials to be submitted should be professionally prepared by an architect, landscape architect, or draftsman. If plans are not prepared professionally, plans must be drawn to scale and must have sufficient detail to permit a comprehensive review by the Committee.

The following standards should be utilized in preparing drawings or plans:

The drawing or plan must be done at a scale of 1"=10' and should depict the property lines of your lot and the footprint of the home as located on the lot. Existing Improvements, in addition to your home, should be shown on the drawing and identified. (See Appendix C)

All proposed plant locations, types, quantities and sizes; location of turf and other ground cover materials should be shown on the plan and labeled. The plan should exhibit grading and layout of all additional landscape Improvements such as berms, walks, and structures.

Plans for any other Site Improvements, such as play/sports equipment, dog runs, hot tubs, trellises, retaining walls, fencing, lighting, etc. must be shown on the plan with a description of the proposed Improvement, including the materials and colors to be used. In the case of structural Improvements (i.e. gazebo, fence, trellises, etc.), an elevation drawing to scale of the proposed Improvement is also required.

### **7.3 Revisions and Additions to Approved Plans**

Any revisions and/or additions to the approved Architectural or Landscape Plans made by the homeowner or as required by any governmental agency, must be re-submitted for approval by the Committee. The revised plans must follow the requirements as outlined above.

### **7.4 Review Action by the Residential Covenant Review Committee**

The Committee will meet regularly to review all plans submitted for approval. The Committee may require the submission of additional material and may postpone action until all required materials have been submitted. The Committee will contact the homeowner in writing if the Committee feels additional information is necessary. The Committee will act on the plans within 45 calendar days after receipt of all materials required by the Committee (unless the time is extended by mutual agreement). A written response of the decision by the Committee will be sent to the homeowner by mail within five calendar days of the Committee's decision. The Committee may extend the time frame up to an additional 15 calendar days upon notification of the applicant. The Committee will not return submittal plans, but may return material samples at its sole discretion.

### **7.5 Failure of the Committee to Act on Plans**

Any request for approval of a proposed Improvement must be deemed approved, unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Committee within 60 calendar days after the date of receipt by the Committee of all required materials.

### **7.6 Completion of Improvement(s) With Approval**

After approval of any proposed Improvement, the Improvement(s) must be accomplished as promptly and diligently as possible. Failure to complete the proposed Improvements within 12 months after the date of approval or such period of extension of the initial 12-month period as specified in writing by the Committee must constitute noncompliance with the requirements for approval.

### **7.7 Review of Work in Progress and/or Completion of Work**

The Committee may review all work in progress and/or at completion of work to the extent required to ensure that the Improvement(s) complies with all approved plans and/or

construction procedures. Please be sure to follow the Procedures for Submitting Design Review Applications, which has been included in your Design Standards packet. If you do not have the application materials, please contact Ebert Metropolitan District to get a copy. The Committee may withdraw approval of any project if the approved plan is not being followed.

### **7.8 Enforcement**

As provided in the Master Declaration, Ebert has primary authority to enforce the provisions of these Design Standards. If an owner fails to perform or observe any covenant, condition, or requirement imposed by Ebert or these Design Standards, Ebert must notify the owner of the noncompliance as described in the Master Declaration.

### **7.9 Rights of Appeal by Applicant**

Any homeowner aggrieved by a decision of the Committee regarding *landscaping of their property*, may appeal the decision to the Board of Directors of the Ebert Metropolitan District in accordance with the procedures established by the Board of Directors. Such appeal must be in writing and must be filed within 30 calendar days after a decision by the Committee.

### **7.10 Effect of Governmental and Other Regulations**

Approval of plans by the Committee must not be deemed to constitute compliance with the requirements of local, zoning, health, safety or fire codes as determined by such governmental and/or regulatory agencies.

**APPROVAL BY THE COMMITTEE DOES NOT CONSTITUTE ASSURANCE THAT IMPROVEMENTS COMPLY WITH APPLICABLE GOVERNMENTAL REQUIREMENTS OR REGULATIONS OR THAT A PERMIT OR APPROVALS ARE NOT ALSO REQUIRED FROM APPLICABLE GOVERNMENTAL BODIES. ALL IMPROVEMENTS MUST COMPLY WITH CITY, COUNTY, AND STATE REGULATIONS AND REQUIREMENTS.**

## **8. Interference with Utilities**

In making Improvements to property, homeowners are responsible for locating all water, sewer, gas, electrical, cable television, or other utility lines or easements. Owners should not construct any Improvements over such easements without the consent of Ebert and the utility involved, and homeowners will be responsible for any damage to any utility lines. All underground utility lines and easements can be located by contacting:

**Colorado 811**

**Tele: 811**

## **9. Administration of Design Standards**

It is the responsibility of the Committee to ensure that all proposed Improvements meet or exceed the requirements of these Design Standards and to promote the highest quality design

for the neighborhood. Specific duties and powers of the Committee are defined in the Master Declaration of Covenants, Conditions, and Restrictions for Green Valley Ranch North.

## 9.1 Variances

Approval of any proposed plans is at the sole discretion of the Ebert Metropolitan District to grant variances from compliance with any of the provisions of these Design Standards when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require.

## 9.2 Revisions to Design Standards

The Committee reserves the right to revise these Design Standards from time to time as changing conditions and/or priorities dictate.

## 10. Landscape Standards

### 10.1 General

The landscaping for each lot should include substantial live plants in the front yard of each home, landscape screening where necessary to provide privacy; and lawn and shrub beds that blend into adjacent properties.

### 10.2 Use Easement (Also referred to as a Side Yard Easement or an Active/Passive Easement)

Some residential Sites within GVRN will have a Use Easement on their lot. These lots will have an active side and a passive side. If the passive side of the lot next to yours is adjacent to the active side of your yard, then you have the right to use the passive side of the adjacent lot and you have the obligation to maintain this area, as though you owned it. If the active side of the other lot next to yours is adjacent to the passive side of your lot, you have the obligation to maintain it, as though the owners of such adjacent lot owned the passive side of your lot.

Your lot may have an easement over the passive side of the adjacent lot, and your lot is subject to the same easement. Use of a passive side will include those uses permitted by zoning such as general recreational, picnic, social and garden area, as though the owner of the adjacent active side owned such passive side. However, **the owner of the passive side retains the right of entry for use and maintenance of his home, rights of drainage** (such that the owner of the active side may NOT obstruct or interfere with drainage), **and the rights of support for the dwelling unit on the lot on which the passive side is located.**

The easement runs from the BACK of the lot to the FRONT of the lot and is a minimum of three feet in width. **The exact location of this easement will be indicated on your Improvement Survey Certificate (or Plot Plan).**

Please refer to this legal document **prior** to landscaping or installing a fence. If a wing fence is installed between two homes with a Use Easement, a gate must also be installed to allow your neighbor access to the rear of their home.

When landscaping within this easement, you are strongly encouraged to use rock or wood mulch placed up against your neighbor's house foundation. Planting is allowed within this easement as long as you take into consideration the recommended planting distance from the foundation. Each homeowner is responsible for maintaining the tree lawn and sod in the tree lawn area from property line to property line.

### **10.3 Water Conservation**

In the landscaping of each residential site, plant materials, irrigation systems and maintenance practices must be utilized to conserve water, wherever possible. It should be noted that if Xeriscape landscaping is selected, a more traditional “green” appearance can still be achieved. Xeriscape uses much less water than typical suburban residential landscape, but it does not mean that large areas of river rock or mulch will be allowed in place of green, growing plant material. Please refer to the end of these Design Standards for a listing of approved plant materials for GVRN.

### **10.4 Landscape Irrigation**

**Automatic irrigation systems shall be required to be installed and maintained by the homeowner in all front yards.** Automatic irrigation systems must be installed, maintained and operated by the owner in a fashion as to conserve water to the maximum extent practicable while still maintaining landscaping in an attractive, green and growing condition. Turf areas must be zoned separately from shrub and groundcover beds.

### **10.5 Landscape Maintenance**

All landscaping must be maintained in a neat, attractive and healthy condition. The owner, taking into account weather conditions affecting the planting of replacement landscaping, *must replace dead or dying landscape materials as soon as possible and/or within 14 calendar days of written notification from the Committee.*

### **10.6 Front and Side Yard Landscaping**

Landscaping within the front yard must consist of a combination of turf lawn trees and shrub beds. **Large areas of rock or wood mulch without shrub or flower plantings will be prohibited.** Shrub beds must be coordinated between lots, as much as possible, to provide visual continuity. Side yards which front onto streets or public open spaces must also be landscaped by the homeowner.

### **10.7 Rear Yard Landscaping**

Like the front and side yard landscaping, the rear yard landscaping will be subject to the same general Design Standards as described above.

### **10.8 Plant Materials**

A minimum of one deciduous shade tree, one flowering ornamental tree **or** one evergreen tree must be planted in the front yard. The deciduous tree must be a minimum of **2 1/2 inch**

**caliper** at the time of installation and the flowering ornamental tree must be **2 inch caliper** minimum at time of installation. The evergreen tree size must be six feet to eight feet in height at time of installation.

Required evergreen trees must generally be spaced three to five feet apart and at least 10 to 15 feet away from structures. Trees with columnar or a narrow growth habit may be spaced closer to each other and structures. Generally, where small and medium sized shrubs are required, they must be spaced three to five feet apart and large shrubs spaced five to six feet apart.

**A minimum of three, five-gallon size shrubs must be planted in the front yard.** Vines, groundcovers and perennial flowers must be one-gallon size minimum.

All required plant materials must conform to minimum standards established by the American Association of Nurserymen, as published in the American Standards of Nursery Stock. Plant growth habits and mature sizes should be taken into consideration when spacing trees, shrubs and groundcover.

All turf areas must be sod or seeded with an improved variety of Kentucky bluegrass or drought tolerant equivalent.

## **10.9 Landscape Materials**

Lawn areas must be separated from shrub beds with edging material. Edging must be limited to heavy (wide gauge) steel, concrete, brick, or stone on a foundation.

Mulch may include crushed or rounded gravel, shredded wood or bark native to Colorado. Unnatural or high contrasting color mulch will be prohibited and earth tone colors will be encouraged. Weed barriers are required under all bark or gravel mulch.

All trees must be staked or guyed using metal T-post or wood lodge pole stakes. Guy wires must be maintained by the homeowner to keep all newly planted trees set plumb.

Boulders used in landscaping must be native to Colorado and must be approved by the Committee.

## **11. Enhanced Landscaping along Golf Course Lots**

Improvements of homes that front the golf course be in harmony with and not detrimental to, a first-rate golf course experience and that of the Community as a whole.

### **11.1 Height Restrictions**

The Committee will pay special attention to Improvements that limit views to and from the golf course, including but not limited to landscaping, sheds, play structures, dog runs, and fencing. See below for additional restrictions on specific Improvements.

### **11.2 Fencing**

To maintain views to the golf course, the only fencing allowed for homes that front the golf course will be open rail, black wrought-iron, with a maximum height of four feet. Side-yard fencing on these lots will be wrought iron, white vinyl or cedar, as directed by the specific Filing's fencing requirements. A maximum height of five feet is allowed on side yard fencing, as long as the fence is tapered to meet the four-foot rear fence.

## **12. Other Rules and Restrictions along Golf Course Lots**

### **12.1 Dog Runs**

Dog runs will be reviewed on a case by case basis by the Committee.

### **12.2 Patios, Decks, and Paving Materials**

Patios, decks, and other paving materials should be compatible and harmonious with the structure and surrounding neighborhood and must be an integral part of the landscape architectural design. Materials and colors must be compatible with those of the main structure. Natural wood decks must be permitted with any type of building material. It is recommended that paving materials be earth tone colors.

### **12.3 Play Structures/Sports Equipment Height & Size Restrictions**

No playground equipment above eight feet in height, as measured from the ground to the top of the structure, will be allowed. Playhouses larger than 30 square feet or over six feet in height will be restricted.

### **12.4 Sheds**

Sheds are restricted and will be reviewed on a case by case basis by the Committee.

### **12.5 Storage of Hazardous or Unsightly Materials**

Storage of any hazardous or unsightly materials will not be allowed on a residential Site.

## **13. General Site Improvements for GVRN Lots**

### **13.1 Accessory Structures**

Accessory structures, such as storage sheds, gazebos and greenhouses must be located in the rear yard. Requests for approval will be reviewed on a case-by-case basis, taking into account the lot size, square footage of the home and proposed location of the accessory building. The accessory structure cannot exceed 80 square feet in size and 8 feet in height. Ideally, storage sheds must be located in areas that are not visible from open space, recreational areas, or public streets. It is important that the massing and scale, as well as forms, materials, and other detailing be coordinated with the main structure(s) on the Site. Gazebos must be an integral part of the landscape plan. Greenhouse structure approval will be based on, but not limited to, the general aesthetics, quality, and permanence of materials used. No carports or prefabricated metal sheds will be allowed.

### **13.2 Arbors and Trellises**

Committee approval is required prior to installation of any proposed arbor or trellis. The inside height of a proposed arbor or trellis must not exceed eight feet, six inches. Arbors must be complementary to the residence. Professionally prepared plans for Arbors are highly encouraged to expedite the approval process, otherwise a photograph or catalog picture must be provided. All City and County of Denver codes must be followed.

### **13.3 Awnings/Patio Covers/Shutters**

Awning, patio covers, and shutter colors must be complimentary to the exterior color of the home. Patio covers must be structured of wood or material generally complementary to the home and be similar or complementary in color. Support posts for patio covers must be a minimum of 6" x 6" in size.

### **13.4 Basketball Hoops (portable and permanent)**

No basketball backboards may be attached to a structure. Freestanding basketball backboards must be made of standard manufacturer's materials and colors. Temporary, portable basketball backboards and poles may not be used within public streets and must be stored out of view from adjacent properties and streets except when in use.

### **13.5 Dog Houses/Dog Runs**

The Committee may allow dog houses and/or dog runs and these will be reviewed on a case-by-case basis. The location and size of the dog house or dog run will be determined with consideration given to its impact on adjacent properties and streets. Generally, dog houses must not exceed four feet in height and must be compatible with the home in material and color. Dog run areas should not exceed 300 square feet in size and the fence height should not exceed five feet. The dog run fencing should be located immediately adjacent to the home and be compatible with the home in material and color. The use of chain-link fencing is strongly discouraged, but if it is used, the homeowner must fully screen the dog run from adjacent properties, streets, and open space using the privacy fencing detail outlined for the Community. The standard privacy fence detail has been included in the back of these Design Standards.

### **13.6 Exterior Lighting**

Committee approval is required prior to changing or adding exterior lighting. In reviewing lighting requests, the Committee will consider the visibility, style, location and quality of the lighting fixtures. Exterior lighting for security and/or other uses must be directed towards the ground whereby the light cone stays within the property boundaries and the light source does not cast a glare onto adjacent properties.

### **13.7 Exterior Mechanical Equipment**

No exterior mechanical equipment must be erected on any residential Site without the specific approval of the Committee. Ground level and window air conditioning units, including



swamp colors, must be installed at street level only. These must be located in a side or rear yard and must be screened from adjacent properties.

### **13.8 Fencing**

Each homeowner must be responsible for installing, maintaining, repairing, and replacing, in a reasonably attractive manner, any fence located on such owner's Site per the enclosed fence standards. Any owner constructing, erecting, installing, modifying, or replacing a fence must obtain the prior approval of the Committee in accordance with the Master Declaration and Design Standards. Chain link fence along the side or rear yard of a home is strictly prohibited. (See Appendix B - Approved Fence Detail)

### **13.9 Flags**

Approval is not required for flagpoles mounted to the back of the house. Homeowners may display no more than one flag which shall be in good condition free from fading and fraying. Flags may be no larger than 3' x 5'. Limit one flag per home.

### **13.10 Garbage and Trash**

No garbage, trash, lumber, grass or shrub clippings, plant waste, compost, metal, bulk materials, scrap, or debris of any kind will be allowed to be stored or to accumulate on any Site. All trash containers must have a cover that is resistant to animals and be kept within an enclosed structure. The container may be placed at the curb at such times as may be necessary to permit garbage and trash pickup. **Trash containers may not be placed at the curb prior to 7 p.m. the evening before collection and must be returned to the enclosed structure the day of collection.**

### **13.11 Holiday & Seasonal Decorations**

Reasonable holiday/seasonal decorations and/or lighting do not require Committee approval if decorations are installed not more than five weeks prior and removed within two weeks after such holiday.

### **13.12 Hot Tubs / Jacuzzi**

Hot tubs and Jacuzzi's must be designed as an integral part of the deck or patio area and must be located in the side or rear yard area. They must be installed in such a way that they are not immediately visible to adjacent property owners, or screened by landscaping or privacy fence in such a manner that affords both homeowners' adequate privacy. The use of the hot tub/Jacuzzi cannot create an unreasonable level of noise for adjacent property owners.

### **13.13 Maintenance of Fencing**

Each owner of a Site will be responsible for maintaining, repairing, and replacing, in a reasonably attractive manner, any fence located on the owner's Site, unless the fence is to be maintained by the Ebert Metropolitan District or Town Center Metropolitan District.

### **13.14 Maintenance of Property Improvements**

No property within GVRN must be permitted to fail into disrepair and all property within GVRN, including any Improvements upon that property (i.e. landscaping, patios, fencing), must be kept and maintained in a clean, safe, and attractive condition.

### **13.15 Maintenance of the Tree Lawn Area**

The area between the street and the sidewalk is called a “tree lawn” and it is the responsibility of each homeowner to maintain the landscaping and irrigation located within this area (your residential Site) to the same standards as outlined under “Plant Material.” It is the homeowner's responsibility to replace a dead or dying tree and/or sod within the tree lawn area.

### **13.16 No Hazardous Activities**

No activity must be conducted on and no Improvement must be constructed on any property within GVRN that is or might be unsafe or hazardous to any person or property.

### **13.17 No Unsightliness**

All unsightly conditions, structures, facilities, equipment, and objects, including snow removal equipment and garden or maintenance equipment when not in actual use, must be enclosed within a structure.

### **13.18 Patios, Decks and Paving Materials**

Patios, decks and paving materials must be compatible and harmonious with the structure and surrounding neighborhood and must be an integral part of the landscape architecture design. Materials and colors shall be compatible with those of the main house structure. Natural wood decks shall be permitted with any type of building material. It is also recommended that paving materials be earth tone colors.

### **13.19 Painting/Repainting**

Committee approval is required for all exterior painting or repainting of the home and accessory Improvements. All exterior finishes including front doors and shutters should be subdued earth tones such as grey, green, brown, muted blues or reds, or other similar colors. White, primary colors and other bright colors will be permitted as trim colors only. Downspouts should be painted to match the body color of the home.

### **13.20 Pet Fencing**

Pet fencing may include any invisible fence on or within the perimeter boundary of an owner's Site per the enclosed fencing standards. Also refer to dog houses/dog runs for additional information and restrictions.

### **13.21 Play and Sports Equipment**

Play equipment must be located in the rear yard and set back a minimum of five feet from the property lines. Consideration must be given in the location of play equipment so as to not create an undue disturbance on neighboring properties. No playground equipment above eight feet in height, as measured from the ground level can be erected without the prior approval of the Committee. Playhouses larger than 30 square feet and higher than six feet will be reviewed on a case by case basis.

### **13.22 Recreational and Commercial Vehicles**

No commercial vehicle, house trailer, camper, camping trailer, motor home, horse trailer, boat, hauling trailer of any nature, truck **larger than 3/4 ton**, self-contained recreational vehicle (commonly referred to as an “**RV**”), snowmobile, jet-ski, motocross motorcycle, three-wheeler or other recreational equipment or vehicle associated accessory can be parked on any portion of the community longer than 48 hours in any two-week period.

### **13.23 Retaining Walls**

Retaining wall materials must be compatible with the color and style of the home. Materials may include boulders, stone, brick or modular concrete block. Walls within lots should not exceed three feet in height. Walls should not obstruct or adversely affect existing drainage patterns.

### **13.24 Roof Replacement/Rooftop Equipment**

Committee approval is required if roof material or color is changed. Roofing color should be complementary to other colors on the home. Air conditioning units must be ground mounted.

### **13.25 Satellite Dishes/Antennae**

Satellite dishes and antennas must be carefully located and screened to minimize visibility from any public streets, public open spaces, or adjacent homes and should be no larger than one meter or less in diameter. To the extent feasible, the satellite dish/antennae should be placed in the rear or side yard area. Antennae for short wave or HAM radio operation are prohibited unless it can be demonstrated that said antennae can be screened from view similar to a satellite dish.

### **13.26 Screen/Security Doors and Windows**

Committee approval is not required for the addition of screen doors or storm windows added to a home if the material and color matches or is similar to existing doors and windows on the home.

### **13.27 Signs/Address Numbers**

Temporary signs advertising property for sale or lease (i.e. typical and customary real estate sign) may be installed on a lot without Committee approval provided there is no more than one sign per lot. All trade signs, which include, but are not limited to, landscaping, painting,

remodeling, etc. may only be displayed while work is in progress and must be removed upon completion of the job. All other signs, including address numbers and nameplate signs must be approved by the Committee.

### **13.28 Solar Equipment/Skylights**

Solar equipment and skylights must be designed as an integral part of the roof. Skylight glazing must be clear, solar bronze, or white.

### **13.29 Swimming Pools**

Request for swimming pools will be reviewed on a case-by-case basis by the Committee with consideration given to, but not necessarily limited to, the size of the yard area, setback from impact on neighboring properties, size of pool enclosure, and pool materials. Above ground pools are not allowed. All City of Denver permits must be obtained by the homeowner prior to plan review by the Committee.

### **13.30 Yard Ornaments**

Permanent yard ornaments in front yards or yards adjacent to public open space or streets, including but not limited to fountains, sculpture, statues, wagon wheels, driftwood, birdbaths, etc. will require approval by the Committee. Yard ornaments located in the front yard are discouraged.

### **13.31 Vehicle Repair**

Maintenance (other than washing and polishing vehicles), servicing, repair, dismantling, or repainting of any type vehicle, boat, trailer, machine, etc. cannot be carried on upon any residential Site, except within a completely enclosed structure, which screens the sight and sound of the activity.

### **13.32 Vegetable Gardens**

Vegetable gardens must be located in either **the rear or side yards**. Gardens must be screened from neighboring homes, common open space areas, and adjacent streets.

**RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
EBERT METROPOLITAN DISTRICT**

**Establishing Guidelines for the Processing and Collection of Delinquent Fees and Charges**

WHEREAS, Ebert Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, consistent with the terms and conditions of the Master Declaration of Covenants, Conditions, and Restriction for Green Valley Ranch North (the “**Covenants**”) and § 32-1-1001(1)(j)(I), C.R.S., the Board of Directors of the District (the “**Board**”) is authorized to send demand letters and notices, to charge interest and/or late charges, to levy and collect fines, to negotiate, settle and/or take any other actions with respect to any violation(s), or alleged violation(s), of any of the Design Standards (as defined in the Covenants) or Covenants (together, with the Design Standards, the “**Governing Documents**”), and to impose liens, fix and from time to time increase or decrease fees, rates, tolls, penalties, or charges (collectively, the “**Fees**”); and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., the Board of Directors of the District (the “**Board**”) is authorized to fix and from time to time increase or decrease fees for services, programs, or facilities furnished by the District, including but not limited to covenant enforcement and control and provision of irrigation water service (collectively, the “**Fees**”) to properties within and without (each property individually referred to herein as the “**Property**”) the District’s boundaries; and

WHEREAS, the District imposes various Fees, including Fees for violation of the Governing Documents; and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., until paid, the Fees shall constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanics’ liens; and

WHEREAS, by this Resolution (the “**Resolution**”), the District desires to set forth guidelines for the processing and collection of unpaid and/or delinquent Fees imposed by the District, together with any and all Late Fees, Interest, Penalties and Costs of Collections (each defined separately in this Resolution), (collectively, the “**Delinquent Fees and Charges**”); and

WHEREAS, notwithstanding anything in this Resolution to the contrary, the guidelines set forth in this Resolution are intended to create orderly and fair procedures for the processing and collection of Delinquent Fees and Charges and any deviation from the guidelines shall not affect the status of the Lien (as defined below) in any way.

NOW, THEREFORE, be it RESOLVED by the Board of the Ebert Metropolitan District as follows:

1. **Statement of Lien Guidelines:**

a. ***Perpetual Lien.*** Pursuant to § 32-1-1001(1)(j)(I), C.R.S., all Delinquent Fees and Charges shall constitute a perpetual lien on and against the Property served by the District (the “**Lien**”). All such Liens shall, to the fullest extent permitted by law, have priority over all other liens of record affecting the Property and shall run with the Property and remain in effect until paid in full. All Liens contemplated herein may be foreclosed as authorized by law at such time as the District, in its sole discretion, may determine.

i. Notwithstanding the foregoing, the guidelines set forth in this Resolution are intended to create orderly and fair procedures for the processing and collection of Delinquent Fees and Charges and to provide additional notice to interested parties, including, but not limited to, title companies, lenders, tradesmen and the Property owner. In the event any or all of the guidelines set forth in this Resolution are not followed, such deviation shall not affect the status of the Lien in any way. Further, the Board may waive any guidelines set forth in this Resolution and may amend them from time to time as it deems necessary.

b. ***District Manager’s Procedures.*** The District’s Manager, Accountant or Billing Agent (any of which are referred to herein as the “**Manager**”) is responsible for collecting Fees imposed by the District against the Property. In the event payment of Fees is delinquent, the Manager may perform the procedures listed below. The Fees are considered delinquent when they have not been paid by their corresponding due date (the “**Delinquent Account**”):

i. ***15 Calendar Days Past Due:*** A delinquent payment “Reminder Letter” may be sent to the address of the last known owner or occupant of the Property according to the Manager’s records. In the event the above mailing is returned as undeliverable, the Manager may send a second copy of the Reminder Letter to: (1) the Property; and (2) the address of the last known owner of the Property as found in the real property records of the County Assessor’s Office (the “**Assessor**”) for the County in which the District is located (collectively, the “**Property Address**”). Said Reminder Letter may: (1) request prompt payment; (2) notify the Property owner that a Reminder Letter Fee, and a Late Fee in the amounts set forth in this Resolution have been assessed; and (3) reference the url address of the District’s webpage where this Resolution is displayed.

ii. ***15 Calendar Days from the Postmark Date of the Reminder Letter:*** A “Warning Letter” may be sent to the Property Address: (1) requesting prompt payment; (2) warning of further legal action should the Property owner fail to pay the total amount due and owing; and (3) referencing the url address of the District’s webpage where this Resolution is displayed. Along with the Warning Letter, a copy of the most recent account ledger reflecting the total amount due and owing to the District according to the records of the Manager may also be sent.

Once the total amount of Delinquent Fees and Charges owing on the Property exceeds \$250.00, regardless of whether the Manager has performed the tasks outlined in Section 1(b) of this Resolution, the Manager may defer the Delinquent Account to the District’s general counsel ( “**General Counsel**”). At the time of such referral, the Manager may be requested to provide

General Counsel with copies of all notices and letters sent pursuant to Section 1(b), if any, as well as a copy of the most recent ledger for the Delinquent Account.

c. **General Counsel Procedures.** Upon referral of a Delinquent Account from the Manager, General Counsel may perform the following:

i. *Upon Referral of the Delinquent Account from the Manager:* General Counsel may direct the Manager continue to conduct the procedures outlined in Section 1(b), in lieu of General Counsel initiating the procedures below in Section 1(c). In the event General Counsel has directed the Manager to continue the procedures set forth herein, General Counsel reserves the right to initiate the procedures outlined in this Section 1(c), at any time.

ii. *Upon Referral of the Delinquent Account from the Manager:* A “Demand Letter” may be sent to the Property Address, notifying the Property owner that the Property has been referred to General Counsel for further collections enforcement, including the filing of a statement of lien against the Property. Along with the Demand Letter, a copy of the most recent account ledger reflecting the total amount due and owing the District according to the records of the Manager may also be sent.

iii. *No Sooner than 30 Calendar Days from the Postmark Date of the Demand Letter:* A Notice of Intent to File a Statement of Lien, along with a copy of the statement of lien to be filed, may be sent to the Property Address of the Delinquent Account notifying the Property owner that a statement of lien may be recorded with the clerk and recorder of the County where the Property is located (the “**Clerk and Recorder**”) no sooner than 10 calendar days from the postmark date of the Notice of Intent to File a Statement of Lien.

iv. *No Sooner than 10 Calendar Days from the Postmark Date of the Notice of Intent to File a Statement of Lien:* A Statement of Lien for the total amount due and owing as of the date of the Statement of Lien may be recorded against the Property with the Clerk and Recorder no sooner than 10 days from the postmark date of the Notice of Intent to File a Statement of Lien is sent to the Property. Notwithstanding the amount due and owing reflected on the Statement of Lien, all Delinquent Fees and Charges will continue to accrue on the Delinquent Account and will run with the Property until the total amount due and owing the District is paid in full.

d. **Foreclosure or Bankruptcy.** In circumstances where the Property is being foreclosed upon or where the owner of the Property has declared or is declaring bankruptcy and notice of such bankruptcy action has been provided to the District, the Manager may be permitted, in his or her discretion, to refer the Delinquent Account directly to General Counsel in order to avoid unnecessary, costly and time-consuming procedures. Upon referral of the Delinquent Account to General Counsel, General Counsel may, in his or her discretion, immediately file a Statement of Lien on the Property. Further, subject to Sections 1(d)(i) and (ii), when a Delinquent Account has a Foreclosable Balance (as defined below) of \$3,000 or greater, General Counsel is authorized, in his or her discretion, to recommend foreclosure action against the Property. Any foreclosure action shall be approved by the Board prior to the initiation of any foreclosure action by special counsel engaged by the District to handle foreclosure actions on behalf of the District (“**Special Counsel**”). The District may, at its option, forward a copy of the foreclosure warning

letter to any and all deed of trust holders and/or counsel for any and all deed of trust holders of record.

i. Pursuant to § 32-1-1004.5, C.R.S., foreclosure shall be available only to the extent that amounts due on the Delinquent Account do not exclusively relate to covenant or design review violations or enforcement of a failure to comply with any covenants or design guidelines (“**Covenant Violation Amounts**”).

ii. If a Delinquent Account has only Covenant Violation Amounts due, there is no Foreclosable Balance. For all other Delinquent Accounts, the “**Foreclosable Balance**” equals the amounts due resulting from (a) unpaid Fees other than those related to Covenant Violation Amounts, (b) subject to the next sentence, Costs of Collection other than those related to Covenant Violation Amounts, (c) subject to the next sentence, Legal Fees and Costs other than those related to Covenant Violation Amounts, (d) Late Fees other than those related to Covenant Violation Amounts and (e) Interest charged other than those related to Covenant Violation Amounts (“**Foreclosable Balance**”). For clarity, if the Delinquent Account has amounts due for reasons other than Covenant Violation Amounts (for example, unpaid operating Fees) and such other amounts due would have authorized the District to incur Costs of Collection and Legal Fees and Costs under this Resolution, all of the Costs of Collection and Legal Fees and Costs shall be included in the Foreclosable Balance.

## 2. **Late Fees:**

a. Late Fees are assessed on the Property for failure to make timely payments of Fees. Late Fees are applied, regardless of whether the Fees are assessed on a one-time, monthly, quarterly, semi-annual, annual, or any other basis.

b. Late Fees are assessed on the Property 15 calendar days from the payment due date. Pursuant to § 29-1-1102, C.R.S., such Late Fees may be charged by either of the following two methods, whichever is greater:

i. One Late Fee of \$15 may be assessed on the Property per each assessment or installment of Fees not fully paid prior to the 15<sup>th</sup> calendar day following the payment due date; or

ii. In lieu of Section 2(b)(i) above, a Late Fee of 5% per month, commencing on the 15<sup>th</sup> calendar day following the payment due date, and each month thereafter, may be charged on unpaid Fees until the Late Fee equals 25% of all outstanding Fees.

c. Partial payment of any outstanding Delinquent Fees and Charges will not prevent the imposition of Late Fees pursuant to this Section 2.

d. Payments received will be applied to the balance due in the following order of priority: (1) Late Fees; (2) Interest; (3) Costs of Collections; (4) Legal Fees and Costs; (5) the earliest imposed and unpaid Fees; (6) any successive unpaid Fees in chronological order from the earliest unpaid Fees to the most recently imposed Fees.



e. No penalty will be assessed on the Property for a credit balance resulting from the prepayment and/or overpayment of Fees. Such credit balances will be carried forward on the account with all subsequent Fees and Delinquent Fees and Charges being deducted until such time as the credit balance is depleted. A Property carrying a credit balance may be assessed Late Fees as provided herein at such time as the credit balance is insufficient to pay the entire amount of Fees due and owing the District.

3. **Interest:** Interest charges accrue on all delinquent Fees at the rate of 12% per annum. Interest shall not accrue and be charged on Late Fees, Interest or Costs of Collections.

4. **Costs of Collections:**

a. Include, but are not limited to, attorneys' fees and all costs, fees and charges associated with the processing and/or collection of Delinquent Fees and Charges, including the following fixed rates and hourly fees and costs:

i. *Action Fees.* The following fixed rate fees are charged to a Delinquent Account once the corresponding action has been taken by either the Manager or General Counsel:

- ◆ *Reminder Letter Fee:* \$10 per Reminder Letter. This action is typically performed by the Manager.
- ◆ *Warning Letter Fee:* \$10 per Warning Letter sent. This action is typically performed by the Manager.
- ◆ *Management Company Service Fee:* \$20 per month. This action is typically performed by the Manager.
- ◆ *Management Company Trial Appearance/Preparation Fee:* \$95 per hour.
- ◆ *Return Check Fee:* \$20 per returned payment.
- ◆ *Attorney Transfer Fee:* \$75 per Delinquent Account transferred from the Manager to General Counsel. This action is performed by the Manager.
- ◆ *Demand Letter Fee:* \$150 per Demand Letter sent. This action is performed by General Counsel.
- ◆ *Follow up Demand Letter Fee:* \$50 per Follow up Demand Letter sent. This action is performed by General Counsel.
- ◆ *Notice of Intent to File a Statement of Lien Fee:* \$120 per Notice of Intent to File a Statement of Lien sent. This action is performed by General Counsel.

- ◆ *Lien Recording Fee:* \$150 per each lien recorded on the Property. This action is performed by General Counsel.
- ◆ *Payment Plan Fee:* \$250 per Payment Plan prepared. This action is performed by General Counsel.
- ◆ *Default Letter Fee:* \$70 per Default Letter prepared. This action is performed by General Counsel.
- ◆ *Responding to Bankruptcy Fee:* \$100 for monitoring Chapter 7 bankruptcies. \$350 for monitoring Chapter 13 or Chapter 11 bankruptcies. These actions are performed by General Counsel and are in addition to attorney's fees.
- ◆ *Monitoring Public Trustee Foreclosure Fee:* \$200 per Public Trustee Foreclosure action monitored. This action is performed by General Counsel.
- ◆ *Attorney Reminder Letter Fee:* \$70 per Reminder Letter. This action is performed by General Counsel.
- ◆ *Certificate of Status Fee:* \$100 per Status Letter prepared. This action is performed by General Counsel.
- ◆ *Foreclosure Warning Letter Fee:* \$100 per Foreclosure Warning Letter prepared. This action is performed by General Counsel.
- ◆ *Lien Release Fee:* \$150 per lien that is released. This action is performed by General Counsel. It is recommended that the Lien Release Fee be charged to the Delinquent Account at the same time as the Lien Recording Fee.
- ◆ *Court Appearances by Manager:* \$95 per hour. This includes meeting with the District's attorney, depositions and administrative preparation relating to a case.

ii. *Attorney Hourly Fees and Costs.* Upon transfer of a Delinquent Account to General Counsel or Special Counsel, as applicable, all hourly attorneys' fees and costs, including, but not limited to, litigation and expert witness fees and costs, litigation guarantees, service of process and/or publications incurred by the District to collect or defend the Delinquent Fees and Charges are assessed to the Delinquent Account and become part of the perpetual Lien on the Property. All such hourly attorneys' fees and costs shall be reasonable.

iii. *Recovery of Costs of Collections.* In accordance with § 29-1-1102(8), C.R.S., nothing in this Resolution shall be construed to prohibit the District from recovering all Costs of Collections whether or not outlined above.

## 5. **Waiver of Late Fees, Interest and Costs of Collections:**

a. Each of the Manager, General Counsel and Special Counsel, has authority and discretion to waive or reduce all or portions of the Delinquent Account attributable to Delinquent Fees and Charges. Such action is permitted if it is determined that such waiver or reduction will facilitate the payment of Delinquent Fees and Charges and/or is commercially reasonable in the circumstances.

b. The authority to waive Delinquent Fees and Charges is as follows:

i. Each of the District Manager, General Counsel and Special Counsel may waive Delinquent Fees and Interest not to exceed \$1,000.

ii. In the case of Delinquent Fees and Charges exceeding \$1,000, the person or entity owing such amount must submit a request for a waiver, in writing, to the Board, which determination shall be made by the Board at an open meeting in the Board's sole discretion.

c. Any waiver or reduction of Late Fees or Interest granted pursuant to this Section shall not be construed as a waiver or reduction of future Late Fees and Interest, or as the promise to waive or reduce future Late Fees or Interest. Nor shall any such waiver or reduction be deemed to bind, limit, or direct the future decision-making power of the Board, Manager, General Counsel, or Special Counsel whether related to the Property in question or other properties within the District.

d. The Board hereby ratifies any waiver or reduction of Late Fees or Interest granted pursuant to this Section prior to the adoption date of this Resolution.

6. **Payment Plans:** The Manager, General Counsel and Special Counsel each have the authority to enter into or establish payment plans for the repayment of a Delinquent Account. The Manager, General Counsel, and Special Counsel each have the authority to forebear all Late Fees and Interest that would be incurred during the Payment Plan period. The Manager, General Counsel, and Special Counsel each have the right to terminate forbearance of said Late Fees and Interest in the event the owner of the Property does not comply with the terms of the Payment Plan. Should the Manager, General Counsel, or Special Counsel elect not to enter into a Payment Plan with the Property owner, the Property owner may submit a written request to the Board and the Board may make the determination in its sole discretion.

7. **Acceleration and Decelerations of Fees:** The District reserves the right to accelerate and call due an entire unpaid annual Fee on any delinquent account. Such acceleration shall result in the entire unpaid annual Fee being due to the District immediately. The District also reserves the right to decelerate any accelerated Fee.

8. **Ratification of Past Actions:** All acts, omissions, waivers and/or payment plans heretofore undertaken by the Manager, General Counsel, or Special Counsel that would otherwise have been authorized by or not required by this Resolution are hereby affirmed, ratified and made effective as of the date said acts, omissions, waivers and/or payment plans occurred.

9. **Additional Actions:** The Board directs its officers, staff and consultants to take such additional actions and execute such additional documents as are necessary to give full effect to the intention of this Resolution.

10. **Deviations:** The District may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

11. **Supersedes Prior Resolutions:** This Resolution shall supersede and replace in their entirety all prior resolutions addressing the processing and/or collection of Delinquent Fees and Charges, including the Prior Policy. To the extent that any term or provision in this Resolution conflicts with any term or provision in a previously enacted and valid resolution of the District, the term or provision in this Resolution shall prevail.

12. **Severability:** If any term, condition or provision of this Resolution shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such term, condition or provision shall not affect any other provision contained in this Resolution, 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 Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

13. **Savings Provision:** The failure to comply with the procedures set forth herein shall not affect the status of the Delinquent Fees and Charges as a perpetual Lien subject to foreclosure in accordance with law. Failure by the Manager, General Counsel, Special Counsel, or other authorized representative to take any action in accordance with the guidelines provided herein shall not invalidate subsequent efforts to collect the Delinquent Fees and Charges. To the extent any specific clause or portion of this Resolution is inconsistent with the law, that specific clause or provision will be interpreted so that it is enforceable to the fullest extent of the law, and shall not affect any other clause or provision of this Resolution.

*[Remainder of page intentionally left blank, signature page follows.]*

ADOPTED this 15<sup>th</sup> day of January, 2025

EBERT METROPOLITAN DISTRICT

By: \_\_\_\_\_  
Bruce Shibles, President

Attest:

By: \_\_\_\_\_  
Cynthia Barclae, Secretary

## EBERT METROPOLITAN DISTRICT

### A RESOLUTION AUTHORIZING EXECUTION OF THE CONSOLIDATION AGREEMENT REGARDING CONSOLIDATION OF EBERT METROPOLITAN DISTRICT AND TOWN CENTER METROPOLITAN DISTRICT

**WHEREAS**, Ebert Metropolitan District (“**Ebert**”) is organized and operated pursuant to the provisions of Article 1, Title 32, C.R.S. and its service plan (the “**Ebert Service Plan**”)<sup>1</sup>, for the purpose of constructing, operating, and maintaining certain public facilities and improvements within its jurisdictional boundaries, which boundaries are located within the City and County of Denver, Colorado; and

**WHEREAS**, Town Center Metropolitan District (“**TCMD**,” together with Ebert, the “**Districts**”) is similarly organized and operated pursuant to the provisions of Article 1, Title 32, C.R.S. and its service plan (the “**TCMD Service Plan**”)<sup>2</sup>, for the purpose of constructing, operating, and maintaining certain public facilities and improvements within its jurisdictional boundaries, which boundaries are located within the City and County of Denver, Colorado; and

**WHEREAS**, Clayton Properties Group, Inc. (“**Clayton**”) is the developer of both Ebert and TCMD, with TCMD serving as the control district responsible for the construction, operation, and maintenance of facilities for both Districts until the transition to resident control, which will occur with completion of the statutory process for consolidation of Ebert and TCMD into one resident-controlled consolidated district; and

**WHEREAS**, the Districts furnish and are authorized to furnish the same services; and

**WHEREAS**, the Districts believe they are so situated that they may be operated more effectively and economically as one consolidated district (the “**Consolidated District**”); and

**WHEREAS**, the Districts believe that the public health, safety, prosperity, and general welfare of their inhabitants will be better served by consolidation into the Consolidated District; and

**WHEREAS**, the Districts desire to create a comprehensive plan for consolidation, which shall include provisions regarding: (a) completion of any financial obligations of the Districts; (b) preservation of established differential mill levies throughout the Consolidated District; (c) territorial boundaries of the Consolidated District; and (d) continuation of services and the funding thereof throughout the Consolidated District; and

**WHEREAS**, the Districts desire to work cooperatively to take all actions necessary to cause a consolidation order of the court to be issued in accordance with Section 32-1-603(4), C.R.S., (the “**Court Order**”); and

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<sup>1</sup> Ebert’s Service Plan was approved in May 1983, as the Service Plan for First Creek Metropolitan District. This Service Plan was amended in a nonmaterial manner on August 6, 2024, giving Ebert the authority to provide covenant control and design review services within its boundaries.

<sup>2</sup> TCMD’s Service Plan was approved in May 1983, as the Service Plan for Town Center Metropolitan District. This Service Plan was amended in a nonmaterial manner on October 9, 2002, giving TCMD the authority to provide covenant control and design review services.

**WHEREAS**, the Districts desire to enter into that certain Consolidation Agreement, which sets forth the timeline and responsibilities of the Districts to achieve consolidation in 2025; and

**WHEREAS**, the Board hereby finds and determines that the approval of the Consolidation Agreement is not only appropriate but necessary for the function and operation of the District, as it will provide the legal and operational framework required to effectuate the consolidation, ensuring the smooth continuation of services, financial obligations, and other essential aspects of district management.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of Ebert Metropolitan District as follows:

1. Approval of Consolidation Agreement. The Board hereby approves the Consolidation Agreement, subject to non-substantive necessary legal revisions, in the form attached hereto as **Exhibit A**.
2. Effective Date. This Resolution shall take effect immediately upon its approval by the District Board.

ADOPTED this 15<sup>th</sup> day of January, 2025 by a vote of \_\_\_ in favor and \_\_\_ opposed.

EBERT METROPOLITAN DISTRICT

By \_\_\_\_\_  
Bruce N. Shibles, President

Attest:

\_\_\_\_\_  
Cynthia Barclae, Secretary

**EXHIBIT A**  
**(Consolidation Agreement)**



## CONSOLIDATION AGREEMENT

This CONSOLIDATION AGREEMENT (this “**Agreement**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_ 2025 between the EBERT METROPOLITAN DISTRICT (“**Ebert**”) and the TOWN CENTER METROPOLITAN DISTRICT (“**TCMD**,” and together with Ebert, the “**Districts**”), each being a special district, quasi-municipal corporation and political subdivision of the State of Colorado located in the City and County of Denver, organized pursuant to the provisions of the Special District Act, Article 1 of Title 32, C.R.S. (the “**Act**”).

### RECITALS

WHEREAS, Ebert is organized and operated pursuant to the provisions of Article 1, Title 32, C.R.S. and its service plan (the “**Ebert Service Plan**”)<sup>1</sup>, for the purpose of constructing, operating, and maintaining certain public facilities and improvements within its jurisdictional boundaries, which boundaries are located within the City and County of Denver, Colorado; and

WHEREAS, TCMD is organized and operated pursuant to the provisions of Article 1, Title 32, C.R.S. and its service plan (the “**TCMD Service Plan**”)<sup>2</sup>, for the purpose of constructing, operating, and maintaining certain public facilities and improvements within its jurisdictional boundaries, which boundaries are located within the City and County of Denver, Colorado; and

WHEREAS, Town Center Metropolitan Subdistrict No. 1 (“**TCSD1**”), Town Center Metropolitan Subdistrict No. 2 (“**TCSD2**”), Town Center Metropolitan Subdistrict No. 3 (“**TCSD3**”), Town Center Metropolitan Subdistrict No. 4 (“**TCSD4**”), and Town Center Metropolitan Subdistrict No. 5 (“**TCSD5**”, and together with TCSD1, TCSD2, TCSD3, and TCSD4, the “**Subdistricts**,” or individually, a “**Subdistrict**”) were organized by TCMD and operate pursuant to Section 32-1-1101(1)(f) to fix different rates of levy for property tax purposes against all the taxable property within such Subdistricts according to the services, programs, and facilities furnished or to be furnished within each Subdistrict; and

WHEREAS, the Districts furnish and are authorized to furnish the same services; and

WHEREAS, the Districts believe they are so situated that they may be operated more effectively and economically as one consolidated district (the “**Consolidated District**”); and

WHEREAS, the Districts believe that the public health, safety, prosperity, and general welfare of their inhabitants will be better served by consolidation into the Consolidated District; and

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<sup>1</sup> Ebert’s Service Plan was approved in May 1983, as the Service Plan for First Creek Metropolitan District. This Service Plan was amended in a nonmaterial manner on August 6, 2024, giving Ebert the authority to provide covenant control and design review services within its boundaries.

<sup>2</sup> TCMD’s Service Plan was approved in May 1983, as the Service Plan for Town Center Metropolitan District. This Service Plan was amended in a nonmaterial manner on October 9, 2002, giving TCMD the authority to provide covenant control and design review services.

WHEREAS, the Districts desire to create a plan for consolidation, which shall include provisions regarding: (a) the approval of any financial obligations; (b) the application of differential mill levies within the Subdistricts; (c) the areas included within the Consolidated District; and (d) the continuation of services, and the funding thereof throughout the Districts and Subdistricts; and

WHEREAS, the consolidation will result in the transfer of assets with a December 2023 value as described in the TCMD audited financial statements of over \$35 million, including over \$2.2 million in cash, which value has been developed or acquired using a combination of tax revenues generated by properties within the Ebert Metropolitan District and financial and physical contributions of TCMD and the Developer since Ebert's organization; and

WHEREAS, the Districts desire to work cooperatively to take all actions necessary to cause a consolidation order of the court to be issued in accordance with Section 32-1-603(4), C.R.S., (the "**Court Order**").

NOW THEREFORE, IN CONSIDERATION of the above recitals, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, the Districts agree as follows:

### **AGREEMENT**

1. Purpose of Consolidation Agreement. The terms and conditions set forth in this Agreement are integral and necessary elements of the mutual agreement to consolidate the Districts and shall become part of and be incorporated into the Court Order. The approval and execution of this Agreement by each District are prerequisite conditions of proceeding with the consolidation of the Districts. If this Agreement is not approved and executed by both Districts, the consolidation proceedings shall be terminated immediately.

2. Purpose of Consolidation. The purpose of this consolidation is to incorporate all of the services furnished by each District, including the Subdistricts thereof, into a Consolidated District in accordance with the provisions of the Act. It is the intent of the Board of Directors of each District that (i) all operations, facilities, assets and liabilities (except as otherwise provided herein) of each District, including its Subdistricts, become the property of, and be operated and managed by and incorporated into the on-going operations, facilities, assets and liabilities of the Consolidated District and (ii) the combined operations, facilities, assets and liabilities of the Districts be operated and managed by the Consolidated District as a single integrated system with a common service area without differentiating between the former service boundary areas of the Districts, except as otherwise specified herein.

3. Timing of Consolidation. The Districts shall collaborate effectively and diligently to ensure the consolidation matters are finalized after the Election Date, but before the Consolidation Date. An election on the consolidation question will be scheduled for the May 6, 2025 election if possible,<sup>3</sup> and all necessary preparations for the election will be performed

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<sup>3</sup> This Agreement must be executed and Consolidation Resolutions passed by both Districts prior to January 17, 2025 to allow the necessary statutory time requirements for obtaining a court order for a May 6, 2025 Consolidation Election.

concurrently with the requirements outlined in this Agreement. A majority affirmative vote at the Consolidation Election (“**Election Date**”) will prompt the Districts to secure a Court Order from the District Court shortly thereafter, and the Consolidation shall be effective as of the date of recording the Court Order (“**Consolidation Date**”). Ebert shall submit the Court Order for recording promptly after completion, to its reasonable satisfaction, of the conditions precedent as identified in Paragraph 8 herein.

4. Name of Consolidated District. The name of the Consolidated District shall be Ebert Metropolitan District. After consolidation and a resolution by the Consolidated District, the Subdistricts shall be known as Ebert Subdistrict No. 1, Ebert Subdistrict No. 2, Ebert Subdistrict No. 3, Ebert Subdistrict No. 4, and Ebert Subdistrict No. 5.

5. Services of Consolidated District. The Consolidated District shall inherit all rights, powers, and authorities granted by statute and service plans applicable to each of the individual Districts and Subdistricts, including any modifications to such service plans that have occurred since the original organization proceedings. The Consolidated District shall have the authority to continue providing all services previously offered by the individual Districts and Subdistricts within the territory of the Ebert Metropolitan District without significant change.

6. Coordinated Management during Fiscal Year 2025. At their respective July Board meetings, each District approved a Request for Proposal to select a District Manager who will serve both Districts until the consolidation is finalized by the Court Order. Upon the Court Order and finalization of the consolidation as anticipated by this Agreement, this District Manager will continue in a similar role for the Consolidated District. During 2025, various management functions might be performed by existing managers for the two Districts, with consolidation of all functions under one district manager to fully occur in 2026. The Districts agree to collaborate and take all necessary steps to ensure a seamless transition of management to the Consolidated District.

7. Unified Budgeting for Fiscal Year 2025. The Districts agree that funding for fiscal year 2025 will come from all tax revenues received by Ebert in 2025 plus tax revenues received by TCMD in 2025. The District Boards will coordinate on the preparation and approval of 2025 budgets for each District, including Subdistricts, with the TCMD board controlling expenditures through its budget until the Consolidation Date, and with the Ebert Board controlling expenditures through any and all budgets commencing as of the Consolidation Date.

8. Conditions Precedent to the Consolidation. The following tasks shall be completed prior to the Consolidation Date. If not completed by the time of the Districts’ request for the Court Order, any unfinished tasks will be addressed as appropriate by the Districts at that time with satisfactory completion of such tasks occurring before the Consolidation Date.

(a) TCMD Subdistrict Territories – TCSD2 and TCSD5. Prior to the full build out (“**Stabilization**”) of TCSD5, TCMD shall use its best efforts to ensure that the developer of residential properties within TCSD5 is advancing adequate funds for the operation and maintenance of TCSD5. From the Consolidation Date forward, the Consolidated District will oversee expenditures through 2025 attendant to the areas of TCSD2 and TCSD5 that are outside of the Ebert boundaries; provided, however, that prior to the Consolidation Date Ebert

has no obligation to manage portions of TCSD2 and TCSD5 that are located outside of Ebert's boundaries.

(b) Substantial Completion of Litigated Landscape Matters. The Districts have agreed in the MOU, as set forth herein, to stay litigation involving Ebert and/or TCMD owned and/or operated landscaping and structures (“**Common Property**”). The MOU requires certain levels of remedial work to cure the issues underlying the litigation. The remedial work has been partially completed, and with the passage of the TCMD 2025 Budget, further progress is expected in 2025. Paragraphs 6 and 10 of the MOU specify tasks that require a longer timeline than just the 2025 field season. Provided that sufficient progress has been made by TCMD on work described in paragraphs 6 and 10 of the MOU by the Consolidation Date, at its reasonable discretion Ebert will move to dismiss the litigation at that time.

(c) Removal of Developer Advance Line Items in TCMD 2025 Budget. The Developer Advance line items in TCMD's 2025 budget have been removed with Clayton Properties' (“**Developer**”s) consent except with respect to TCSD5. Developer advances for TCSD5 will not be budgeted in 2026 or thereafter by the Consolidated District.

(d) Termination of Services Agreement. The Districts agree that the Second Amended and Restated District Facilities Construction, Funding, and Service Agreement, executed on November 1, 2018, will be terminated effective on the Consolidation Date.

(i) TCMD hereby relinquishes any entitlement to Developer Advances under the Second Amended and Restated District Facilities Construction, Funding, and Service Agreement in 2025 or thereafter. Such advances have been identified as line items in TCMD budget documents prior to 2025, but no such line item has been included in TCMD's 2025 Budget.

(e) Completion of Unfinished Improvement Projects. TCMD shall complete work listed below or make other provisions for completion of the projects to Ebert's reasonable satisfaction:

(i) Use best efforts to work with the City of Aurora to restore, or ensure the restoration of, the premises affected by the Sewer Utility Easement granted by TCMD to the City of Aurora, dated September 12, 2022, and recorded in the real property records of the City and County of Denver on September 16, 2022, at Reception No. 2022121717. The restoration shall be in accordance with the terms outlined in the Sewer Utility Easement, which was executed to facilitate the installation of Aurora's sewer interceptor along the golf course, crossing Dunkirk Street, and continuing along 56th Avenue.

(ii) Use best efforts to cause Developer to remediate any potential drainage issues in Filing 45 that requires drainage control earthwork to be compliant with approved plans (south side of 12<sup>th</sup> hole and south side of 13<sup>th</sup> hole). This earthwork must be completed per the required process of the City of Denver.

(iii) TCMD will grade the seed area with plans to install landscape beds in the future at the corner of Piccadilly & 56<sup>th</sup> Ave.

(f) Transfer of Assets. Real estate interests, water, and mineral rights shall be conveyed by special warranty deed to Ebert after the Consolidation has been approved by all applicable eligible electors but prior to the Consolidation Date. TCMD shall provide title commitments for such real properties. Personal property assets such as wells, pumps, piping, and similar items of personal property shall be conveyed by bill(s) of sale. As of the Election Date, to the extent any properties are still owned by the Developer, TCMD will use its best efforts to ensure that the Developer transfer such properties to the Consolidated District before the Consolidation Date.

(i) Transfer of real property in Fairway Villas—the Lodge, the Clubhouse, pickleball courts, bocce ball courts, community gardens, and parking lots.

(ii) Transfer of applicable Common Properties within Ebert boundaries.

(iii) Transfer of any and all developer TCMD Director parcel(s) located within Ebert boundaries.

(iv) Transfer of rights of way and easements associated with the Enclave/TCSD3.

(v) Transfer of golf course and related properties.

(vi) To the extent in the possession or control of TCMD or its agents, contractors, affiliates, or representatives, transfer of plans, reports, drawings, as-builts, and other information associated with infrastructure for properties that have not been dedicated to the City of Denver and would thereby be available as public records. TCMD will use its best efforts to ensure that Developer delivers similar documents in its possession to the Consolidated District.

(g) Transfer Fees. All transfer fees described in the Master Declaration of Covenants, Conditions, and Restrictions for Green Valley Ranch North and currently collected by TCMD shall not be assigned to Ebert. Responsibility for collection of such fees shall instead be transferred by TCMD to a collection agent (“**Collection Agent**”) identified by the Developer, who shall assume responsibility for the collection effective immediately following the entry of the Court Order and who shall then distribute the Transfer Fees according to Paragraph 7 of the Declaration of Covenants.

(h) Assignment of Contractual Commitments. TCMD is contractually liable to various entities and local governments for the provision of services and other matters. Each existing contract shall be reviewed and accepted by Ebert by assignment. It is anticipated that such contractual commitments will be met for 2025 through TCMD’s 2025 budget, and might be met by Ebert in 2026 and thereafter only to the extent that such contractual commitments are accepted by Ebert and incorporated into its annual budgets.

(i) Contractual Reimbursements. TCMD has provided Ebert a list of potential cost share reimbursements from other entities for capital projects either completed or under construction, which will be assigned to Ebert (subject to negotiation before the transfer of other assets). These reimbursements are specific to TCMD, do not include reimbursements to

the Developer, and include \$310,000 for a traffic signal located at Tower Road and Maxwell, \$54,000 for bike lanes from 55<sup>th</sup> Ave. to 56<sup>th</sup> Ave., \$52,000 for bike lanes from 52<sup>nd</sup> Ave. to Elmendorf St., and 25% of Aurora's costs to construct the 38<sup>th</sup> Ave. 3<sup>rd</sup> Phase from Odessa to Piccadilly pursuant to the 2007 IGA between the City and County of Denver and City of Aurora.

9. Boundaries of Consolidated District. The area to be included within the boundaries of the Consolidated District shall be the current territory of Ebert, including properties owned by TCMD. The Consolidated District will lie entirely within the boundaries of the City and County of Denver, Colorado. A map of the area included within the Consolidated District boundaries is attached hereto as **Exhibit A**, and incorporated herein by this reference.

10. Board of Consolidated District. The Board of Directors of the Consolidated District (the "**Consolidated Board**") shall have five (5) members. The first Consolidated Board shall be appointed by the organizational board of directors (the "**Organizational Board**") in accordance with the Act and shall be composed of the current members of the Ebert Board of Directors who serve as directors as of the date of the Court Order. The Organizational Board shall establish the terms of office for the members of the Consolidated Board in accordance with Section 32-1-603(2)(b), C.R.S. and terms of the Ebert Board in effect as of the date of the Court Order. If there is a vacancy for any reason among the directors designated herein for the Consolidated Board, the Organizational Board shall appoint any elector of the Consolidated District to fill such vacancy. Pursuant to Section 32-1-1101(1)(f)(III), C.R.S., the Board of the Consolidated District shall serve as the *ex officio* board of directors of each Subdistrict.

11. Consolidated District Service Plan. The Districts hereby recognize that the Consolidated District does not need separate approval of a service plan by the City and County of Denver in accordance with the provisions of Part 2, Article 1, Title 32. The Districts hereby agree that the Ebert Service Plan and TCMD Service Plan shall be read together to constitute the service plan of the Consolidated District. To the extent any discrepancies exist between the service plans, the service plan with the more enabling or permissive language shall govern.

12. Consolidation Election. The consolidation election shall be conducted on May 6, 2025 by a Designated Election Official of Ebert's choosing across all territories of the Consolidated District, unless otherwise ordered by the Denver District Court (the "**Court**"). If the consolidation is approved by the eligible electors of each District, the Organizational Board of the Consolidated District shall: (i) appoint the Consolidated Board in accordance with Section 10 of this Agreement; and (ii) request the Court to issue the Court Order in compliance with this Agreement and the Act. The consolidation will take effect on the date the Court Order is recorded as provided in Paragraph 3 herein, unless otherwise determined by the Court. If the consolidation is not approved by the electors of each District, this Agreement and the consolidation proceedings will be terminated. Representatives of the Districts shall continue to meet in good faith to effect a transition to resident control of the Ebert District for budget year 2026.

13. TCMD Subdistricts. TCSD1, TCSD2, TCSD3, TCSD4, and TCSD5 shall remain as subdistricts of the Consolidated District, each continuing to impose the mill levy each is authorized to impose as of the Consolidation Date. It is the intent of the Districts that TCSD1, TCSD2, TCSD3, TCSD4, and TCSD5 will continue all services currently provided by each

subdistrict to continue through 2025 without material change, and thereafter in the discretion of the Ebert Board. The Consolidated District (Ebert) shall have no obligation after December 31, 2025 to subsidize the continuation of services or operations and maintenance within TCSD2 and TCSD5 with tax revenues other than tax revenues raised from properties within TCSD2 and TCSD5.

14. Indebtedness. TCMD warrants that neither TCMD nor any of its Subdistricts have bonded indebtedness as of the date of this Agreement. TCMD warrants that neither TCMD nor any of the Subdistricts will incur any debt prior to consolidation. Ebert does have continuing bonded indebtedness that will be paid after the consolidation in accordance with the repayment schedule currently in force, or as an authorized refunding of such debt occurs. Voter approval of the consolidation shall constitute approval of the continued repayment of Ebert debt by the Consolidated District.

15. Mill Levies. TCSD1, TCSD2, TCSD3, TCSD4, and TCSD5 provide services to residents not generally received by all taxpayers and property owners within TCMD or Ebert. Accordingly, TCSD1, TCSD2, TCSD3, TCSD4, and TCSD5 each impose a mill levy for general operating expenses in addition to mill levies imposed by Ebert. For 2025, mill levies in each Subdistrict will be certified by TCMD and the Subdistricts, and administered by TCMD until the Consolidation Date. After the Consolidation Date, Ebert will administer services funded by the respective mill levies so that each Subdistrict can continue providing the same level of services within their respective boundaries through 2025. Thereafter, the Consolidated Board acting as the *ex officio* board of each Subdistrict will be responsible for determining the mill levies to be imposed in each Subdistrict as part of the annual budgeting process.

16. Contracts of Consolidated District. Pursuant to Section 32-1-607, C.R.S., the Consolidated District shall, by operation of law, be the successor and assignee of all interests, rights and obligations in, to and under all contracts and agreements of each District, including but not limited to all intergovernmental service agreements; construction, purchase, service and operational contracts; cost recovery and tap fee agreements; property, banking and investment agreements; and all other contracts and agreements of every kind and nature (collectively, the “**Contracts**”). A list of the Contracts is attached hereto as **Exhibit B**, and incorporated herein by this reference.

17. Assets of the Districts. Pursuant to Section 32-1-607(2), C.R.S., the Consolidated District shall immediately assume ownership of, and be entitled to receive, hold, sue for, and collect all funds, taxes, levies, assessments, fees, charges, and any property or assets, including but not limited to operational reserves, cash assets, capital reserves, real property, water rights, personal property, and appurtenances of any kind owned, leased, claimed by, or due to each District (collectively, the “**Assets**”) except the Transfer Fees which shall be handled as addressed in Section 8(g) above. A complete list of the Assets is attached hereto as **Exhibit C**, and incorporated herein by this reference. The Consolidated District shall properly document the change in ownership, contractual obligations referenced herein, and notify all relevant parties of its succession.

18. Continued Existence of the Districts. The Court Order shall expressly state that the Districts shall continue to exist, up to the Consolidation Date, as corporate entities for the

purpose of carrying out such tasks and matters that are to occur pursuant to this Agreement, including the adoption of any budgets. Should any matters arise that require “winding up” actions or efforts on the part of any Districts or Subdistricts to fulfill the intentions of this Agreement, the Consolidated District is hereby authorized and obligated to take such actions, make such efforts, and execute such documents as may be necessary and reasonable to accomplish the same.

19. Memorandum of Understanding between the Districts. The Districts have agreed upon a Memorandum of Understanding (the “**MOU**”) attached hereto as **Exhibit D**, and incorporated herein by this reference to stay litigation involving the state of landscaping and structures on the Common Property. The MOU requires certain levels of remedial work to cure the issues underlying the litigation. The remedial work must be substantially completed to Ebert’s satisfaction prior to transfer of Contracts and Assets under this Agreement. The proposed Court Order submitted to the District Court following a successful election result shall only be submitted by Ebert after TCMD has completed the remedial work as anticipated by the terms of the MOU, with the exception of certain tasks described paragraphs 6 and 10 of the MOU, which require multiple months or years to appropriately implement. Upon completion of the MOU tasks to the reasonable satisfaction of the Ebert Board, Ebert shall file an Unopposed Motion to Dismiss the pending action under Case No. 23CV32212, provided that sufficient progress has been made by TCMD on paragraphs 6 and 10 of the MOU by the Consolidation Date.<sup>4</sup>

20. 2025 Budget. As of the date of this Agreement the Ebert Board will have active involvement and approval authority of the TCMD 2025 budget, and will administer expenditures from the TCMD budget in 2025 after the Consolidation Date.

21. Effective Date. This Agreement shall be in full force and effect and be legally binding upon each District at the time of execution of this Agreement by Ebert and TCMD. Such execution can coincide with adoption of Consolidation and Concurring resolutions by the respective District Boards. Each District agrees to execute, approve and adopt any and all agreements, instruments, documents, rules and resolutions necessary to give effect to the terms of this Agreement.

22. Default. In the event any District, at any time during the term of this Agreement, fails to perform or comply with any provision of this Agreement, the other District shall provide written notice specifying the particular default and a reasonable time period for rectifying such default, and the responsible District shall correct such default within such time period. If the responsible District fails to correct such default within such time period, the other District may take such reasonable action as it deems proper or necessary to correct such default, or it may terminate this Agreement. The responsible District shall reimburse the other District for any expense incurred in correcting or enforcing such default, including attorneys' fees. Waiver or failure to give notice of a particular default hereunder shall not be construed as a waiver of any continuing or subsequent default.

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<sup>4</sup> It is anticipated that Ebert can file a motion to dismiss the pending litigation at the time of the Consolidation Date unless the Districts agree on a mutually earlier time for dismissal of the pending litigation.



23. Termination. This Agreement may only be terminated by mutual written agreement of all Districts, provided, however, the Districts hereby agree that this Agreement shall automatically terminate in the event a majority of the electors voting in the Consolidation Election do not approve the consolidation ballot question.

24. Assignment. This Agreement shall not be assigned in whole or in part.

25. Amendment. This Agreement may be amended, from time to time, by agreement between the Districts. No amendment, modification or alteration of this Agreement shall be binding upon the Districts unless the same is in writing and approved by the Board of Directors of each District.

26. Waiver. No waiver by any District of any right, term or condition of this Agreement shall be deemed or construed as a waiver of any other right, term or condition, nor shall a waiver of any breach hereof be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.

27. Notices. Any notices, demands, or other communications required or permitted to be given in writing under this Agreement shall be delivered personally or sent by registered mail, postage prepaid, return receipt requested, addressed to the Districts at the addresses set forth below, or at such other address as any District may hereafter or from time to time designate by written notice to the other Districts given in accordance herewith. Notice shall be considered given when personally delivered or mailed and shall be considered received by the District to whom it is addressed on the third day after such notice is given.

Ebert: Ebert Metropolitan District  
2370 Antelope Ridge Trail  
Parker, Colorado 80138  
Attn: Kurt Schlegel

with a copy to: Cockrel Ela Glesne Greher & Ruhland, P.C.  
44 Cook Street, Suite 620  
Denver, Colorado, 80206  
Attn: Evan Ela

TCMD: Town Center Metropolitan District  
4908 Tower Road  
Denver, Colorado 80249  
Attn: President

with a copy to: Spencer Fane, LLP  
1700 N Lincoln Street, Suite 2000  
Denver, Colorado 80203  
Attn: Lisa Mayers

28. Controlling Law and Venue. It is expressly understood and agreed by and between the Districts hereto that this Agreement shall be governed by and construed under the laws of the State of Colorado with no regard for choice of law analysis. The exclusive venue for

any proceedings with regard to this Agreement shall be in the District Court of the City and County of Denver, Colorado.

29. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one and the same document.

30. Entirety. This Agreement constitutes the entire agreement between the Districts concerning the subject matter herein, and all prior negotiations, representations, understandings or agreements pertaining to such matters are merged into and superseded by this Agreement. No representation, warranty or certification, express or implied, shall exist between the Districts, except as expressly set forth herein.

*Remainder of Page Intentionally Left Blank*

EXECUTED as of the date first written above.

EBERT METROPOLITAN DISTRICT

By \_\_\_\_\_  
Bruce N. Shibles, President

Address: 20342 E. 52nd Avenue  
Denver, CO 80249

Attest:

\_\_\_\_\_  
Cynthia Barclae, Secretary

TOWN CENTER METROPOLITAN DISTRICT

By \_\_\_\_\_  
Brandon Wyszynski, President

Address: 4908 Tower Road  
Denver, CO 80249

Attest:

\_\_\_\_\_  
Joe Knopinski, Secretary

## CONSOLIDATION RESOLUTION

**WHEREAS**, the Ebert Metropolitan District (“**Ebert**”) and the Town Center Metropolitan District (“**Town Center**”) and together with Ebert, the “**Districts**” each individually, a “**District**”) are Colorado special districts organized and operating pursuant to Article 1 of Title 32, C.R.S (the “**Act**”) and located in the City and County of Denver; are contiguous; operate and maintain certain public facilities and improvements within the Districts; and have discussed consolidating all administrative, operational and management functions of the Districts into a single consolidated district (the “**Consolidated District**”), which will thereafter operate and maintain certain public facilities and improvements to all users in the Districts pursuant to the terms of a consolidation agreement as described below; and

**WHEREAS**, in accordance with Part 6 of Article 1, Title 32, C.R.S (“**Part 6**”), the Districts may consolidate into a single consolidated district, which thereafter may exercise all of the rights, powers and authorities granted to metropolitan districts pursuant to the Act, except for fire services, and own, operate, maintain and manage the property, facilities, assets and liabilities of the consolidated district; and

**WHEREAS**, in accordance with Part 6, a consolidated district may be bound by a consolidation agreement entered into between the consolidating districts that establishes specific terms and conditions of consolidation; and

**WHEREAS**, the consolidation of the Districts into a single consolidated district, subject to the terms and conditions of a certain Consolidation Agreement will result in more efficient and economic operations and furnish the same services to users within the Districts, will serve a beneficial public purpose, and will be in the best interests of the inhabitants of each District; and

**WHEREAS**, consolidation of the Districts requires a Consolidation Resolution by one of the Districts under the controlling Colorado statutes, a concurring Consolidation Resolution by the other District within 30-days time of the first resolution; and

**WHEREAS**, Ebert passed a Consolidation Resolution at its Board meetings on October 15, 2024 and December 3, 2024, and upon the failure by Town Center to timely pass its concurring consolidation Resolution, Ebert must now consider and pass a Consolidation Resolution for a third time.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Ebert Metropolitan District that:

1. The Districts are so situated that the Districts can be managed and operated efficiently and economically as the Consolidated District, and the public health, safety, prosperity and general welfare of the inhabitants of each District will be better served by the consolidation of the Districts.
2. The name of the Consolidated District shall be Ebert Metropolitan District.
3. The boundaries of the Consolidated District shall include all areas included within the jurisdictional boundaries of each District as of the date of the court order consolidating the

Districts, and the Consolidated District shall provide all services and facilities and have all powers and authorities of or exercisable by the Districts, except as otherwise set forth in the Consolidation Agreement.

4. The Board of Directors of the Consolidated District (the “**Consolidated Board**”) shall have five (5) directors and be established and appointed in accordance with the terms and conditions set forth in the Consolidation Agreement.

5. The consolidation of the Districts shall be governed, and the Consolidated District shall be bound, by the terms and conditions set forth in the Consolidation Agreement and as further required by the Consolidation Order ultimately issued by the Denver District Court.

6. As a prerequisite condition to the filing of this Consolidation Resolution with the Denver District Court and the continuation of these consolidation proceedings pursuant to Part 6, Town Center shall (i) approve and execute the Consolidation Agreement, and (ii) approve and execute a Concurring Resolution. Upon information and belief, Town Center has approved the Consolidation Agreement and will approve and execute a Concurring Resolution.

7. Upon Town Center’s submittal to Ebert of a duly executed Consolidation Agreement with all precedent conditions met and a duly executed Concurring Resolution, the officers of Ebert and its attorney are hereby authorized to submit this Consolidation Resolution and the Town Center Concurring Resolution to the Denver District Court and proceed with the consolidation of the Districts in accordance with the provisions of Part 6 and the terms of the Consolidation Agreement, and to take such other actions and to do all things necessary to complete the consolidation proceedings, including conducting an election as required by the Act.

ADOPTED this 15<sup>th</sup> day of January, 2025 by a vote of \_\_\_ in favor and \_\_\_ opposed.

EBERT METROPOLITAN DISTRICT

By \_\_\_\_\_  
Bruce N. Shibles, President

Attest:

\_\_\_\_\_  
Cynthia Barclae, Secretary