

WESTERLY CREEK METROPOLITAN DISTRICT

2023 ANNUAL REPORT

Pursuant to §32-1-207(3)(c), C.R.S. Westerly Creek Metropolitan District (the “**District**”), the District is required to provide an annual report to the City and County of Denver with regard to the following matters:

For the year ending December 31, 2023, the District make the following report:

§32-1-207(3) Statutory Requirements

1. Boundary changes made.

There were no boundary changes made or proposed to the District’s boundaries in 2023.

2. Intergovernmental Agreements entered into or terminated with other governmental entities.

The District neither entered into nor proposed any new intergovernmental agreements with other governmental entities as of December 31 of the prior year.

3. Access information to obtain a copy of rules and regulations adopted by the board.

As of December 31, 2023, the District had not yet adopted rules and regulations.

4. A summary of litigation involving public improvements owned by the District

To our actual knowledge, based on review of the court records in Adams County and Denver County, Colorado and the Public Access to Court Electronic Records (PACER), there is no litigation involving the District’s public improvements as of December 31, 2023.

5. The status of the construction of public improvements by the Districts.

The District did not construct any public improvements in 2023. The public improvements to serve the property within the boundaries of the District are being constructed by Park Creek Metropolitan District (“**Park Creek**”).

6. A list of facilities or improvements constructed by the District that were conveyed or dedicated to the county or municipality.

The facilities and improvements within the District are being constructed by Park Creek. The District has not constructed any facilities or improvements.

7. The final assessed valuation of the District as of December 31st of the reporting year.

The final assessed valuation of the District as of December 31, 2023 is attached hereto as **Exhibit A**.

8. A copy of the current year’s budget.

A copy of the 2024 Budget is attached hereto as **Exhibit B**.

9. A copy of the audited financial statements, if required by the “Colorado Local Government Audit Law”, part 6 of article 1 of title 29, or the application for exemption from audit, as applicable.

The 2023 Audit is attached hereto as **Exhibit C**.

10. Notice of any uncured defaults existing for more than ninety (90) days under any debt instrument of the District.

To our actual knowledge, there are no uncured events of default by the District, which continue beyond a ninety (90) day period, under any debt instrument. The debt instruments for public improvements serving the property within the District has been issued by Park Creek.

11. Any inability of the District to pay its obligations as they come due under any obligation which continues beyond a ninety (90) day period.

To our actual knowledge, the District has been able to pay its obligations as they come due. The debt obligations for public improvements serving the property within the District has been issued by Park Creek.

Service Plan Requirements

Pursuant to the Service Plan for Westerly Creek Metropolitan District (the “**District**”), the District is required to provide an annual report to the Manager of Revenue with regard to the following matters:

1. Annual District budget.

A copy of the 2024 Budget is attached hereto as **Exhibit B**.

2. Annual Construction schedules.

No construction was completed by the District in 2023. The public improvements to serve the property within the boundaries of the District are being constructed by Park Creek Metropolitan District (“**Park Creek**”).

3. Annual audited financial statements of the district.

The 2023 Audit is in attached hereto as **Exhibit C**.

4. Total authorized amount of Westerly Creek District obligations and total Westerly Creek District obligations incurred.

No debt has been issued by the District. As of December 31, 2023, the District has incurred no obligation, except for its contractual obligations to impose an annual property tax levy and to pay all tax collections, together with other pledged revenue, to Park Creek pursuant to the Intergovernmental Financing and Construction Agreement attached hereto as **Exhibit D**.

5. Names and terms of members of the District’s Board of Directors and officers.

Kristin Rozansky – Term to May 2025
Derek Lis – Term to May 2025
Robert Douglas Marsh – Term to May 2027
Matthew Blackburn – Term to May 2027
John “Jack” Seward – Term to May 2027

6. Rules and regulations of the District.

As of December 31, 2023, the District had not yet adopted rules and regulations. The District complies with State statutes regarding bidding, potential conflicts of interest and other governance matters.

7. Current Intergovernmental agreements.

The District and Park Creek entered into an Intergovernmental Financing Construction Agreement dated April 30, 2001 attached hereto as **Exhibit D**.

8. Contractors for services or Construction.

The District has engaged the following contractors for services:

- For accounting services – Simmons & Wheeler, P.C., 304 Inverness Way, Suite 490, Englewood, CO 80112
- For legal services - White Bear Ankele Tanaka & Waldron, 2154 East Commons Avenue, Suite 2000, Centennial, CO 80122;
- For engineering services – Independent District Engineering Services, LLC, 1626 Cole Blvd, Suite 125, Lakewood, CO 80401; and
- For bond counsel services – Kutak Rock, LLP, 2001 16th Street, Suite 1800, Denver, CO 80202.

9. Current documentation of credit enhancements (if any).

The District does not have any credit enhancements at this time.

10. Current approved Service Plan.

Copies of the District's Service Plan approved by the City of Denver on April 12, 2000 are on file with the City Clerk's office and no amendments have been made.

11. District contact information:

Westerly Creek Metropolitan District
c/o White Bear Ankele Tanaka & Waldron, P.C.
2154 E. Commons Avenue, Suite 2000
Centennial, Colorado 80122
303-858-1800
Megan J. Murphy, Esq, Attorney for the District
mmurphy@wbapc.com

EXHIBIT A
2023 Final Assessed Valuation

CERTIFICATION OF VALUATION BY COUNTY ASSESSOR

Name of Jurisdiction WESTERLY CREEK METROPOLITAN DISTRICT New Entity? Yes No

IN Denver COUNTY, COLORADO on December 6, 2023

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

In accordance with 39-5-121(2)(a) and 39-5-128(1), C.R.S., and no later than August 25, the Assessor certifies the TOTAL VALUATION FOR ASSESSMENT for the taxable year 2023:

1. Previous year's NET TOTAL TAXABLE assessed valuation:	1.	<u>\$49,061,213</u>
2. Current year's GROSS TOTAL TAXABLE assessed valuation: This value reflects personal property exemptions IF enacted by the jurisdiction as authorized by Art, X, Sec. 20(8)(b), Colo. Constitution.	2.	<u>\$945,050,640</u>
3. LESS TIF District Increment, If any:	3.	<u>\$883,893,028</u>
4. Current year's NET TOTAL TAXABLE assessed valuation:	4.	<u>\$61,157,612</u>
5. New Construction*: New Construction is defined as: Taxable real property structures and the personal property connected with the structure.	5.	<u>\$33,719,640</u>
6. Increased production of producing mine*:	6.	<u>\$0</u>
7. Annexations/Inclusions:	7.	<u>\$0</u>
8. Previously exempt Federal property*:	8.	<u>\$0</u>
9. New primary oil or gas production from any producing oil and gas leasehold or land (29-1-301(1)(b), C.R.S.): Jurisdiction must apply (Form DLG 52B) to the division of Local Government before the value can be treated as growth in the limit calculation.	9.	<u>\$0</u>
10. Taxes collected last year on omitted property as of August 1 (29-1-301(1)(a), C.R.S.):	10.	<u>\$67,865</u>
11. Taxes abated and refunded as of August 1 (29-1-301(1)(a), C.R.S. and (39-10-114(1)(a)(I)(B), C.R.S.): *Jurisdiction must submit respective certifications (Form DLG 52 & 52A) to the Division of Local Government in order for the values to be treated as growth in the limit calculation.	11.	<u>\$96,778</u>

USE FOR "TABOR LOCAL GROWTH" CALCULATIONS ONLY

In accordance with the provisions of Art. X, Sec. 20, Colo. Cons., and 39-5-121(2)(b), C.R.S., the Assessor certifies the TOTAL ACTUAL VALUATION for the taxable year 2023:

1. Current year's total actual value of ALL REAL PROPERTY: This includes the actual value of all taxable real property plus the actual value of religious, private school, and charitable real property.	1.	<u>\$10,010,092,600</u>
ADDITIONS to taxable real property		
2. Construction of taxable real property improvements: Construction is defined as newly constructed taxable real property structures.	2.	<u>\$311,340,040</u>
3. Annexation/Inclusions:	3.	<u>\$0</u>
4. Increased mining production: Includes production from new mines and increases in production of existing producing mines.	4.	<u>\$0</u>
5. Previously exempt property:	5.	<u>\$104,500</u>
6. Oil or gas production from a new well:	6.	<u>\$0</u>
7. Taxable real property omitted from the previous year's tax warrant: If land and/or a structure is picked up as omitted property for multiple years, only the most current year's actual value can be reported as omitted property.	7.	<u>\$0</u>
DELETIONS from taxable real property:		
8. Destruction of taxable real property improvements:	8.	<u>\$0</u>
9. Disconnections/Exclusions:	9.	<u>\$0</u>
10. Previously taxable property:	10.	<u>\$0</u>

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

1. Total actual value of all taxable property:	1.	<u>\$700,325</u>
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IN ACCORDANCE WITH 39-5-128(1.5), C.R.S., THE ASSESSOR PROVIDES:

HB21-1312 VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY (ESTIMATED): ** \$700,325

** The tax revenue lost due to this exempted value will be reimbursed to the tax entity by the County Treasurer in accordance with 39-3-119.5(3), C.R.S.

NOTE: ALL LEVIES MUST BE CERTIFIED to the COUNTY COMMISSIONERS NO LATER THAN JANUARY 10.

CERTIFICATION OF VALUATION BY ADAMS COUNTY ASSESSOR

Name of Jurisdiction: **394 - WESTERLY CREEK METRO DISTRICT**

IN ADAMS COUNTY ON 12/11/2023

New Entity: No

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

IN ACCORDANCE WITH 39-5-121(2)(a) AND 39-5-128(1), C.R.S. AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES THE TOTAL VALUATION FOR ASSESSMENT FOR THE TAXABLE YEAR 2023 IN ADAMS COUNTY, COLORADO

1. PREVIOUS YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	\$3,082,880
2. CURRENT YEAR'S GROSS TOTAL TAXABLE ASSESSED VALUATION: *	\$23,268,240
3. LESS TIF DISTRICT INCREMENT, IF ANY:	\$19,607,700
4. CURRENT YEAR'S NET TOTAL TAXABLE ASSESSED VALUATION:	\$3,660,540
5. NEW CONSTRUCTION: **	\$0
6. INCREASED PRODUCTION OF PRODUCING MINES: #	\$0
7. ANNEXATIONS/INCLUSIONS:	\$0
8. PREVIOUSLY EXEMPT FEDERAL PROPERTY: #	\$0
9. NEW PRIMARY OIL OR GAS PRODUCTION FROM ANY PRODUCING OIL AND GAS LEASEHOLD OR LAND (29-1-301(1)(b) C.R.S.): ##	\$0
10. TAXES COLLECTED LAST YEAR ON OMITTED PROPERTY AS OF AUG. 1 (29-1-301(1))(a) C.R.S.):	\$0.00
11. TAXES ABATED AND REFUNDED AS OF AUG. 1 (29-1-301(1)(a) C.R.S.) and (39-10-114(1)(a)(I)(B) C.R.S.):	\$0.00

* This value reflects personal property exemptions IF enacted by the jurisdiction as authorized by Art. X, Sec.20(8)(b), Colo.

** New construction is defined as: Taxable real property structures and the personal property connected with the structure.

Jurisdiction must submit respective certifications (Forms DLG 52 AND 52A) to the Division of Local Government in order for the values to be treated as growth in the limit calculation.

Jurisdiction must apply (Forms DLG 52B) to the Division of Local Government before the value can be treated as growth in the limit calculation.

USE FOR 'TABOR' LOCAL GROWTH CALCULATIONS ONLY

IN ACCORDANCE WITH THE PROVISION OF ARTICLE X, SECTION 20, COLO CONST, AND 39-5-121(2)(b), C.R.S. THE ASSESSOR CERTIFIES THE TOTAL ACTUAL VALUATION FOR THE TAXABLE YEAR 2023 IN ADAMS COUNTY, COLORADO ON AUGUST 25, 2023

1. CURRENT YEAR'S TOTAL ACTUAL VALUE OF ALL REAL PROPERTY: @	\$321,022,538
ADDITIONS TO TAXABLE REAL PROPERTY:	
2. CONSTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS: !	\$0
3. ANNEXATIONS/INCLUSIONS:	\$0
4. INCREASED MINING PRODUCTION: %	\$0
5. PREVIOUSLY EXEMPT PROPERTY:	\$0
6. OIL OR GAS PRODUCTION FROM A NEW WELL:	\$0
7. TAXABLE REAL PROPERTY OMITTED FROM THE PREVIOUS YEAR'S TAX WARRANT:	\$0
(If land and/or a structure is picked up as omitted property for multiple years, only the most current year's actual value can be reported as omitted property.)	
DELETIONS FROM TAXABLE REAL PROPERTY:	
8. DESTRUCTION OF TAXABLE REAL PROPERTY IMPROVEMENTS:	\$0
9. DISCONNECTIONS/EXCLUSION:	\$0
10. PREVIOUSLY TAXABLE PROPERTY:	\$0

@ This includes the actual value of all taxable real property plus the actual value of religious, private schools, and charitable real property.

! Construction is defined as newly constructed taxable real property structures.

% Includes production from new mines and increases in production of existing producing mines.

IN ACCORDANCE WITH 39-5-128(1), C.R.S. AND NO LATER THAN AUGUST 25, THE ASSESSOR CERTIFIES TO SCHOOL DISTRICTS : 1. TOTAL ACTUAL VALUE OF ALL TAXABLE PROPERTY:----->	\$0
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NOTE: All levies must be Certified to the Board of County Commissioners NO LATER THAN DECEMBER 15, 2023

IN ACCORDANCE WITH 39-5-128(1.5) C.R.S. THE ASSESSOR PROVIDES: HB21-1312 ASSESSED VALUE OF EXEMPT BUSINESS PERSONAL PROPERTY (ESTIMATED): **	
** The tax revenue lost due to this exempted value will be reimbursed to the tax entity by the County Treasurer in accordance with 39-3-119 f(3). C.R.S.	

EXHIBIT B
2024 Budget

WESTERLY CREEK METROPOLITAN DISTRICT
2024
BUDGET MESSAGE

Attached please find a copy of the adopted 2024 budget for the Westerly Creek Metropolitan District.

The Westerly Creek Metropolitan District has adopted one fund, a General Fund to provide for general operating expenditures and transfers to Park Creek Metropolitan District for payment of general operating expenditures and to provide for payments on the general obligation bonds.

The district's accountants have utilized the modified accrual basis of accounting, and the budget has been adopted after proper postings, publications, and public hearing.

The primary source of revenue for the district in 2024 will be property taxes. For 2024, the district intends to impose a 66.852 mill levy on the property within the district of which 64.846 of the 66.852 will be allocated for debt.

WESTERLY CREEK METROPOLITAN DISTRICT
ADOPTED BUDGET
GENERAL FUND
For the Year Ended December 31, 2024

	Actual 2022	Adopted Budget 2023	Actual 6/30/2023	Estimate 2023	Adopted Budget 2024
Denver County		\$ 744,475,420			\$ 945,050,640
Adams County		19,510,740			23,268,240
Total		<u>\$ 763,986,160</u>			<u>\$ 968,318,880</u>
Debt service mill levy		59.931			64.846
Operations & maintenance mill levy		1.854			2.006
Total mill levy		<u>61.785</u>			<u>66.852</u>
<u>REVENUE</u>					
Property tax - general obligation	44,400,058	45,786,454	44,073,666	45,786,454	62,791,606
Property tax - operations & maintenance	1,373,427	1,416,431	1,363,103	1,416,431	1,942,448
Specific ownership tax	2,201,230	2,832,173	978,399	2,400,000	3,884,043
Interest Income	1,396	700	-	700	700
Other - taxes from Westerly Creek	-	158,980	-	-	315,280
	<u>47,976,111</u>	<u>50,194,738</u>	<u>46,415,168</u>	<u>49,603,585</u>	<u>68,934,077</u>
<u>EXPENDITURES / EXPENSES</u>					
Dues	-	1,000	-	1,000	1,000
Legal	63,358	50,000	28,143	60,000	100,000
Legal - litigation	1,369	10,000	-	2,500	10,000
Election	47,968	35,000	118,956	118,956	-
Accounting and audit	13,234	14,000	9,062	13,000	24,000
Engineering	-	-	29,071	75,000	75,000
SDA Conference	-	5,000	-	-	5,000
Professional Services/communication	-	3,000	3,000	-	10,000
Miscellaneous	6,320	10,000	101	101	10,000
Treasurer's fees - Debt Service	460,518	463,711	456,698	463,711	635,460
Treasurer's fees - O & M	-	14,345	-	14,345	19,658
Contingency	-	50,000	-	-	100,000
Insurance expense	4,666	6,000	5,390	5,390	6,000
	<u>597,433</u>	<u>662,056</u>	<u>650,421</u>	<u>754,003</u>	<u>996,118</u>
Excesss of revenue over expenditures	47,378,678	49,532,682	45,764,747	48,849,582	67,937,959
<u>Other financing sources (uses)</u>					
Payments to Park Creek	(520,518)	662,056	650,421	754,003	996,118
To Park Creek Debt Fund	(47,454,198)	(45,945,434)	(44,073,666)	(45,786,454)	(63,106,886)
To Park Creek General Fund	520,518	(4,248,604)	(2,341,502)	(3,816,431)	(5,826,491)
	<u>(47,454,198)</u>	<u>(49,531,982)</u>	<u>(45,764,747)</u>	<u>(48,848,882)</u>	<u>(67,937,259)</u>
Beginning Fund Balance	100,540	25,020	25,020	25,020	25,720
Ending Fund Balance	<u>\$ 25,020</u>	<u>\$ -</u>	<u>\$ 25,020</u>	<u>\$ 25,720</u>	<u>\$ -</u>

EXHIBIT C
2023 Audit

WESTERLY CREEK METROPOLITAN DISTRICT

Financial Statements

Year Ended December 31, 2023

with

Independent Auditor's Report

C O N T E N T S

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INDEPENDENT AUDITOR'S REPORT

To the Board of Directors
Westerly Creek Metropolitan District
Denver, Colorado

Opinions

We have audited the accompanying financial statements of the governmental activities and each major fund of Westerly Creek Metropolitan District (the District) as of and for the year ended December 31, 2023, and the related notes to the financial statements, which collectively comprise the District's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and each major fund of the District as of December 31, 2023, and the respective changes in financial position thereof, and the respective budgetary comparison for the general fund for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinions

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the District, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibility for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinions. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we:

- Exercise professional judgement and maintain professional skepticism throughout the audit.
- Identify and assess the risk of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, no such opinion is expressed.
- Evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- Conclude whether, in our judgement, there are conditions or events, considered in the aggregate, that raise substantial doubt about the District's ability to continue as a going concern for a reasonable period of time.

We are required to communicate to those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis on pages IV through VIII be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements.

We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Fiscal Focus Partners, LLC

Arvada, Colorado
September 18, 2024

MANAGEMENT'S DISCUSSION AND ANALYSIS

The discussion and analysis is designed to provide an analysis of the Westerly Creek Metropolitan District ("District") financial condition and operating results and to inform the reader of the District's financial issues and activities.

The Management's Discussion and Analysis (MD & A) should be read in conjunction with the District's financial statements.

Financial Highlights

- The District is a taxing metropolitan district and as such has limited administrative activities.
- The District is required by Intergovernmental Agreement with the Park Creek Metropolitan District ("Park Creek") to pass the majority of the revenues received to Park Creek, where they are applied to pay operating expenditures and debt service on Park Creek obligations.
- The revenues of the District are generated by a property tax mill levy, which for 2023 was 61.785 mills (59.931mills for Park Creek General Obligation Bonds debt service and 1.854 mills for General Operating Expenditures). In addition, specific ownership taxes are received from vehicle registrations. Actual revenue was less than the original budgeted revenue by \$1,196,027 and actual expenditures were less than the original budgeted expenditures by \$1,173,855.

The District has no tangible capital assets.

Overview of the Financial Statements

This discussion and analysis is intended to serve as an introduction to the District's basic financial statements. The District's basic financial statements are comprised of three components: 1) government-wide financial statements, 2) fund financial statements, and 3) notes to financial statements.

Government-wide financial statements

The government-wide financial statements are designed to provide readers with a broad overview of the District's finances, in a manner similar to a private-sector business.

The statement of net position presents information on all of the District's assets, liabilities, deferred inflows of resources and deferred outflows of resources, with the difference between the four reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of whether the financial position of the District is improving or deteriorating.

The statement of activities presents information showing how the government's net position changed during the most recent fiscal year. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will only result in cash flows in future fiscal periods.

Both of the government-wide financial statements identify functions of the District that are principally to be supported by ad valorem taxes (governmental activities).

The government-wide financial statements can be found on pages 1-2 of this report.

Fund financial statements

A fund is a grouping of related accounts used to maintain control over resources that have been segregated for specific activities or objectives. The District, like other state and local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. All of the funds of the District are governmental funds.

Governmental funds

Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. However, unlike the government-wide financial statements, governmental fund financial statements focus on near-term inflows, outflows and balances of spendable resources. Such information may be useful in evaluating a government's near-term financing requirements.

Because the focus of governmental funds is narrower than that of the government-wide financial statements, it is useful to compare the information presented for governmental funds with similar information presented for governmental activities in the government-wide financial statements. By doing so, readers may better understand the long-term impact of the government's near-term financing decisions. Both the governmental fund balance sheet and the governmental fund statement of revenues, expenditures, and changes in fund balances provide a reconciliation to facilitate this comparison between governmental funds and governmental activities.

All of the District's activities are reported in a single governmental fund, the general fund, which focuses on how money flows in and out of that fund and the balance left at year-end available for spending in future periods.

The District adopts an annual appropriated budget for its general fund. A budgetary comparison statement has been provided for this fund in the basic financial statements to demonstrate compliance with this budget.

The basic governmental fund financial statements can be found on pages 1-3 of this report.

Notes to financial statements

The notes provide additional information that is essential to a full understanding of the data provided in the government-wide and fund financial statements. The notes to financial statements can be found on pages 4-12 of this report.

Government-wide Financial Analysis

The assets of the District are classified as current assets. Receivables are current assets. These assets are available to provide resources for the near-term operations of the District. The primary current asset of the District is property taxes receivable.

Current and noncurrent liabilities are classified based on anticipated liquidation either in the near-term or in the future. Current liabilities include accounts payable. The liquidation of current liabilities is anticipated to be either from current available resources, current assets or new resources that become available during fiscal year 2024.

Deferred outflows of resources represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/expenditure) until then. The District does not have any items that qualify for reporting in this category.

Deferred inflows of resources represents an acquisition of net position that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The District has one type of item that qualifies for reporting in this category, deferred property taxes.

Current assets increased by \$17,546,906 mainly due to the increase in property taxes receivable.

Current liabilities increased by \$37,209 mainly due to the payables to various consultants.

As noted earlier, net position may serve over time as a useful indicator of the District’s financial position.

	December 31,	
	<u>2023</u>	<u>2022</u>
Assets:		
Current assets	\$ 64,784,933	\$ 47,238,027
Total assets	<u>64,784,933</u>	<u>47,238,027</u>
Liabilities:		
Current liabilities	<u>47,331</u>	<u>10,122</u>
Total liabilities	<u>47,331</u>	<u>10,122</u>
Deferred inflows of resources		
Deferred property taxes	<u>64,734,054</u>	<u>47,202,885</u>
Total deferred inflows of resources	<u>64,734,054</u>	<u>47,202,885</u>
Net position:		
Unrestricted net position	<u>3,548</u>	<u>25,020</u>
Total net position	<u>\$ 3,548</u>	<u>\$ 25,020</u>

Review of Change in Net Position

	Year Ended December 31,	
	2023	2022
Revenues:		
General revenue:		
Property taxes - debt service	\$ 45,290,156	\$ 44,400,058
Property taxes - operations	1,400,726	1,373,427
Specific ownership taxes	2,201,041	2,201,230
Payments from Park Creek	740,817	520,518
Interest	30,930	1,396
Total revenue	49,663,670	48,496,629
Expenses:		
Governmental activities:		
Payments to Park Creek	48,918,046	47,974,716
Other expenses	767,096	597,433
Total expenses	49,685,142	48,572,149
Total change in net position	(21,472)	(75,520)
Net position - beginning of year	25,020	100,540
Net position - end of year	\$ 3,548	\$ 25,020

Total net position decreased in the current year since only a portion of the operations mill levy was transferred to Park Creek under the Intergovernmental Agreement so that the District can fund their portion of the administrative expenses.

Financial Analysis of the Government's Funds

As noted earlier, the District uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements.

Governmental funds

The focus of the District's governmental funds is to provide information on near-term inflows, outflows, and balances of spendable resources. Such information is useful in assessing the District's financing requirements. In particular, unassigned fund balance may serve as a useful measure of a government's net resources available for spending at the end of the fiscal year.

As of the end of the current fiscal year, the District's one governmental fund, the General Fund, reported an unassigned ending fund balance of \$3,548.

General Fund Budgetary Highlights

The fund balance for the General Fund decreased in the current year since only a portion of the operations mill levy revenue was transferred to Park Creek under the Intergovernmental Agreement, so that the District could fund their own administrative expenses. Actual revenue was less than the original budgeted revenue by \$1,196,027 due to a decrease in property taxes, specific ownership taxes and transfers from Park Creek Metropolitan District. Actual expenditures were \$1,173,855 less than the budgeted expenditures, principally due to the transfers to Park Creek Metropolitan District being less than expected.

Long-Term Debt

The District does not have any long-term debt as of December 31, 2023.

Next Year's Budgets and Rates

The assessed valuation of the property in the District increased by 27% in 2023 from \$763,986,160 to \$968,318,880.

Requests for Information

This financial report is designed to provide a general overview of the District's finances for all those with an interest in the District. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to:

Westerly Creek Metropolitan District
c/o White Bear Ankele Tanaka & Waldron
2154 East Commons Avenue, Suite 2000
Centennial, CO 80122

WESTERLY CREEK METROPOLITAN DISTRICT

BALANCE SHEET/STATEMENT OF NET POSITION - GOVERNMENTAL FUNDS December 31, 2023

	<u>General</u>	<u>Total</u>	<u>Adjustments</u>	<u>Statement of Net Position</u>
ASSETS				
Cash and investments	\$ 46,744	\$ 46,744	\$ -	\$ 46,744
Property taxes receivable	64,734,054	64,734,054	-	64,734,054
Prepaid expenses	<u>4,135</u>	<u>4,135</u>	<u>-</u>	<u>4,135</u>
Total Assets	<u>64,784,933</u>	<u>64,784,933</u>	<u>-</u>	<u>64,784,933</u>
 Total Assets	 <u>\$ 64,784,933</u>	 <u>\$ 64,784,933</u>		
LIABILITIES				
Accounts payable	\$ 47,331	\$ 47,331	-	47,331
Total Liabilities	<u>47,331</u>	<u>47,331</u>	<u>-</u>	<u>47,331</u>
DEFERRED INFLOWS OF RESOURCES				
Deferred property taxes	<u>64,734,054</u>	<u>64,734,054</u>	<u>-</u>	<u>64,734,054</u>
Total Deferred Inflows of Resources	<u>64,734,054</u>	<u>64,734,054</u>	<u>-</u>	<u>64,734,054</u>
FUND BALANCES/NET POSITION				
Fund Balances:				
Nonspendable:				
Prepays	4,135	4,135	(4,135)	-
Unassigned	<u>(587)</u>	<u>(587)</u>	<u>587</u>	<u>-</u>
Total Fund Balances	<u>3,548</u>	<u>3,548</u>	<u>(3,548)</u>	<u>-</u>
Total Liabilities, Deferred Inflows of Resources and Fund Balances	<u>\$ 64,784,933</u>	<u>\$ 64,784,933</u>		
 Net Position:				
Unrestricted			<u>3,548</u>	<u>3,548</u>
Total Net Position			<u>\$ 3,548</u>	<u>\$ 3,548</u>

The notes to the financial statements are an integral part of these statements.

WESTERLY CREEK METROPOLITAN DISTRICT

STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES/STATEMENT OF ACTIVITIES - GOVERNMENTAL FUNDS

For the Year Ended December 31, 2023

	<u>General</u>	<u>Total</u>	<u>Adjustments</u>	<u>Statement of Activities</u>
EXPENDITURES				
Legal	\$ 75,674	\$ 75,674	\$ -	\$ 75,674
Election expenses	119,725	119,725	-	119,725
Professional services	75,793	75,793	-	75,793
Treasurer's fees	470,816	470,816	-	470,816
Accounting & audit	16,569	16,569	-	16,569
Insurance	5,390	5,390	-	5,390
Miscellaneous	3,129	3,129	-	3,129
Transfer to Park Creek Metropolitan District	<u>48,918,046</u>	<u>48,918,046</u>	<u>-</u>	<u>48,918,046</u>
Total Expenditures	<u>49,685,142</u>	<u>49,685,142</u>	<u>-</u>	<u>49,685,142</u>
GENERAL REVENUES				
Property taxes - Debt Service	45,290,156	45,290,156	-	45,290,156
Property taxes - Operations & Maintenance	1,400,726	1,400,726	-	1,400,726
Specific ownership taxes	2,201,041	2,201,041	-	2,201,041
Interest income	30,930	30,930	-	30,930
Transfer from Park Creek Metropolitan District	<u>740,817</u>	<u>740,817</u>	<u>-</u>	<u>740,817</u>
Total General Revenues	<u>49,663,670</u>	<u>49,663,670</u>	<u>-</u>	<u>49,663,670</u>
NET CHANGES IN FUND BALANCES	(21,472)	(21,472)	-	
CHANGE IN NET POSITION			-	(21,472)
FUND BALANCES/NET POSITION:				
BEGINNING OF YEAR	<u>25,020</u>	<u>25,020</u>	<u>-</u>	<u>25,020</u>
END OF YEAR	<u>\$ 3,548</u>	<u>\$ 3,548</u>	<u>\$ -</u>	<u>\$ 3,548</u>

The notes to the financial statements are an integral part of these statements.

WESTERLY CREEK METROPOLITAN DISTRICT

STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCE - BUDGET AND ACTUAL - GENERAL FUND

For the Year Ended December 31, 2023

	Original <u>Budget</u>	Final <u>Budget</u>	<u>Actual</u>	Variance Favorable <u>(Unfavorable)</u>
REVENUES				
Property taxes - Debt Service	\$ 45,786,454	\$ 45,786,454	\$ 45,290,156	\$ (496,298)
Property taxes - Operations & Maintenance	1,416,431	1,416,431	1,400,726	(15,705)
Specific ownership taxes	2,832,173	2,832,173	2,201,041	(631,132)
Other income	-	-	-	-
Interest income	700	-	30,930	30,930
Transfer from Park Creek Metropolitan District	823,939	1,011,883	740,817	(271,066)
Total Revenues	<u>50,859,697</u>	<u>51,046,941</u>	<u>49,663,670</u>	<u>(1,383,271)</u>
EXPENDITURES				
Legal	60,000	85,000	75,674	9,326
Legal - Litigation	-	-	-	-
Election expenses	35,000	115,000	119,725	(4,725)
Professional services	-	-	-	-
Dues	1,000	1,000	-	1,000
Training and education	-	-	-	-
Financial advisor	-	-	-	-
SDA Conference	5,000	5,000	-	5,000
Professional services	3,000	78,000	75,793	2,207
Miscellaneous	-	-	-	-
Contingency	50,000	51,944	-	51,944
Treasurer's fees	478,056	478,056	470,816	7,240
Accounting & audit	14,000	20,000	16,569	3,431
Insurance	6,000	6,000	5,390	610
Miscellaneous	10,000	10,000	3,129	6,871
Transfer to Park Creek Metropolitan District	50,196,941	50,196,941	48,918,046	1,278,895
Total Expenditures	<u>50,858,997</u>	<u>51,046,941</u>	<u>49,685,142</u>	<u>1,361,799</u>
NET CHANGE IN FUND BALANCE	700	-	(21,472)	(21,472)
FUND BALANCE:				
BEGINNING OF YEAR	<u>22,117</u>	<u>-</u>	<u>25,020</u>	<u>25,020</u>
END OF YEAR	<u>\$ 22,817</u>	<u>\$ -</u>	<u>\$ 3,548</u>	<u>\$ 3,548</u>

The notes to the financial statements are an integral part of these statements.

WESTERLY CREEK METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2023

Note 1: Summary of Significant Accounting Policies

The accounting policies of the Westerly Creek Metropolitan District (“District”), located in the City and County of Denver, Colorado, conform to the accounting principles generally accepted in the United States of America (“GAAP”) as applicable to governmental units. The Governmental Accounting Standards Board (“GASB”) is the accepted standard setting body for establishing governmental accounting and financial reporting principles. The following is a summary of the more significant policies consistently applied in the preparation of financial statements.

Definition of Reporting Entity

The District was organized on July 13, 2000, as a quasi-municipal organization established under the State of Colorado Special District Act. The District cooperates with Park Creek Metropolitan District (“Park Creek”) to provide the financing, construction and maintenance of the infrastructure facilities located within the District. The District is the taxing district and Park Creek is the financing, construction and operating district. The District and Park Creek were organized for the completion of infrastructure at the former Stapleton International Airport. The District's primary revenues are property taxes. The District is governed by an elected Board of Directors.

As required by GAAP, these financial statements present the activities of the District, which is legally separate and financially independent of other state and local governments. The District follows the GASB pronouncements which provide guidance for determining which governmental activities, organizations and functions should be included within the financial reporting entity. GASB sets forth the financial accountability of a governmental organization’s elected governing body as the basic criterion for including a possible component governmental organization in a primary government’s legal entity. Financial accountability includes, but is not limited to, appointment of a voting majority of the organization’s governing body, ability to impose its will on the organization, a potential for the organization to provide specific financial benefits or burdens and fiscal dependency. The pronouncements also require including a possible component unit if it would be misleading to exclude it.

The District is not financially accountable for any other organization. The District has no component units as defined by the GASB.

The District has no employees and all operations and administrative functions are contracted.

Basis of Presentation

The accompanying financial statements are presented per GASB Statement No. 34 - Special Purpose Governments.

WESTERLY CREEK METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2023

The government-wide financial statements (i.e. the governmental funds balance sheet/statement of net position and the governmental funds statement of revenues, expenditures, and changes in fund balances/statement of activities) report information on all of the governmental activities of the District. The statement of net position reports all financial and capital resources of the District. The difference between the (a) assets and deferred outflows of resources and the (b) liabilities and deferred inflows of resources of the District is reported as net position. The statement of activities demonstrates the degree to which expenditures/expenses of the governmental funds are supported by general revenues. For the most part, the effect of interfund activity has been removed from these statements.

The statement of activities demonstrates the degree to which the direct and indirect expenses of a given function or segment are offset by program revenues. *Direct expenses* are those that are clearly identifiable with a specific function or segment. *Program revenues* include 1) charges to customers or applicants who purchase, use or directly benefit from goods, services, or privileges provided by a given function or segment and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as *general revenues*.

Major individual governmental funds are reported as separate columns in the fund financial statements.

Measurement Focus, Basis of Accounting and Financial Statement Presentation

The government-wide financial statements are reported using the *economic resources measurement focus* and the *accrual basis of accounting*. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of the related cash flows. Property taxes are recognized as revenues in the year for which they are collected.

Governmental fund financial statements are reported using the *current financial resources measurement focus* and the *modified accrual basis of accounting*. Revenues are recognized as soon as they are both measurable and available. Revenues are considered to be *available* when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the District considers revenues to be available if they are collected within 60 days of the end of the current fiscal period. The material sources of revenue subject to accrual are property taxes and interest. Expenditures, other than interest on long-term obligations, are recorded when the liability is incurred, or the long-term obligation is paid.

The District reports the following major governmental fund:

General Fund - The General Fund is the general operating fund of the District. It is used to account for all financial resources not accounted for and reported in another fund.

WESTERLY CREEK METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2023

Budgetary Accounting

In accordance with the Local Government Budget Law of Colorado, the District's Board of Directors holds public hearings in the fall of each year to approve the budget and appropriate the funds for the ensuing year. The District's Board of Directors can modify the budget by line item within the total appropriation without notification. The total appropriation can only be modified upon completion of notification and publication requirements. The budget includes each fund on its basis of accounting unless otherwise indicated. The appropriation is at the total fund expenditures level and lapses at year end. The District amended its total appropriations.

Assets, Liabilities and Net Position

Fair Value of Financial Instruments

The District's financial instruments include accounts receivable and accounts payable. The District estimates that the fair value of all financial instruments at December 31, 2023, does not differ materially from the aggregate carrying values of its financial instruments recorded in the accompanying balance sheet. The carrying amount of these financial instruments approximates fair value because of the short maturity of these instruments.

Deposits and Investments

The District's cash is considered to be cash on hand and short-term investments with maturities of three months or less from the date of acquisition.

The District follows the practice of pooling cash of all funds to maximize investment earnings. Except when required by trust or other agreements, all cash is deposited to and disbursed from a minimum number of bank accounts. Cash in excess of immediate operating requirements is pooled for deposit and investment flexibility.

Estimates

The preparation of these financial statements in conformity with GAAP requires the District management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

Deferred Outflows/Inflows of Resources

In addition to assets, the statement of financial position will sometimes report a separate section for deferred outflows of resources. This separate financial statement element, *deferred outflows of resources*, represents a consumption of net position that applies to a future period(s) and so will not be recognized as an outflow of resources (expense/expenditure) until then. The District does not have items that qualify for reporting in this category.

WESTERLY CREEK METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2023

In addition to liabilities, the statement of financial position will sometimes report a separate section for deferred inflows of resources. This separate financial statement element, *deferred inflows of resources*, represents an acquisition of net position that applies to a future period(s) and so will not be recognized as an inflow of resources (revenue) until that time. The District has only one item that qualifies for reporting in this category. Deferred property taxes are deferred and recognized as an inflow of resources in the period that the amounts become available.

Property Taxes

Property taxes are levied by the District's Board of Directors. The levy is based on assessed valuations determined by the County Assessor generally as of January 1 of each year. The levy is normally set by December 15 by certification to the County Commissioners to put the tax lien on the individual properties as of January 1 of the following year. The County Treasurer collects the determined taxes during the ensuing calendar year. The taxes are payable by April 30 or if in equal installments, at the taxpayers' election, in February and June. Delinquent taxpayers are notified in July or August and the sales of the resultant tax liens on delinquent properties are generally held in November or December.

The City and County of Denver bills and collects the property taxes and remits collections on a monthly basis to the District and the Denver Urban Renewal Authority ("DURA"). DURA remits the District's share of incremental property tax revenues to the District. In addition, Adams County also collects property taxes and remits collections on a monthly basis to the District.

Property taxes, net of estimated uncollectible taxes, are recorded initially as deferred inflows in the year they are levied and measurable since they are not normally available nor are they budgeted as a resource until the subsequent year. The deferred property taxes are recorded as revenue in the subsequent year when they are available or collected.

Fund Balance

Fund balance of governmental funds is reported in various categories based on the nature of any limitations requiring the use of resources for specific purposes. Because circumstances differ among governments, not every government or every governmental fund will present all of these components. The following classifications make the nature and extent of the constraints placed on a government's fund balance more transparent:

Nonspendable Fund Balance

Nonspendable fund balance includes amounts that cannot be spent because they are either not spendable in form (such as inventory or prepaids) or are legally or contractually required to be maintained intact. Nonspendable fund balance at December 31, 2023 represents prepaid insurance.

Restricted Fund Balance

The restricted fund balance includes amounts restricted for a specific purpose by external parties such as grantors, bondholders, constitutional provisions or enabling legislation.

WESTERLY CREEK METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2023

Committed Fund Balance

The portion of fund balance that can only be used for specific purposes pursuant to constraints imposed by a formal action of the District's highest level of decision-making authority, the Board of Directors. The constraint may be removed or changed only through formal action of the Board of Directors.

Assigned Fund Balance

Assigned fund balance includes amounts the District intends to use for a specific purpose. Intent can be expressed by the District's Board of Directors or by an official or body to which the Board of Directors delegates the authority.

The assigned fund balance in the General Fund represents the amount appropriated for use in the budget for the year ending December 31, 2023.

Unassigned Fund Balance

Unassigned fund balance includes amounts that are available for any purpose. Positive amounts are reported only in the General Fund, all other funds can report negative amounts.

For the classification of Governmental Fund balances, the District considers an expenditure to be made from the most restrictive first when more than one classification is available.

Net Position

Net Position represents the difference between assets and deferred outflows of resources less liabilities and deferred inflows of resources. The District may report three categories of net position, as follows:

Net investment in capital assets – consists of net capital assets, reduced by outstanding balances of any related debt obligations and deferred inflows of resources attributable to the acquisition, construction, or improvement of those assets and increased by balances of deferred outflows of resources related to those assets.

Restricted net position – net position is considered restricted if their use is constrained to a particular purpose. Restrictions are imposed by external organizations such as federal or state laws. Restricted net position is reduced by liabilities and deferred inflows of resources related to the restricted assets.

Unrestricted net position – consists of all other net position that does not meet the definition of the above two components and is available for general use by the District.

When an expense is incurred for purposes for which both restricted and unrestricted net position are available, the District will use the most restrictive net position first.

WESTERLY CREEK METROPOLITAN DISTRICT

Notes to Financial Statements
December 31, 2023

Note 2: Cash and investments

As of December 31, 2023, cash and investments are classified in the accompanying financial statements as follows:

Statement of Net Position:	
Cash and investments	<u>\$ 46,744</u>

Cash and investments as of December 31, 2023, consist of the following:

Deposits with financial institutions	\$ 18,890
Investments - COLOTRUST	<u>27,854</u>
	<u>\$ 46,744</u>

Deposits

Custodial Credit Risk

The Colorado Public Deposit Protection Act, (“PDPA”) requires that all units of local government deposit cash in eligible public depositories. State regulators determine eligibility. Amounts on deposit in excess of federal insurance levels must be collateralized. The eligible collateral is determined by the PDPA. PDPA allows the institution to create a single collateral pool for all public funds. The pool is to be maintained by another institution or held in trust for all the uninsured public deposits as a group. The market value of the collateral must be at least equal to 102% of the aggregate uninsured deposits. The State Commissioners for banks and financial services are required by statute to monitor the naming of eligible depositories and reporting of the uninsured deposits and assets maintained in the collateral pools.

The District does not have a formal policy for deposits. None of the District’s deposits were exposed to custodial credit risk.

Investments

Investment Valuation

The District categorizes its fair value measurements within the fair value hierarchy established by generally accepted accounting principles. The hierarchy is based on the valuation inputs used to measure the fair value of the asset. Level 1 inputs are quoted prices in active markets for identical assets; Level 2 inputs are significant other observable inputs; Level 3 inputs are significant unobservable inputs. The District’s investments are not required to be categorized within the fair value hierarchy. The District’s investments are calculated using the net asset value method (NAV) per share.

WESTERLY CREEK METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2023

Credit Risk

The District has not adopted a formal investment policy; however the District follows state statutes regarding investments.” Colorado statutes specify the types of investments meeting defined rating and risk criteria in which local governments may invest. These investments include obligations of the United States and certain U.S. Government agency entities, certain money market funds, guaranteed investment contracts, and local government investment pools.

Custodial and Concentration of Credit Risk

None of the District’s investments are subject to custodial or concentration of credit risk.

Interest Rate Risk

Colorado revised statutes limit investment maturities to five years or less unless formally approved by the Board of Directors.

As of December 31, 2023, the District had the following investments:

COLOTRUST

The local government investment pool, Colorado Local Government Liquid Asset Trust (“COLOTRUST”), is rated AAAM by Standard & Poor’s with a weighted average maturity of under 60 days. COLOTRUST is an investment trust/joint venture established for local government entities in Colorado to pool surplus funds. The State Securities Commissioner administers and enforces all State statutes governing COLOTRUST. COLOTRUST records its investments at fair value and the District records its investment in COLOTRUST using the net asset value method. COLOTRUST operates similarly to a money market fund with each share maintaining a value of \$1.00. COLOTRUST offers shares in three portfolios, one of which is COLOTRUST PLUS+. COLOTRUST PLUS+ may invest in U.S. Treasuries, government agencies, the highest-rated commercial paper, certain corporate securities, certain money market funds, and certain repurchase agreements, and limits its investments to those allowed by State statutes. Purchases and redemptions are available daily at a net asset value (NAV) of \$1.00. A designated custodial bank provides safekeeping and depository services to COLOTRUST in connection with the direct investment and withdrawal function of COLOTRUST. The custodian’s internal records identify the investments owned by participating governments. There are no unfunded commitments and there is no redemption notice period. At December 31, 2023, the District had 27,854 invested in COLOTRUST PLUS+.

Note 3: Intergovernmental Agreement

The District and Park Creek entered into an Intergovernmental Financing and Construction Agreement (“IGA”) dated April 30, 2001. Per the IGA, Park Creek will finance the construction costs for the In-Tract and Trunk Infrastructure in accordance with the Service Plan and will be responsible for the completion of the Infrastructure. The District agreed to certify a mill levy on all taxable property within the District of 48.5 mills (as adjusted) to repay all obligations and construction costs and 1.5 mills (as adjusted) to fund administrative and operating expenses of the District and Park Creek.

WESTERLY CREEK METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2023

The District is required by the IGA to pass the majority of the revenues received to Park Creek, where they are applied to pay operating expenditures and debt service on Park Creek obligations.

As of March 24, 2022, the District and Park Creek Metropolitan District reached a letter agreement understanding regarding the SDC Reduced Operations Plan and Intergovernmental Financing Construction Agreement .which among other provisions includes an agreement for Park Creek to transfer ownership and operational responsibility for all Park Creek-owned real property, facilities and services, except any real property or facilities under warranty and/or transferrable to the City of Denver, to the District, provided that on or before the date of the transfer, all developer advances have been repaid in full to Stapleton Land, LLC or other holders of such obligations by that date."

Note 4: Tax, Spending and Debt Limitations

Article X, Section 20 of the Colorado Constitution, commonly known as the Taxpayer Bill of Rights ("TABOR"), contains tax, spending, revenue and debt limitations which apply to the State of Colorado and all local governments.

Spending and revenue limits are determined based on the prior year's Fiscal Year Spending adjusted for allowable increases based upon inflation and local growth. Fiscal Year Spending is generally defined as expenditures plus reserve increases with certain exceptions. Revenue in excess of the Fiscal Year Spending limit must be refunded unless the voters approve retention of such revenue.

TABOR requires local governments to establish Emergency Reserves. These reserves must be at least 3% of Fiscal Year Spending (excluding bonded debt service). Local governments are not allowed to use the emergency reserves to compensate for economic conditions, revenue shortfalls, or salary or benefit increases.

The District's management believes it is in compliance with the provisions of TABOR. However, TABOR is complex and subject to interpretation. Many of the provisions, including the interpretation of how to calculate Fiscal Year Spending limits will require judicial interpretation.

Since the majority of revenues are transferred to Park Creek, the emergency reserve is reflected in Park Creek's financials at December 31, 2023.

WESTERLY CREEK METROPOLITAN DISTRICT

Notes to Financial Statements December 31, 2023

Note 5: Risk Management

Except as provided in the Colorado Governmental Immunity Act, 24-10-101, et seq., CRS, the District may be exposed to various risks of loss related to torts, theft of, damage to, or destruction of assets; errors or omissions; injuries to agents; and natural disasters. The District has elected to participate in the Colorado Special Districts Property and Liability Pool (“Pool”) which is an organization created by intergovernmental agreement to provide common liability and casualty insurance coverage to its members at a cost that is considered economically appropriate. Settled claims have not exceeded this commercial coverage in any of the past three fiscal years.

The District pays annual premiums to the Pool for auto, public officials’ liability, and property and general liability coverage. In the event aggregated losses incurred by the Pool exceed its amounts recoverable from reinsurance contracts and its accumulated reserves, the District may be called upon to make additional contributions to the Pool on the basis proportionate to other members. Any excess funds which the Pool determines are not needed for purposes of the Pool may be returned to the members pursuant to a distribution formula.

EXHIBIT D
Intergovernmental Financing and Construction Agreement

INTERGOVERNMENTAL FINANCING AND CONSTRUCTION AGREEMENT

THIS INTERGOVERNMENTAL FINANCING AND CONSTRUCTION AGREEMENT ("Agreement") is made and entered into as of this 30th day of April, 2001, between the PARK CREEK METROPOLITAN DISTRICT ("Park Creek") and the WESTERLY CREEK METROPOLITAN DISTRICT ("Westerly Creek"; collectively, "Districts"), quasi-municipal corporations and political subdivisions of the State of Colorado operating within the City and County of Denver ("City"), Colorado, organized under the provisions of Article 1 of Title 32, C.R.S.

RECITALS

A. The Districts were organized to facilitate the development of the Stapleton Service Area by cooperatively providing for the financing and Processing of Construction of the Infrastructure, including In-Tract Infrastructure and Trunk Infrastructure, and furnishing services for the use and benefit of the property owners, residents and users of the Infrastructure within the Service Area.

B. The Service Plans of the Districts, which have been previously approved by the City, require that the Districts enter into an intergovernmental agreement to, among other matters, coordinate the financing, Processing of Construction, and the operation and maintenance of the Infrastructure and the provision of services needed within the Stapleton Service Area.

C. The Baseline Financial Plan in the Service Plans of the Districts provides that Park Creek will provide for the financing and Processing of Construction of the Infrastructure needed within the Stapleton Service Area, and Westerly Creek will impose a property tax levy on all taxable property within Westerly Creek boundaries and remit the taxes and other revenue collected by Westerly Creek to Park Creek.

D. Section 18(2)(a), Article XIV of the Colorado Constitution, Section 29-1-203, C.R.S., and Section 32-1-1001, C.R.S., empower the Districts to enter into contracts and agreements with one another to provide intergovernmental services and facilities, including the sharing of costs, the imposition of taxes, and the incurring of debt, when so authorized by their respective Boards of Directors.

E. At the public election held on November 7, 2000, the electors of the Districts authorized the Districts to incur Obligations and to enter into agreements relating thereto, including this Agreement, and Westerly Creek's electors also authorized Westerly Creek to levy property taxes, incur general obligations, and enter into agreements relating thereto, including this Agreement, in order to provide for the financing and Processing of the Infrastructure and to furnish the services needed within the Stapleton Service Area. Such electoral action constitutes the legal authorization for this Agreement, and the performance of the terms of this Agreement requires no further electoral approval from either District.

F. The Boards of Directors of the Districts hereby determine that the terms, conditions, and provisions of this Agreement are in the best interests of the Districts and are necessary to implement the provisions of the Service Plans with respect to the intergovernmental cooperation between the Districts and to establish the respective duties and responsibilities of the Districts concerning the economic and

efficient development of the Infrastructure and the provision of services within the Stapleton Service Area.

AGREEMENT

In consideration of the agreements, terms and conditions set forth in this Agreement, the adequacy and sufficiency of which are mutually acknowledged, the Districts agree as follows:

SECTION 1. DEFINITIONS AND CONSTRUCTION OF AGREEMENT

Section 1.1 Definitions. For all purposes of this Agreement, unless the context expressly indicates differently, the terms defined in this Section shall have the following meanings. If any term is capitalized in this Agreement but not defined hereunder, it shall have the meaning set forth in the Service Plans.

a. "Agreement" means this Intergovernmental Financing and Construction Agreement between the Districts, as may be amended or supplemented in writing from time to time.

b. "Baseline Financial Plan" means the financial plan of each District as set forth in the Service Plan, including any amendment or modification thereof approved by the City.

c. "Board" or "Boards" means the Board of Directors of Park Creek, Westerly Creek or both Districts, as applicable.

d. "City" means the City and County of Denver, Colorado, a home rule municipality.

e. "City Cooperation Agreement" means the Cooperation Agreement dated as of July 15, 2000, between the City and DURA, as may be amended or supplemented in writing from time to time.

f. "Cooperation Agreement" means the Cooperation Agreement dated as of March 1, 2001, between DURA, Park Creek and Westerly Creek, as may be amended or supplemented in writing from time to time, and

all applicable provisions of the City Cooperation Agreement and Redevelopment Services Agreement.

g. "Default" or "Event of Default" means one or more of the events described in Section 6.1.

h. "Developer Advances" means all funds advanced to Park Creek by developers or other persons pursuant to any reimbursement, acquisition or redevelopment agreements, including without limitation the Reimbursement Agreements, and any bonds, notes or other obligations evidencing or securing such borrowing, that are applied for payment of costs incurred for the organization and operations of the Districts, Process of Construction of the Infrastructure, management fees, interest, and other public purposes, and are repayable from Pledged Revenues in accordance with the terms of the Property Tax Indenture or Tax Increment Indenture, or from other legally available revenues of the District.

i. "District" or "Districts" means either Park Creek or Westerly Creek, as applicable, or both Park Creek and Westerly Creek.

j. "DURA" means the Denver Urban Renewal Authority, a body corporate duly organized and existing as an urban renewal authority under State law, and any successor or assign.

k. "Election" means the special election conducted by each District on November 7, 2000, at which the electors of each District authorized the Districts to incur Obligations and enter into agreements related thereto, including without limitation this Agreement.

l. "Fiscal Year Budget" means the annual District budget and appropriation resolution duly adopted or amended by the Board in accordance with State law.

m. "IFDA" means any or all Individual Facilities Development Agreements entered into by Park Creek pursuant to the MFDA.

n. "Infrastructure" means the In-Tract Infrastructure and Trunk Infrastructure as described in the Service Plan.

o. "In-Tract Infrastructure" means the In-Tract public improvements as described in the Service Plan.

p. "Master Redevelopment Agreement" means the Master Redevelopment Agreement dated as of March 1, 2001, between DURA and Park Creek, as may be amended or supplemented in writing from time to time, all Supplemental Redevelopment Agreements, and all applicable provisions of the City Cooperation Agreement.

q. "MFDA" means the Master Facilities Development Agreement dated as of February 12,

2001, between the City, District, and Forest City Enterprises, Inc., and any successor or assign, as may be amended or supplemented in writing from time to time, and all IFDA's.

r. "Mill Limitation" means the limitations on the Required Mill Levy as set forth in the Service Plans.

s. "Minimum Criteria" means the financial criteria set forth in the Service Plans that must be complied with before issuance of any Obligations.

t. "Obligations" means all limited or unlimited tax bonds, revenue bonds, notes, contracts, or reimbursement, acquisition or redevelopment agreements of Park Creek, including Developer Advances and refunding Obligations, subject to the "Maximum Debt Authorization" for In-Tract Infrastructure and Trunk Infrastructure as set forth in the Service Plan of Park Creek, that are

secured by Pledged Revenues as provided (i) in the Property Tax Indenture or otherwise payable from Pledged Revenues pursuant to the Cooperation Agreement or this Agreement, or (ii) in the Tax Increment Indenture or otherwise payable from Pledged Revenues pursuant to the Master Redevelopment Agreement or Redevelopment Services Agreement

u. "Operating Revenues" means all revenues received from (i) the Required Mill Levy to be used for administrative and operating purposes; (ii) specific ownership taxes; and (iii) all rates, fees, tolls, and charges imposed or collected within the Districts.

v. "Park Creek" means the Park Creek Metropolitan District (originally named Stapleton Metropolitan District), a Colorado special district, and any successor or assign.

w. "Pledged Revenues" means all amounts payable to Park Creek (i) as "Tax Increment Revenues" under the Cooperation Agreement or otherwise attributable to the Required Mill Levy and pledged to the repayment of the Obligations issued or incurred in connection with, or specified for repayment under the Property Tax Indenture, and (ii) as "Pledged Sales Tax Revenues" and "Pledged Property Tax Revenues" under the Master Redevelopment Agreement or Redevelopment Services Agreement and pledged to the repayment of the Obligations issued or incurred in connection with, or specified for repayment under the Tax Increment Indenture.

x. "Process of Construction" or "Processing of Construction" or "Process" means activities, in part or all together, of the District with respect to providing and/or acquiring the Infrastructure, including without limitation the planning, designing, engineering, testing, permitting,

inspecting, Construction, construction management, installation or completion of the Infrastructure.

y. "Property Tax Indenture" means the Trust Indenture dated as of May 1, 2001, between Park Creek and U.S. Bank National Association, as Trustee, securing the Limited Property Tax Supported Revenue Bonds, Series 2001, and any additional Obligations issued in accordance with the Property Tax Indenture or any supplemental indenture, as may be amended or supplemented in writing from time to time, and any other property tax indenture that is not in conflict with the Property Tax Indenture, as may be amended or supplemented in writing from time to time.

z. "Redevelopment Services Agreement" means the Redevelopment Services Agreement dated as of April 15, 2001, between the City and Park Creek, as may be amended or supplemented in writing from time to time.

aa. "Reimbursement Agreements" means the Reimbursement Agreement for In-Tract Infrastructure and the Reimbursement Agreement for Trunk Infrastructure, each dated April 30, 2001, between Park Creek and Stapleton Land LLC, a Colorado limited liability company.

bb. "Required Mill Levy" means the mill levy required to be imposed in accordance with State law upon all real and personal property in Westerly Creek, at the rate determined annually by Park Creek, and the property tax revenue generated therefrom, subject to the following limitations:

(i) all terms and limitations set forth in the ballot questions authorizing the Obligations and mill levies approved at the Election; (ii) for collection in tax collection years 2002 through 2042 or until the date of repayment of all Obligations, whichever last occurs; (iii) which shall be imposed without limitation and at a rate sufficient to pay, when due, the Obligations not subject to the Mill Limitation, if any; (iv) which

shall be imposed at a rate sufficient to pay, when due, all other Obligations and administrative and operating expenses of the Districts, subject to the Mill Limitation, but combined with the mill levy rate imposed in subpart (iii) above, not to exceed an aggregate of 50 mills; (v) with no more than 1.5 mills of the Required Mill Levy to be used for payment of administrative and operating expenses; and (vi) with no less than 48.5 mills of the Required Mill Levy to be used for payment of Obligations, until Park Creek approves a lesser mill levy for such purpose. In the event that the method of calculating the assessed valuation of property within Westerly Creek or the percentage of actual valuation used to determine assessed valuation of the District is changed by State law during the Term, the Required Mill Levy shall be adjusted in accordance with the provisions of the Service Plans.

cc. "Service Area" means the Stapleton Service Area as described in the Service Plan of Park Creek.

dd. "Service Plan" or "Service Plans" means the Service Plan of either District, or the Service Plans of both Districts, if applicable, as may be amended or modified in writing from time to time with the approval of the City. If there is a conflict between the provisions of the Service Plans, the Service Plan of Park Creek shall be controlling.

ee. "Supplemental Redevelopment Agreement" means any or all Supplemental Redevelopment Agreements entered into by DURA and Park Creek pursuant to the Master Redevelopment Agreement.

ff. "Tax Increment Indenture" means the Trust Indenture dated as of May 1, 2001, between Park Creek and U.S. Bank National Association, as Trustee, securing the Tax Increment Supported Revenue Bonds, Series 2001, and any additional Obligations issued in accordance with the Tax Increment Indenture or any supplemental indenture, as may be amended or supplemented in writing from

time to time, and any other tax increment indenture that is not in conflict with the Tax Increment Indenture, as may be amended or supplemented in writing from time to time.

gg. "Term" means the period of time commencing on the date when this Agreement has been executed by each District and ending when Park Creek has Processed all Infrastructure, repaid all Obligations, and been dissolved in accordance with the provisions of the Service Plan of Park Creek.

hh. "Trunk Infrastructure" means the Trunk public improvements as described in the Service Plan.

ii. "Trunk Open Space Infrastructure System Development Fee" means the fee set forth in Section 4.6.

jj. "Trustee" means the Trustee designated under the Property Tax Indenture or the Tax Increment Indenture.

kk. "Westerly Creek" means the Westerly Creek Metropolitan District, a Colorado special District, and any successor or assign.

Section 1.2 Construction of Agreement. For all purposes hereunder, unless the context expressly indicates differently, all definitions, terms, and words shall include both the singular and plural. Whenever "shall" or "will" is used herein, it shall be mandatory; "may" denotes that it is preferable or permissible, but not mandatory. Whenever "Party" or "Parties" is used herein, it shall refer to either District or both Districts. A reference herein to an act of "approval" may, if applicable, include a determination of either approval or disapproval. References to sections herein are to sections of this Agreement, unless otherwise specified.

SECTION 2. PURPOSE

The purpose of this Agreement is to establish the intergovernmental relationship between the Districts and to implement the terms of the Service Plans with respect to the financing, Processing of Construction, operation and maintenance

of the Infrastructure, and the provision of services within the Service Area. The Districts contemplate that other intergovernmental agreements may be entered into, from time to time, with other Service Districts organized within the Service Area. This Agreement shall, in all circumstances, be interpreted consistently with the Service Plans and the intended responsibilities of each District in implementing the Service Plans.

SECTION 3. REPRESENTATIONS AND WARRANTIES

Section 3.1 Representations and Warranties by Districts.

The Board of each District represents, acknowledges, warrants, and agrees for the benefit of the other District that to the best of its actual knowledge:

a. The District knows of no litigation, proceeding, initiative, referendum, investigation, or threat of any of the same contesting the organization or powers of the District or its officials or its authority to enter into and perform its obligations under this Agreement;

b. The execution and delivery of this Agreement and the documents required hereunder and the consummation of the transactions contemplated by this Agreement will not (1) conflict with or contravene any law, order, rule or regulation applicable to the District or to the District's governing documents; (2) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the District is a party or by which it may be bound or affected; or (3) permit any party to terminate any such agreement or instrument or to accelerate the maturity of any indebtedness or other obligation of the District;

c. The Board has duly approved this Agreement;

d. This Agreement is a valid and binding obligation of the District enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity, and subject to all limitations set forth herein;

e. All property tax revenue from the Required Mill Levy (except for Operating Revenues) received by Park Creek or the Trustee shall be used only for the (i) repayment of the Obligations issued pursuant to the Property Tax Indenture, and (ii) if the Property Tax Indenture is not in effect, payment of Process of Construction costs of the In-Tract Infrastructure and any reimbursement, acquisition or redevelopment agreement, or as may otherwise be provided in this Agreement;

f. Each District may rely upon and enforce all representations, warranties, and agreements set forth in this Agreement; and

g. The Districts, and not the City, shall be responsible for paying all debts and liabilities of the Districts, including without limitation the Obligations, as provided in this Agreement.

Section 3.2 Performance of Agreement. The Districts each acknowledge that the performance of this Agreement over the full Term is essential to the complete implementation of the Service

Plans and that any material departure from the terms of this Agreement by either District, or any unilateral attempt by either District to materially alter the terms of or to terminate this Agreement, except as authorized hereunder, is and shall constitute a material departure from the Service Plan which, in addition to any other remedy set forth herein, the other District shall be entitled to enjoin in accordance with Section 32-1-207, C.R.S.

SECTION 4. PARK CREEK RESPONSIBILITIES

Section 4.1 General Responsibilities. Park Creek shall exercise such duties and authority and shall have all the powers as are generally provided by State law and in the Service Plans. Park Creek, in its discretion, shall perform the following services and exercise the following powers for and on behalf of Westerly Creek:

a. Manage and control the financing of the Infrastructure, the Processing of Construction of the Infrastructure, the administration and operations of the Districts, and the completion of all actions, activities and work required to implement the Service Plans;

b. Budget and appropriate monies for public purposes and provide for the payment of all expenses of the Districts;

c. Establish uniform rules and regulations for the inclusion of property into Westerly Creek and other Service Districts in accordance with the provisions of the Service Plans;

d. Adopt and enforce uniform rules and regulations for administrative and operational purposes applicable throughout the Service Area;

e. Establish all necessary service charges, connections fees, tap fees, system development fees, the Trunk Open Space Infrastructure System Development Fee, and other rates, fees, tolls and charges for the provision of Infrastructure and services within and without the boundaries of the Districts;

f. Negotiate, prepare and enter into all applications, permits, licenses, agreements or other documents necessary to secure all applicable federal, State, regional, and local approvals or other governmental authorizations for the

financing and Process of Construction and operation and maintenance of the Infrastructure;

g. Own, operate and maintain the Infrastructure until transferred to the City or another public agency; and

h. Take all other actions required to implement and comply with the Service Plans and all agreements affecting the business affairs and interests of the Districts to which Park Creek is or may become a party.

Section 4.2 Financing of Infrastructure. Park Creek shall finance and provide for the Process of Construction of the Infrastructure, as required for each phase of Infrastructure development, by incurring Obligations in accordance with the Service Plan of Park Creek. The Obligations incurred by Park Creek shall be issued, paid and discharged, and proceeds of the Obligations shall be applied and expended in accordance with the Service Plan of Park Creek, MFDA, Property Tax Indenture, and Tax Increment Indenture, as applicable. Park Creek will incur no Obligation in excess of the "Maximum Debt Authorization" for In-Tract Infrastructure and Trunk Infrastructure set forth in the Service Plan of Park Creek, as may be subsequently amended with

the approval of the City. Park Creek shall apply and expend the Required Mill Levy, except for Operating Revenues, only for (i) the repayment of Obligations incurred for In-Tract Infrastructure, including without limitation all Obligations issued pursuant to the Property Tax Indenture and Developer Advances, and (ii) payment of Process of Construction costs of the In-Tract Infrastructure, until such Obligations have been discharged, and the In-Tract Infrastructure has been completed. Park Creek shall apply and expend Pledged Revenues received pursuant to the Master Redevelopment Agreement or Redevelopment Services Agreement for the (i) repayment of Obligations incurred for Trunk Infrastructure, including without limitation all Obligations issued pursuant to the Tax Increment Indenture and Developer Advances, and (ii) payment of Process of Construction costs of the Trunk Infrastructure only.

Section 4.3 Completion of Infrastructure. Park Creek shall be responsible for the completion of the Infrastructure in accordance with the provisions of this Agreement, the Service Plans, MFDA and Master Redevelopment Agreement. Park Creek

shall, in its discretion, make all determinations relating to the expenditure of proceeds of the Obligations for Processing of Construction of the Infrastructure and the payment of all Process of Construction costs, or for any other purpose with respect to the implementation, performance, or enforcement of the terms of this Agreement. Westerly Creek shall have no responsibility for the financing or Processing of Construction of the Infrastructure. Park Creek shall transfer the Infrastructure, except for certain designated improvements, to the City or another public agency for future ownership, operation and maintenance in accordance with the provisions of an IFDA. Park Creek shall own, operate and maintain for the benefit of the Districts any Infrastructure which is not transferred to the City or another public agency.

Section 4.4 Management of Districts. Park Creek shall manage and administer all business affairs of the Districts, including without limitation the hiring and engagement of all employees, independent contractors, consultants, advisors, accountants, auditors, attorneys and other personnel, record-keeping, accounting and financial services, and all actions relating to statutory compliance.

Section 4.5 Costs of Administration and Operations. To the extent that adequate funding is available from Operating Revenues and other legally available sources as provided in the Fiscal Year Budget, Park Creek shall (i) manage, operate, maintain, repair and replace all Infrastructure not transferred to the City or another public agency, and (ii) generally administer the operations and business of the Districts, including without limitation the payment of all costs associated therewith. On or before September 15 of each year during the Term, Park Creek shall advise Westerly Creek of the costs of administration and operations and the funding requirements, including projected Operating Revenues, subject to any limitation under the Required Mill Levy, for the next budget period and present a preliminary Fiscal Year Budget for adoption by the Board of Westerly Creek in accordance with statutory requirements.

Section 4.6 Trunk Open Space Infrastructure System Development Fee. The Districts have established and will impose a one-time Trunk Open Space Infrastructure System Development Fee in the amount of \$15,000 per acre on all property within Westerly

Creek and any other Service District. Park Creek shall administer, collect and expend revenue from the Trunk Open Space Infrastructure System Development Fee within the Service District Future Taxing Area, including without limitation in Westerly Creek, for the purpose of funding in part Trunk Open Space Infrastructure in accordance with the Service Plan and resolutions of Park Creek.

SECTION 5. WESTERLY CREEK RESPONSIBILITIES

Section 5.1 Imposition of Required Mill Levy. Until such time as all Obligations, including all Obligations issued pursuant to the Property Tax Indenture and Developer Advances, have been paid in full or payment thereof has been provided for, and all of the Infrastructure has been completed and paid for, Westerly Creek shall:

a. Certify the Required Mill Levy at least 15 days before all applicable timelines in accordance with State law and provide notice of such certification to Park Creek. On or before September 15 of each year during the Term, Park Creek shall determine and advise Westerly Creek of the Required Mill

Levy to be included in the Fiscal Year Budget for the next fiscal year, and Westerly Creek shall then adopt a resolution establishing the Required Mill Levy. When collected, the Required Mill Levy, together with any specific ownership taxes received by Westerly Creek, shall be remitted to Park Creek and the Trustee in accordance with the provisions of this Agreement and the Property Tax Indenture as follows: (i) all Pledged Revenues shall be remitted to the Trustee, and (ii) Operating Revenues and the balance of the Required Mill Levy, if any, shall be remitted to Park Creek.

b. The provisions of this Section are hereby declared to be the certificate of the Board of Westerly Creek to the City authorizing the Required Mill Levy to be levied by the City, from year to year, as required by law for the purposes set forth herein.

c. It shall be the duty of the Board of Westerly Creek annually, at the time and in the manner provided by law for the adoption of the Fiscal Year Budget and the levy of property taxes, to ratify and carry out the provisions of this Section with reference to the establishment, levy and collection of the

Required Mill Levy, subject to the provisions of the Cooperation Agreement. The Board of Westerly Creek shall levy, certify, and collect the Required Mill Levy for the purposes and in the manner provided by law and for the purposes and in the manner set forth in the Property Tax Indenture and this Agreement. Westerly Creek in cooperation with Park Creek shall pursue any reasonable remedy available to collect, or cause the collection of, delinquent property taxes and remit amounts realized from the sale of any property for delinquent taxes to Park Creek or the Trustee in accordance with the provisions of this Agreement.

d. Westerly Creek shall be prohibited from retaining, appropriating, expending, pledging or otherwise encumbering any portion of the Required Mill Levy, any specific ownership taxes, or any Pledged Revenues or Operating Revenues that are received by Westerly Creek for any purpose, and all of such revenues and monies shall be immediately transferred and paid to Park Creek or the Trustee in accordance with the provisions of this Agreement.

e. At any and all times, Westerly Creek shall, to the extent authorized by law, pass, make, do, perform,

execute, acknowledge and deliver any and all further acts, conveyances, assignments, transfers, certifications, and assurances as may be necessary or desirable for the better assuring, effecting, confirming, undertaking and completing any and all obligations, duties, responsibilities, and acts; or as may be reasonably required to carry out the terms and purposes of this Agreement and to comply with the Service Plans, MFDA, Reimbursement Agreements, Property Tax Indenture, and Tax Increment Indenture, as applicable.

Section 5.2 Rates, Fees and Charges. During the Term, Westerly Creek shall adopt, impose and remit to Park Creek such rates, fees, tolls and charges as are established by Park Creek pursuant to Section 4 in order to fund the administrative and operating expenses of the Districts. The procedures for adopting, budgeting and transferring such fees will be established by Park Creek.

Section 5.3 Westerly Creek Obligations. Westerly Creek shall incur no Obligations, Developer Advances, or direct costs for Processing of Construction of the Infrastructure or any other purpose, unless otherwise approved in writing by each District.

Section 5.4 Inclusion and Exclusion of Service District Future Taxing Area. Upon petition of any property owner within the Service District Future Taxing Area, the Board of Westerly Creek shall, to the extent required by law, include such property into the taxing boundaries of Westerly Creek in accordance with State law. Any condition of such inclusion imposed by Westerly Creek shall first be approved by Park Creek. Westerly Creek shall exclude no property without the prior written approval of Park Creek.

Section 5.5 Dissolution of Park Creek. Upon receipt of notice and the dissolution of Park Creek in accordance with its Service Plan, Park Creek shall transfer, and Westerly Creek shall accept responsibility for the operation and maintenance of any Infrastructure located within Westerly Creek, which has not been transferred to the City or another public agency.

SECTION 6. EVENTS OF DEFAULT AND REMEDIES

Section 6.1 Events of Default by Districts. Subject to the terms of Section 6.5, Default or an Event of Default by either Party under this Agreement shall mean one or more of the following events:

a. Any representation or warranty made in this Agreement by a Party which was materially inaccurate when made or shall prove to be materially inaccurate during the Term; or

b. A Party fails to substantially observe, comply with or perform any material responsibility, obligation, or agreement required of it under this Agreement; provided, however, that failure on the part of Park Creek to observe or perform any responsibility or obligation hereunder shall not relieve or release Westerly Creek from imposing the Required Mill Levy, and that failure by either District to observe or perform any other responsibility or obligation hereunder shall not relieve or release the other District from making any payment or otherwise performing its responsibilities hereunder.

Section 6.2 Cure Period. Upon the occurrence of an Event of Default by either Party, such Party shall, upon written notice

from the other Party, proceed promptly to cure or remedy such Default. Such Default shall be cured within 30 days (immediately with respect to a Required Mill Levy or monetary payment Default) after receipt of such notice, or, if such default is of a nature which is not capable of being cured within such time period, curative action shall be commenced within the cure period and diligently pursued to completion.

Section 6.3 Remedies on Default. Whenever an Event of Default occurs and is not cured or cure undertaken in accordance with the provisions of Section 6.2, the non-defaulting Party may take any one or more of the following actions:

a. Recovery of actual costs and damages, including reasonable attorney fees and related expenses, through any action available at law or in equity, including without limitation the right to certify to the City for collection against all taxable property within Westerly Creek, the amount of such costs and damages as a delinquent fee for services provided by Park Creek in accordance with the procedures set forth in Section 32-1-1101(1)(e), C.R.S., or other special proceedings;

b. In the event that Westerly Creek has not certified the Required Mill Levy, Park Creek may enforce Westerly Creek's obligation to certify the Required Mill Levy by mandamus or other action or special proceeding; and

c. Any other remedy available at law, in equity, or specified under the terms of this Agreement or the Service Plans, including without limitation specific performance.

Section 6.4 Waivers. Except as otherwise expressly provided in this Agreement, any delay by either Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such right or limit such right in any way. Any waiver in fact made by such Party with respect to any Default by the other Party shall not be considered as a waiver of rights with respect to any other Default by the non-defaulting Party or with respect to the particular Default, except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a

time when it may still hope to resolve any problem created by such Default.

Section 6.5 Unavoidable Delay in Performance. Whether stated or not, all periods of time in this Agreement are subject to this Section. Neither Party shall be considered in Default of its obligations under this Agreement in the event of enforced delay due to (i) causes beyond its control and without its fault or negligence, including without limitation acts of God, public enemies, the City, Federal, State or other local governments, the other Party or third parties, litigation concerning the validity and enforceability of the Service Plans, contracts implementing the Service Plan, or this Agreement or relating to transactions contemplated herein (including the effect of petitions for initiative or referendum), fires, floods, epidemics, restrictions, strikes, embargoes, and unusually severe weather or the delays of contractors or materialmen due to such causes; (ii) bankruptcy, insolvency or similar action, or any foreclosure or other exercise of remedies of any creditor or lender; and (iii) without limiting the foregoing, any action or inaction of the City or DURA, its officers, agents, agencies, departments, committees, Council or commissioners which delays, directly or

indirectly, the District's ability to comply with any construction schedule or requirement imposed by the MFDA or the Master Redevelopment Agreement for any Infrastructure project. In the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for the period of the enforced delay; provided that the Party seeking the benefit of the provisions of this Section shall, within 30 days after such Party knows of such enforced delay, first notify the other Party of the specific delay in writing and claim the right to an extension for the period of the enforced delay; provided, further, that either Party's failure to notify the other of an event constituting an enforced delay shall not alter, detract from or negate its character as an enforced delay, if such event of enforced delay was not known or reasonably discoverable by such Party.

Section 6.6 Rights and Remedies Cumulative. The rights and remedies of the Parties under this Agreement are cumulative, and the exercise by either Party of any one or more of such rights shall not preclude the exercise by it, at the same or different times, of any other right or remedy specified herein for any other Default by the other Party.

SECTION 7. MISCELLANEOUS PROVISIONS

Section 7.1 Title of Sections. Any title of the several parts and sections of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 7.2 Effective Date. This Agreement shall be in full force and effect and be legally binding upon Park Creek and Westerly Creek upon the date of its execution by the Parties.

Section 7.3 No Third-Party Beneficiary. Except as provided in the Property Tax Indenture with respect to the Trustee thereunder, no third-party beneficiary rights shall be created in favor of any person not a Party to this Agreement, unless the Parties mutually agree otherwise in writing.

Section 7.4 Applicable Law. The laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement. Venue shall be exclusive to the State District Court in and for the City.

Section 7.5 Assignment. Except as provided in the Property Tax Indenture, this Agreement shall not be assigned, in whole or in part, by either Party without the approval in writing of the other Party. This Agreement shall be binding on the Parties, their successors and assigns.

Section 7.6 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, under present or future laws effective during the Term, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by the severance of such provision from this Agreement. Further, in lieu of such illegal, invalid or unenforceable provision, there shall be added, as part of this Agreement, a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and still be legal, valid and enforceable, and this Agreement shall be deemed reformed accordingly. Without limiting the generality of the foregoing, if all or any portion of the

payments required by the terms of this Agreement are determined by a court of competent jurisdiction in a final non-appealable judgment to be contrary to public policy or otherwise precluded, the Parties shall proceed in good faith to promptly restructure and/or amend this Agreement, or to enter into a new agreement to effectuate such purpose.

Section 7.7 Service Plan Modifications. Neither District shall publish, without providing prior written notice to the other District and the City, any notice pursuant to Section 32-1-207(3), C.R.S., of its intent to undertake the construction of any Infrastructure, the issuance of Obligations, the imposition of the Required Mill Levy or any other tax, rate, toll, fee or charge, or any other proposed activity of such District which is not consistent with the terms of the Service Plans or this Agreement and which would require that any action to enjoin such activity as a potential or actual material departure from the Service Plan of such District be brought within 45 days of such notice.

Section 7.8 Cooperation Regarding Other Service Districts. Subject to the terms of the Service Plans, the

Districts will cooperate with one another and with any other Service District organized within the Service Area to finance the Process of Construction of Infrastructure needed within the Service Area. Park Creek may, from time to time, enter into intergovernmental agreements similar to this Agreement with other Service Districts organized within the Service Area.

Section 7.9 Amendments. This Agreement may be amended, in whole or in part, by written instrument executed by the Parties. Each amendment, which is in writing and signed and delivered by the Parties, shall be effective to amend the provisions hereof.

Section 7.10 Entirety. Except for the Cooperation Agreement, this Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and replaces in their entirety any prior agreements, understandings, warranties or representations between the Parties with respect to the subject matter hereof.

Section 7.11 Counterparts. This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

Section 7.12 Notices. A notice or demand under this Agreement by either Party to the other Party shall be in writing and shall be deemed sufficiently given if delivered in person, by prepaid overnight express mail or national overnight courier service, or if forwarded by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

a. Until subsequently changed, to:

Park Creek Metropolitan District or
Westerly Creek Metropolitan District
Attention: Chairman
3333 Quebec Street, Suite 8100
Denver, Colorado 80207

With a copy to:

Paul R. Cockrel
Collins Cockrel & Cole, P.C.
390 Union Boulevard, Suite 400
Denver, Colorado 80228-1556

b. Or to such other address with respect to either Party as that Party may, from time to time, designate in writing and forward to the other Party as provided in this Section. Notices shall be deemed given upon such personal,

courier or express mail delivery, or on the third business day following deposit in the U.S. Mail as provided herein.

Section 7.13 Good Faith of Parties. Except where any matter is expressly stated to be in the sole discretion of a Party, the Parties agree that in the performance of this Agreement or in considering any requested extension of time, each Party will act in good faith and shall not act unreasonably, arbitrarily, capriciously, or unreasonably withhold or delay any approval required by this Agreement.

Section 7.14 Time. Unless the context indicates differently, all references herein to days shall be to calendar days, and all references herein to periods of time shall be to consecutive days or continuous periods of time. If the day for any performance or event provided for herein is a Saturday, Sunday or other day on which either national banks or the office of the Clerk and Recorder of the City are not open for the regular transaction of business, such day shall be extended until the next day on which such banks and office are open for the transaction of business. All times shall be of the essence.

Section 7.15 Further Assurances. The Parties agree to adopt or approve such resolutions, regulations and agreements, to execute such documents or instruments, and to take such action as shall be reasonably requested by the other Party to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof. If all or any portion of the Infrastructure improvements, Obligations or agreements approved in connection with this Agreement are asserted or determined to be invalid, illegal or are otherwise precluded, the Parties shall cooperate in the joint defense thereof, and if such defense is unsuccessful, the Parties will use reasonable, diligent, good faith efforts to amend, reform or replace such precluded matters.

Section 7.16 Certifications. The Parties agree to execute such documents or instruments as the other Party may reasonably request to verify or confirm the status of this Agreement, the Property Tax Indenture or Tax Increment Indenture, or other intergovernmental agreements between the Districts, and of the performance of the obligations hereunder and such other matters as the requesting Party may reasonably request.

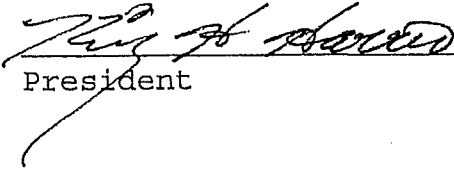
Section 7.17 Survival of Representations and Warranties.

No representations or warranties whatever are made by any Party to this Agreement, except as specifically set forth in Section 3. The representations and warranties made by the Parties to this Agreement, and all covenants and agreements to be performed or complied with by the Parties under this Agreement shall be continuing to the end of the Term.

In Witness Whereof, the Districts have caused this Agreement to be duly executed as of the day first above written.

PARK CREEK METROPOLITAN DISTRICT

By:




President

ATTEST:

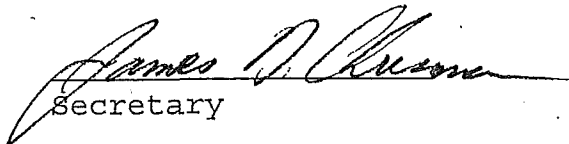


Secretary

WESTERLY CREEK METROPOLITAN DISTRICT

By: 
/ President
First Vice

ATTEST:


Secretary