

## RECORD OF PROCEEDINGS

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### MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE INDY OAK TOD METROPOLITAN DISTRICT (THE “DISTRICT”) HELD OCTOBER 17, 2022

A Regular Meeting of the Board of Directors of the Indy Oak TOD Metropolitan District (referred to hereafter as the “Board”) was convened on Monday, October 17, 2022, at 6:00 p.m. This District Board meeting was held by Zoom. The meeting was open to the public via Zoom.

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**Directors in Attendance Were:**

Jonnye Phifer  
Hunter Thompson  
Nicholas Coy  
Kristen Miller  
Eric Knorr

**Also In Attendance Were:**

Larry Loftin; Special District Management Services, Inc. (“SDMS”)

Elisabeth A. Cortese, Esq.; McGeady Becher P.C.

Diane Wheeler; Simmons & Wheeler, P.C.

**Members of the Public:**

Tom Paryz, Pinkard Construction  
Steven Wong, Resident

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**DISCLOSURE OF  
POTENTIAL  
CONFLICTS OF  
INTEREST**

Attorney Cortese noted a quorum was present and discussed the requirements of Colorado law to disclose any potential conflicts of interest or potential breaches of fiduciary duty of the Board of Directors to the Secretary of State and to the Board. The members of the Board were requested to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting. Attorney Cortese noted for the record that no disclosures were made by any members of the Board prior to this meeting as all Board members are residents of the District; no disclosures were made during the meeting. It was noted that Director Thompson is employed by Harris Kocher Smith Engineering Group, Inc. and works with Century Communities, Inc. in that capacity.

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### **ADMINISTRATIVE MATTERS**

**Agenda:** Attorney Cortese reviewed the proposed Agenda for the District's Regular Meeting with the Board.

Following discussion, upon motion duly made by Director Phifer, seconded by Director Miller and, upon vote, unanimously carried, the Board approved the Agenda, as amended.

**Meeting Location:** The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District's Board meeting. Following discussion, upon motion duly made by Director Phifer, seconded by Director Coy and, upon vote, unanimously carried, the Board determined to conduct this meeting via Zoom and encouraged public participation via Zoom. The Board noted that notice of this meeting and teleconference number was duly posted and that it had not received any objections to the meeting or any requests that the meeting be changed by taxpaying electors within the District's boundaries.

**Designation of 24-Hour Posting Location:** Following discussion, upon motion duly made by Director Phifer, seconded by Director Miller, and upon vote unanimously carried, the Board determined that notices of meetings of the District Board required pursuant to Section 24-6-402(2)(c), C.R.S., shall be posted at least 24 hours prior to each meeting on the District's website at: <https://indyoaktodmd.colorado.gov/> or if posting on the website is unavailable, notice will be posted within the boundaries of the District.

**Minutes of August 30, 2022 Special Meeting:** The Board reviewed the Minutes of the August 30, 2022 Special Meeting. Following discussion, upon motion duly made by Director Phifer, seconded by Director Miller and, upon vote, unanimously carried, the Board approved the Minutes.

**Resolution No. 2022-10-01 Establishing Regular Meeting Dates, Time and Location, and Designating Location for Posting of 24-Hour Notices:** Attorney Cortese discussed with the Board Resolution No. 2022-10-01 Establishing Regular Meeting Dates, Time and Location, and Designating Location for Posting of 24-Hour Notices.

The Board determined to meet at 6:00 p.m. on February 20, May 22, August 21, and October 23, 2023 via Zoom.

Following discussion, upon motion duly made by Director Phifer, seconded by Director Miller and, upon vote, unanimously carried, the Board adopted

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Resolution No. 2022-10-01 Establishing Regular Meeting Dates, Time and Location, and Designating Location for Posting of 24–Hour Notices.

**District Insurance:** The Board discussed the renewal of District’s insurance and Special District Association Membership for 2023. Ms. Wheeler noted that the proposals/rates have not been received yet. She also indicated that the rate increases are lower than anticipated.

Following discussion, upon motion duly made by Director Phifer, seconded by Director Coy and, upon vote, unanimously carried, the Board approved the renewal of the District’s Insurance and Special District Association Membership for 2023.

**Section 32-1-809, C.R.S. Requirements (Transparency Notice):** Attorney Cortese discussed the special district transparency requirements of Section 32-1-809, C.R.S. with the Board. Following discussion, the Board directed Ms. Ripko to post the special district transparency notice on the District Website and the Special District Association website.

### **PUBLIC COMMENT**

Steven Wong, an original owner at Oak Street, requested information and updates about the parking. Mr. Wong provided suggestions to address the issue and expressed specific concerns about Wyatt’s Towing. The Board shared that conversations with the city are ongoing but have not led to changes in the designated fire/emergency lane. The Board directed Ms. Ripko to follow up with Mr. Wong.

### **OPERATIONS AND MAINTENANCE MATTERS**

#### **Update from Landscape Committee:**

*Oak Street Update:* Mr. Loften provided an update from Century Homes to the Board regarding Oak Street; Century Homes and several entities are waiting on Xcel to get a meter.

*Pearson Grove Update:* Mr. Loften provided an update from Century Homes to the Board regarding Pearson Grove. It was noted they are waiting on NuStyle to be ready for an initial walk-through.

**District Services for 2023:** The Board discussed the District services for 2023 regarding necessary service agreements for related services.

*2022-2023 Snow Removal:* The Board reviewed the proposal for 2022-2023 snow removal services from Environmental Designs, Inc. The Board directed

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Ms. Ripko to contact Environmental Designs, Inc. to learn more about the designation areas for snow removal and to follow up with the Board.

Following discussion, upon motion duly made by Director Phifer, seconded by Director Knorr, and, upon vote, unanimously carried, the Board approved the proposal for 2022-2023 snow removal services and authorized execution of a Service Agreement.

2023 Landscaping Services: The Board reviewed the proposal for 2023 landscaping services from Environmental Designs, Inc.

Following discussion, upon motion duly made by Director Phifer, seconded by Director Knorr, and, upon vote, unanimously carried, the Board approved the proposal for 2023 landscaping services and authorized execution of a Service Agreement.

Rodent Control Proposal: The Board reviewed the rodent control proposal from Terminix International Company Limited Partnership.

Following discussion, upon motion duly made by Director Phifer, seconded by Director Knorr and, upon vote, unanimously carried, the Board approved the rodent control proposal.

### FINANCIAL MATTERS

Payment of Claims: Ms. Wheeler discussed with the Board the payment of claims for the period ending September 30, 2022, in the amount of \$17,850.74.

Following discussion, upon motion duly made by Director Thompson, seconded by Director Knorr and, upon vote, unanimously carried, the Board ratified approval of the payment of claims for the period ending September 30, 2022, in the amount of \$17,850.74.

Unaudited Financial Statements: Ms. Wheeler indicated that financial statements were not available. The Board deferred action on this item until the financial statements become available.

2022 Audit Preparation: Ms. Wheeler discussed with the Board the engagement of Wipfli LLP for preparation of the 2022 Audit.

Following discussion, upon motion duly made by Director Thompson, seconded by Director Knorr and, upon vote, unanimously carried, the Board approved the engagement of Wipfli LLP for preparation of the 2022 Audit for an amount not to exceed \$5,700.00.

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**Public Hearing on Amendment to 2022 Budget:** The President opened the public hearing to consider an amendment to the 2022 Budget.

It was noted that publication of Notice stating that the Board would consider amendment to the 2022 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to this public hearing. No public comments were received, and the public hearing was closed.

Following review and discussion, Director Phifer moved to adopt the Resolution to Amend 2022 Budget, Director Coy seconded the motion and, upon vote, unanimously carried, the Board adopted Resolution No. 2022-10-02 to Amend the 2022 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

**Public Hearing on 2023 Budget:** The President opened the public hearing to consider the proposed 2023 Budget and discuss related issues.

It was noted that Notice stating that the Board would consider adoption of the 2023 Budget and the date, time and place of the public hearing was published in a newspaper having general circulation within the District, in accordance with statutory requirements. No written objections were received prior to the public hearing. No public comments were received, and the public hearing was closed.

Ms. Wheeler reviewed the estimated 2022 expenditures and the proposed 2023 expenditures with the Board.

Following discussion, the Board considered the adoption of Resolution No. 2022-10-03 to Adopt the 2023 Budget and Appropriate Sums of Money and Resolution No. 2022-10-04 to Set Mill Levies (for the General Fund at 54.000 mills, the Debt Service Fund at 57.234 mills, for a total mill levy of 111.234 mills). Upon motion duly made by Director Phifer, seconded by Director Thompson and, upon vote, unanimously carried, the Resolutions were adopted, as discussed, and execution of the Certification of Budget and Certification of Mill Levies was authorized, subject to receipt of final Certification of Assessed Valuation from the County. Ms. Wheeler was authorized to transmit the Certification of Mill Levy to the Board of County Commissioners of Jefferson County, not later than December 15, 2022. Ms. Ripko was also authorized to transmit the Certification of Budget to the Division of Local Government not later than January 30, 2023. Copies of the adopted Resolutions are attached hereto and incorporated herein by this reference.

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**Resolution No. 2022-10-05 Authorizing Adjustment of the District Mill Levy in Accordance with the Service Plan:** The Board reviewed Resolution No. 2022-10-05 Authorizing Adjustment of the District Mill Levy in Accordance with the Service Plan.

Following discussion, upon motion duly made by Director Phifer, seconded by Director Thompson and, upon vote, unanimously carried, the Board adopted Resolution No. 2022-10-05 Authorizing Adjustment of the District Mill Levy in Accordance with the Service Plan. A copy of the adopted Resolution is attached to these minutes and incorporated herein by this reference.

**DLG-70 Mill Levy Certification Form:** Following discussion, the Board authorized the District Accountant to prepare and sign the DLG-70 Mill Levy Certification form for certification to the Board of County Commissioners and other interested parties. The Board directed Ms. Ripko to file the form with the Board of County Commissioners and other interested parties.

**Preparation of 2024 Budget:** Following discussion, the Board appointed the District Accountant to prepare the District's 2024 Budget.

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### **LEGAL MATTERS**

**Resolution No. 2022-10-06 Calling a May 2, 2023 Election:** The Board discussed the May 2, 2023 election. Following discussion, upon motion duly made by Director Phifer, seconded by Director Thompson and, upon vote, unanimously carried, the Board adopted Resolution No. 2022-10-06 Calling a May 2, 2023 Election which appointed Peggy Ripko as the Designated Election Official and authorized her to perform all tasks required for the May 2, 2023 Regular Election of the Board of Directors for the conduct of a mail ballot election.

**Intergovernmental Agreement for Oak Street Trail Connection Costs between the City of Lakewood and the District:** Attorney Cortese updated the Board regarding the Intergovernmental Agreement for Oak Street Trail Connection Costs between the City of Lakewood and the District: There was no action taken. Attorney Cortese will continue to update the Board of new developments with the City on this matter.

**Section 32-1-809, C.R.S. Requirements (Transparency Notice):** This item was discussed above under Administrative Matters. No new discussion or action occurred.

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### COVENANT ENFORCEMENT/ DESIGN REVIEW

#### **Parking Committee:**

*Motorcycle Parking Spaces:* Mr. Loften reported that the City of Lakewood has approved the additional motorcycle parking spaces at the Oak Street Townhomes. The City will require the impacted tracts to be owned by the District. The Board directed General Counsel to discuss conveyance documents for the impacted tracts with Century at Oak Street, LLC.

*Oak Circle Parking:* The Board discussed the Oak Circle Parking. Mr. Loften noted that there have been several reports from residents about multiple cars regularly parking in the fire/emergency lane overnight. The Board is coordinating a meeting with Wyatt's Towing to review parking statutes and regulations.

#### **Community Management Update:**

*Violation Reports:* Mr. Loften discussed the Violation Reports with the Board. Mr. Loften noted that three notices and a demand letter were sent to the homeowner of 1144 Oak Circle about the garage door violation.

**Conditions of Sidewalks:** Mr. Loften discussed the conditions of the sidewalks with the Board. Ms. Ripko is in the process of obtaining concrete test results. Attorney Cortese will follow up with Ms. Ripko to obtain status update with Century regarding walk-through and negotiations.

**Mulch Replacement/Upkeep:** Mr. Loften discussed mulch replacement and upkeep with the Board. Ms. Wheeler confirmed that mulch replacement can likely be accommodated by funds included in the 2023 Budget.

**Service Agreement for Sign Installation:** The Board reviewed the proposal for sign installation from HARTCO INC. d/b/a CAM Services.

Following discussion, upon motion duly made by Director Phifer, seconded by Director Coy and, upon vote, unanimously carried, the Board ratified approval of the proposal for sign installation with HARTCO INC. d/b/a CAM Services and authorized execution of a Service Agreement for same, subject to follow up with Ms. Ripko regarding the Hoyt Street Signs. The Board directed Mr. Loften and Ms. Ripko to ensure the signs are installed in the correct locations.

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### **OTHER BUSINESS**

Director Thompson brought up concerns about curb cut damage and potential collapse. They are requesting plans (storm and sanitation sewer plans (CD set), etc.). The Board also expressed concerns about sidewalk failure throughout the community and requested a follow-up on concrete analysis and a walk-through with Century. Director Thompson provided pictures of some of the concerns. Attorney Cortese will also work with Ms. Ripko to contact Century and begin conversations/negotiations.

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### **ADJOURNMENT**

There being no further business to come before the Board, upon motion duly made by Director Phifer, and seconded by Director Coy, and upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting