

Resolution No. 2022-04-01

**RESOLUTION
OF THE BOARD OF DIRECTORS OF THE
BRIGHTON RIDGE METROPOLITAN DISTRICT NO. 1**

REGARDING ACCEPTANCE OF DISTRICT ELIGIBLE COSTS

WHEREAS, Brighton Ridge Metropolitan District No. 1, City of Brighton, Adams County, State of Colorado ("**District**"), is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, the District was formed, inter alia, for the purpose of designing, acquiring, constructing, installing, operating, maintaining and financing street improvements, parks and recreational facilities, storm sewer improvements, water improvements, traffic and safety controls, transportation improvements, mosquito control, television relay and translator facilities, fire protection improvements, and sanitary sewer improvements (collectively, the "**Public Improvements**") within and without the boundaries of the District; subject to any limitations contained in the Service Plan for the District; and

WHEREAS, in accordance with § 32-1-1001(1)(f), C.R.S., the District has the power to acquire real and personal property, including rights and interests in property and easements necessary to its functions or operations; and

WHEREAS, the District has entered into an Infrastructure Acquisition and Reimbursement Agreement, dated December 9, 2022, (the "**Acquisition Agreement**") by and between the District and Walk Off, LLC (the "**Developer**") which sets forth the procedure for documenting, certifying, and reimbursing the Developer for certain costs related to Public Improvements that may be lawfully funded by the District; and

WHEREAS, the Developer has funded certain costs related to the Public Improvements for the benefit of the District; and

WHEREAS, pursuant to the Acquisition Agreement, the District has agreed to reimburse the Developer for "District Eligible Costs," subject to the satisfaction of certain terms and conditions as set forth in the Acquisition Agreement; and

WHEREAS, the Acquisition Agreement requires that the Developer furnish copies of all invoices, statements and evidence of payment equal to the proposed District Eligible Costs, including lien waivers from suppliers and subcontractors, as applicable, to the District related to

the costs funded by the Developer related to the Public Improvements (collectively, the “**Payment Information**”) in order to, inter alia, allow the District to substantiate the amount of District Eligible Costs; and

WHEREAS, the Developer has furnished the Payment Information and all other requested information to the District; and

WHEREAS, the Board of Directors of the District (the “**Board**”) engaged Schedio Group, LLC, (the “**District Engineer**”) an independent engineer, who has reviewed the Payment Information to substantiate the amount of District Eligible Costs, and the District Engineer has advised the Board that certain of the costs submitted by the Developer are reasonable and appropriate and related to the Public Improvements authorized and contemplated under the terms of the Service Plan and Acquisition Agreement and are therefore eligible for reimbursement by the District; and

WHEREAS, the Board engaged CliftonLarsonAllen, LLP, the (“**District Accountant**”) who has also reviewed the Payment Information to substantiate the amount of District Eligible Costs, and the District Accountant has advised the Board that certain of the costs submitted by the Developer are reasonable and appropriate and related to the Public Improvements authorized and contemplated under the terms of the Service Plan and Acquisition Agreement and are therefore eligible for reimbursement by the District; and

WHEREAS, the Board has reviewed the information submitted by the District Engineer and District Accountant and other information as appropriate and has determined that the best interests of the District, its residents, users, and property owners would be served by the District’s recognition and acceptance of the District Eligible Costs, and the District should expend funds for such purposes; and

WHEREAS, the Board desires to recognize and reimburse the Developer for the District Eligible Costs, subject to the availability of District funds for such purpose.

NOW, THEREFORE, be it resolved by the Board of the District as follows:

1. District Eligible Costs. The Developer has represented that it has funded or caused to be funded District Eligible Costs at its sole cost and expense, which District Eligible Costs are directly related to the Public Improvements, and has provided the Payment Information to the District.

2. Cost Certification. As required under Sections 5(b) and 5(c). of the Acquisition Agreement, the District Engineer and District Accountant have each reviewed the Payment Information, and have issued “Cost Certifications,” attached as **Exhibit A** and **Exhibit B** respectively, certifying the amount of District Eligible Costs to be reimbursed to the Developer.

3. Acceptance of District Eligible Costs. The Board hereby finds that the applicable requirements set forth in the Acquisition Agreement have been met, and that the District Eligible Costs are hereby accepted and approved for reimbursement by the District.

4. Dedicated Improvements. The Board acknowledges that certain of the Public Improvements may be dedicated to other governmental entities. For such Public Improvements, the Developer has provided the information as required by the Acquisition Agreement, as applicable, in form and substance satisfactory to the District (or has provided assurance acceptable to the District, that the Developer will provide such information).

5. Acceptance of District Eligible Costs. The Board, having reviewed the certifications and recommendations of the District Engineer and District Accountant, finds and determines that the total amount of District Eligible Costs to be reimbursed to the Developer is Four Hundred Seventy-Seven Thousand, Forty-Five Dollars and Fifty-Seven Cents (\$477,045.57). The Board further finds that the applicable requirements set forth in the Acquisition Agreement have been met, and that the District Eligible Costs are hereby accepted and approved for reimbursement by the District. To the extent required by the Acquisition Agreement, this Resolution shall be deemed the “**Acceptance Letter**” to be issued by the District.

6. Subject to Approved Development Plan. The release of reimbursement funds for District Eligible Costs is subject to the District’s compliance with the Service Plan requirement for an Approved Development Plan, as outlined in Section V.D.1 of the Service Plan.

7. Subject to Annual Appropriations. Any payments due hereunder are subject to annual appropriation by the District and do not create a multiple-fiscal year obligation or debt whatsoever. Furthermore, any payments due hereunder are subject to any repayment terms and conditions as set forth in the Acquisition Agreement.

8. Definitions. Capitalized terms not defined herein, shall have the meanings set forth in the Acquisition Agreement.

Signature page follows.

ADOPTED THIS 4TH DAY OF APRIL, 2022.

**BRIGHTON RIDGE METROPOLITAN
DISTRICT NO. 1**

Patrick Schmitz

Patrick Schmitz (Jun 6, 2022 08:41 MDT)

Officer of the District

AK

Andrew Klein (Jun 3, 2022 20:33 GMT+2)

APPROVED AS TO FORM:
WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law

James B. Ankele

General Counsel to the District

EXHIBIT A

Engineer's Cost Certification

BRIGHTON RIDGE METROPOLITAN DISTRICT NO. 1

ENGINEER'S REPORT AND VERIFICATION OF COSTS ASSOCIATED WITH PUBLIC IMPROVEMENTS

PREPARED BY:

SCHEDIO GROUP LLC
809 14TH STREET SUITE A
GOLDEN, COLORADO 80401

LICENSED PROFESSIONAL ENGINEER:

TIMOTHY A. MCCARTHY
STATE OF COLORADO
LICENSE NO. 44349

DATE PREPARED: April 14, 2022

CLIENT NO.: 210903

Engineer's Report and Verification of Costs No. 1

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ENGINEER'S REPORT

INTRODUCTION

Schedio Group LLC ("Schedio Group") and Brighton Ridge Metropolitan District No. 1 ("District") entered into an Independent Contractor Agreement for Cost Verification Services ("Agreement") on December 9, 2021. This Engineer's Report and Verification of Costs Associated with Public Improvements ("Report") is the 1st deliverable associated with the Agreement, more specifically Task 1 – *Independent Professional Engineer's Review of Costs Incurred and Verification of Costs Associated with the Design and Construction of Public Improvements*.

Schedio Group has reviewed the *Service Plan for Brighton Ridge Metropolitan District Nos. 1 & 2, in the City of Brighton, Colorado*, prepared by White Bear Ankele Tanaka & Waldron, approved on September 7, 2021. Per the Service Plan, the Service Area consists of approximately 83.145 acres of mixed-use commercial and multi-family housing land, some of which will be affordable housing. The residential population of the District at build-out is estimated to be approximately 1,660 people. The District shall have authority to provide for the planning, design, acquisition, construction, installation, relocation, redevelopment, maintenance, and financing of Public Improvements. The estimated costs of the Public Improvements were based on a preliminary engineering survey and estimates and is approximately Seventeen Million Four Hundred Thirty-Five Thousand Four Hundred Dollars (\$17,435,400).

Schedio Group has also reviewed the *Public Improvements Acquisition and Reimbursement Agreement ("PIARA")*, by and between Brighton Ridge Metropolitan District No. 1 and Walk Off LLC, dated December 9, 2021. Per the PIARA:

...WHEREAS, the company has incurred or intends to incur costs related to the financing, construction, and installation of Public Improvements that may be lawfully funded by the District under the Special District Act and the Service Plan, including without limitation: (a) the costs of labor and materials, furnishings and equipment; (b) the costs of insurance premiums, indemnity and fidelity bonds or other municipal or governmental charges lawfully levied or assessed; (c) the costs of surveys, appraisals, plans, designs, specifications, and estimates; (d) the costs, fees, and expenses of engineers, architects, construction management, financial consultants, accountants, legal advisors, or other agents or employees; (e) the costs of demolition, removal and relocation; (f) the costs of organizing the District; and (g) all other lawful costs as determined by the Board (the "District Eligible Costs")...

Section 5(b) The District's engineer shall review the invoices and other material presented to substantiate the District Eligible Costs and shall issue a certification in form and substance reasonably acceptable to the District declaring the total amount of District Eligible Costs associated with the Public Improvements proposed for acquisition and/or reimbursement, and that such costs are reasonable and appropriate for the type of Public Improvement being constructed.

SUMMARY OF FINDINGS

Schedio Group reviewed a total of \$649,644.02 in soft and indirect costs associated with the Organization of the District. Of the \$649,644.02 reviewed, Schedio Group verified \$477,045.57 as Organizational Expenses. Therefore, the total verified Public amount eligible amount for Developer reimbursement is **\$477,045.57**. See *Figure 1 – Summary of Verified Soft Costs Segregated by Service Plan Category* below.

	TOT AMT VER	PREV AMT VER	CUR AMT VER
SOFT AND INDIRECT COSTS			
Organizational	\$ 477,045.57	\$ -	\$ 477,045.57
Capital			
Streets	\$ -	\$ -	\$ -
Water	\$ -	\$ -	\$ -
Sanitary Sewer	\$ -	\$ -	\$ -
Parks and Recreation	\$ -	\$ -	\$ -
TOTAL SOFT AND INDIRECT COSTS -->	\$ 477,045.57	\$ -	\$ 477,045.57
HARD COSTS			
Organizational	\$ -	\$ -	\$ -
Capital			
Streets	\$ -	\$ -	\$ -
Water	\$ -	\$ -	\$ -
Sanitary Sewer	\$ -	\$ -	\$ -
Parks and Recreation	\$ -	\$ -	\$ -
TOTAL HARD COSTS -->	\$ -	\$ -	\$ -
SOFT AND INDIRECT + HARD COSTS			
Organizational	\$ 477,045.57	\$ -	\$ 477,045.57
Capital			
Streets	\$ -	\$ -	\$ -
Water	\$ -	\$ -	\$ -
Sanitary Sewer	\$ -	\$ -	\$ -
Parks and Recreation	\$ -	\$ -	\$ -
TOTAL SOFT AND INDIRECT + HARD COSTS -->	\$ 477,045.57	\$ -	\$ 477,045.57

Figure 1 – Summary of Verified Soft Costs Segregated by Service Plan Category

DETERMINATION OF PUBLIC PRORATION PERCENTAGE

Figure 2 – Determination of Public Proration Percentage below summarizes the public and private areas associated with the Project. The ratio of Total Public Area to Total Area yields a Public Proration Percentage that can be applied to select costs with both public and private components. Areas were taken directly from or derived from the *Subdivision Plan of Brighton Ridge* as no plat maps were available at this time. The Public Proration Percentage was calculated and applied as deemed appropriate by Schedio Group. See *Exhibit A – Summary of Costs Reviewed* for application of the Public Proration Percentage.

	OWNER	NOTES FROM PLAT	AC	SF	PRI AREA (SF)	% PRI	PUB AREA (SF)	% PUB
		Total Area -->		4,511,446				100.00%
LOTS		Total Lots -->		2,919,043		0.00%		64.70%
TRACTS								
A	City of Brighton	Neighborhood Park		217,890	0	0.00%	120,854	4.83%
B	City of Brighton	Preserve Open Space		491,334	0	0.00%	33,113	10.89%
C	Metro District	Landscape Buffer		25,240	0	0.00%	37,568	0.56%
D	Metro District	Landscape Buffer		6,352	0	0.00%	22,311	0.14%
E	Metro District	Landscape Buffer		99,930	0	0.00%	825	2.22%
F	Metro District	Drainage		37,729	0	0.00%	839	0.84%
G	Metro District	Drainage		43,692	0	0.00%	812	0.97%
H	Metro District	Drainage		68,526	0	0.00%	2,396	1.52%
I	Metro District	Drainage		61,817	0	0.00%	3,488	1.37%
J	Metro District	Drainage		116,563	0	0.00%	955	2.58%
ROW	City of Brighton	120th Avenue		73,512	0	0.00%	2,531	1.63%
ROW	City of Brighton	Internal		349,818	0	0.00%	2,881	7.75%
		Total Tracts -->		1,592,403	0			35.30%
				TOTAL PRIVATE -->	2,919,043	64.70%		64.70%
				TOTAL PUBLIC -->			1,592,403	35.30%

Figure 2 - Determination of Public Proration Percentage

VERIFICATION OF COSTS

Schedio Group reviewed soft and indirect costs associated with the Organization of the District. Schedio Group found costs associated with Organization of the District to be reasonable when compared to similar projects, during similar timeframes in similar locales.

VERIFICATION OF PAYMENTS

Schedio Group verified proofs of payments in the amount of \$642,933.53, of which \$477,045.57 are associated with Organizational costs in this report.

VERIFICATION OF CONSTRUCTION

Schedio Group did not perform a site visit as no hard costs were reviewed in this report.

SPECIAL CIRCUMSTANCES AND NOTABLE METHODOLOGIES

None

ENGINEER'S VERIFICATION

Timothy A. McCarthy, P.E. / Schedio Group, LLC (the Independent Consulting Engineer) states as follows:

This Engineer's Verification is associated with the attached Engineer's Report dated April 14, 2022.

The Independent Consulting Engineer is an engineer duly qualified and licensed in the State of Colorado with experience in the design, construction and Verification of Public Improvements of similar type and function as those described in the attached Engineer's Report.

The Independent Consulting Engineer has reviewed applicable construction or legal documents related to the Public Improvements under consideration to state the conclusions set forth in this Engineer's Verification.

The Independent Consulting Engineer did not perform a site visit as no hard costs were submitted for review.

The Independent Consulting Engineer finds and determines that soft and indirect costs associated with Organization of the District from July 10, 2019 (Date of EBI Consulting Invoice No. SIN102796) through September 18, 2021 (Date of Redland Invoice No. 10019) are reasonably valued at **\$477,045.57**.

In the opinion of the Independent Consulting Engineer, the above stated value for soft and indirect costs associated with the design of the Public Improvements is reasonable and consistent with costs of similar improvements constructed for similar purposes during the same timeframe and similar locales and is eligible for payment from Brighton Ridge Metropolitan District No. 1 to Walk Off LLC.



April 14, 2022

Timothy A. McCarthy, P.E. | Colorado License No. 44349

EXHIBIT A

SUMMARY OF COSTS REVIEWED

EXHIBIT B

SUMMARY OF DOCUMENTS REVIEWED

SUMMARY OF DOCUMENTS REVIEWED

SERVICE PLANS

- Service Plan for Brighton Ridge Metropolitan District No. 1, prepared by White Bear Ankele Tanaka & Waldron, approved September 7, 2021
- Service Plan for Brighton Ridge Metropolitan District No. 2, prepared by White Bear Ankele Tanaka & Waldron, approved September 7, 2021

DISTRICT AGREEMENTS

- Funding and Reimbursement Agreement (Operations and Maintenance) by and between Righton Ridge Metropolitan District No. 1 and Walk Off LLC, dated December 9, 2021
- Funding and Reimbursement Agreement (Operations and Maintenance) by and between Righton Ridge Metropolitan District No. 2 and Walk Off LLC, dated December 9, 2021
- Public Improvements Acquisition and Reimbursement Agreement, by and between Brighton Ridge Metropolitan District No. 1 and Walk off LLC, dated December 9, 2021
- Public Improvements Acquisition and Reimbursement Agreement, by and between Brighton Ridge Metropolitan District No. 2 and Walk off LLC, dated December 9, 2021

PROFESSIONAL REPORTS

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LAND SURVEY DRAWINGS

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CIVIL ENGINEERING DRAWINGS

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CONSULTANT CONTRACTS

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CONSULTANT INVOICES

- See Exhibit A - Summary of Costs Reviewed

CONTRACTOR CONTRACTS

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CONTRACTOR PAY APPLICATIONS

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EXHIBIT B

Accountant's Cost Certification



CliftonLarsonAllen

CliftonLarsonAllen LLP
www.CLAconnect.com

May 29, 2022

Board of Directors
Brighton Ridge Metro District No. 1
Brighton, Colorado

Re: Accountant's Cost Certification No. 1

This report summarizes the results of supplementary procedures we performed related to the costs of public infrastructure constructed by Westside Development (the "Developer") within the boundaries of Brighton Ridge Metro District No. 1 (the "District"), which public infrastructure will be acquired and reimbursed by the District pursuant to the Public Improvements Acquisition and Reimbursement Agreement (the "PIARA") entered into by District No. 1 and the Developer.

We received Engineer's Report and Verification of Costs No. 1 dated April 14, 2022 containing an opinion that the public infrastructure and organizational costs to be acquired by District No. 1 totaling \$477,045.57 is fit for the purpose intended by the PIARA, and at the time of this report, these costs have been verified as reimbursable to the Developer as soon as funds are available. We did not review the contracts and did not evaluate quantity and quality measurements of the public improvements, which procedures are covered by the Engineer's Certification.

The procedures we followed include reading the documentation submitted by the Developer to support the assertion that the costs of public improvements were invoiced to and were paid by the Developer pursuant to the PIARA. The documentation we received include copies of contractors' invoices and pay applications along with proofs of payment. The invoices and pay applications for this certification total \$477,045.57.

We were not engaged to, and did not, conduct an examination in accordance with generally accepted auditing standards in the United States of America, the objective of which would be the expression of an opinion on the financial statements of the Districts. Accordingly, we do not express such an opinion. We performed our engagement as a consulting service under the American Institute of Certified Public Accountants' Statement of Standards for Consulting Services. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are not independent with respect to the District.

CliftonLarsonAllen LLP
Greenwood Village, Colorado