



Vistas at West Mesa Metropolitan District

**April 14, 2023
Board of Directors
Meeting Packet**



VISTAS AT WEST MESA METROPOLITAN DISTRICT

Regular Board Meeting

Friday, April 14, 2023, at 11:00 a.m.

Via Teleconference and at 614 N. Tejon St., Colorado Springs, CO 80903

<https://zoom.us/join>

Meeting ID: 851 3437 6969

Passcode: 428357

United States: +1 (720) 707-2699

Board of Director	Title	Term
Jeff Powles	President	May 2023
Slade Nelson	Secretary	May 2025
Thomas Pucciano	Assistant Secretary	May 2025
Russ Watterson	Assistant Secretary	May 2023
Chris Musselman	Treasurer	May 2025 (appointment to May 2023)

AGENDA

1. Call to Order/Declaration of Quorum
2. Conflict of Interest Disclosures
3. Approval of Agenda
4. Public Comment - Members of the public may express their views to the Board on matters that affect the Districts. Comments will be limited to three (3) minutes.
5. Consent Agenda - The items listed below are a group of items to be acted on with a single motion and vote by the Boards. Any item may be removed from the Consent Agenda upon request of any Board member.
 - a. Approve Meeting Minutes from February 10, 2023 (**enclosure**)
 - b. Approve Special Bond Fee Disclosure for WHITE BEAR ANKELE TANAKA & WALDRON (**enclosure**)
6. Legal Matters
 - a. Consider Change in the Amount of the Operations Fee (**enclosure**)
 - b. Discuss Cancellation of May 2023 Election (**enclosure**)
 - c. Discuss Board Vacancy and Appointment of Candidates
7. Manager's Report
 - a. Welcome Packet
 - b. Software Upgrade
 - c. Homeowner Portal
8. Financial Matters
 - a. Other Bond Matters
 - b. Payment of Claims – March 17, 2023 (**enclosure**)
 - c. Unaudited Financial Statements as of March 31, 2023 (**enclosure**)
9. New Business
 - a. HBS Trash / Recycling Contract – Ratification (**enclosure**)
 - b. Discuss Landscape Maintenance
10. Adjournment
 - a. Next Regular Meeting – May 12, 2023, at 11:00am via teleconference





**MINUTES OF A SPECIAL MEETING
OF THE BOARD OF DIRECTORS OF THE
VISTAS AT WEST MESA METROPOLITAN DISTRICT
HELD FEBRUARY 10, 2023
AT 11:00 A.M.**

Pursuant to posted notice, the regular meeting of the Board of Directors of the Vistas at West Mesa Metropolitan District was held on Friday, February 10th at 11:00 AM, at 614 N Tejon Street, Colorado Springs, CO 80903, and via video teleconference.

In attendance were Directors:

Jeff Powles, President
Chris Musselman, Treasurer (excused)
Slade Nelson, Secretary
Thomas Pucciano, Assistant Secretary
Russ Watterson, Assistant Secretary

Also in attendance were:

Kevin Walker, WSDM District Managers
Heather Smith, WSDM District Managers
George Rowley, White Bear Ankele Tanaka & Waldron
Audrey Johnson, White Bear Ankele Tanaka & Waldron

1. Call to Order/Declaration of Quorum: Ms. Smith called the meeting to order at 11:00 AM and confirmed a quorum was present.
2. Conflict of Interest Disclosures: Mr. Rowley advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Mr. Rowley reported that disclosures for those directors that provided White Bear Ankele Tanaka & Waldron with notice of potential or existing conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Board. Mr. Rowley noted that a quorum was present and inquired into whether members of the Board had any additional disclosures of potential or existing conflicts of interest with regard to any matters scheduled for discussion at the meeting. No additional disclosures were noted. The Board determined that the participation of the members present was necessary to obtain a quorum or to otherwise enable the Board to act.
3. Approval of the Agenda: Director Pucciano moved to approve the agenda as presented; seconded by President Powles. Motion passed unanimously.
4. Public Comment: There was no public comment.
5. Consent Agenda

- a. Approve Meeting Minutes from November 11, 2022: After review, President Powles moved to approve the Meeting Minutes from November 11, 2022; seconded by Director Pucciano. Motion passed unanimously.
6. Legal Matters
- a. Discussion of Service Plan Amendment Submittal: Mr. Walker reported the disclosures have been re-signed and all outstanding items have been resolved. The Service Plan Amendment is on the City Council Consent Calendar for Tuesday, but Mr. Walker anticipates the item will be called off as it was last time. Mr. Walker noted he is unsure of what Mr. Hoyle's specific objection is, but he does expect a fair hearing at City Council.
 - b. Status of Signed Owner/Purchaser Disclosures: There was no additional discussion.
7. Manager's Report
- a. Board Email Accounts: Ms. Smith discussed the new board member email accounts created by WSDM. She noted they were created as an alternative to board members using personal email accounts due to the potential exposure from CORA requests. WSDM is helping to monitor the emails to be sure nothing is missed. President Powles commented that he is still working on this internally with Lokal IT to create district specific emails for Lokal staff, but the time being the Board will utilize the email accounts created by WSDM.
8. Financial Matters:
- a. Other Bond Matters: There was no discussion.
 - b. Payment of Claims: Ms. Smith presented the Payment of Claims. President Powles moved to ratify the approval for the Payment of Claims; seconded by Director Pucciano. Motion passed unanimously. President Powles will be the sole invoice approver on Bill.com moving forward.
 - c. Review Unaudited Financial Statements as of December 31, 2022: Ms. Smith presented the Unaudited Financial Statements as of December 31, 2022. President Powles moved to accept the Unaudited Financial Statements as of December 31, 2022; seconded by Director Pucciano. Motion passed unanimously.
9. New Business
- a. 2022 Audit Proposals: Ms. Smith reminded the Board that this item had been tabled previously following a request for competitive pricing for the 2022 Audit, due to Biggskofford increasing their rates. Ms. Smith presented a proposal from Hoelting & Company, Inc. for \$8,500 for the 2022 Audit as well as a 5-year proposed fee schedule. Biggskofford's proposal was \$9,325. Ms. Smith and Mr. Walker confirmed that WSDM would be comfortable with either Auditor. President Powles moved to approve the proposal from Hoelting & Company, Inc. for the 2022 Audit; seconded by Director Pucciano. Motion passed unanimously.
 - b. Declaration of Covenants, Conditions, and Restrictions: Ms. Smith noted the Declaration of Covenants, Conditions, and Restrictions was finalized and recorded in December, so no action is needed on this item.
 - c. Snow Removal Contract Proposal: Ms. Smith presented a contract proposal for snow removal from BrightView Landscaping after Robertson's Landscaping was unable to provide the service. The Board discussed monitoring the snow melt to see if the threshold needs to be changed from 3 inches to 2 inches. After review, Director Pucciano moved to approve the snow removal contract proposal from BrightView Landscaping; seconded by Director Nelson. Motion passed unanimously.

- d. Resolution Imposing District Fees: Ms. Smith presented the Resolution Imposing District Fees. The operations fee is \$150 per month. Ms. Smith noted the fee can be amended after the Service Plan Amendment is approved and the mill levy is able to increase. The Board discussed a \$50 transfer fee to be imposed by WSDM in the future. President Powles moved to approve the Resolution Imposing District Fees subject to the \$50 transfer fee; seconded by Director Nelson. Motion passed unanimously.
- e. 2023 Election Discussion: The Board discussed the upcoming 2023 Election. Director Powles, Musselman, and Watterson are up for election. Mr. Rowley will send the Self Nomination forms that need to be submitted by the February 24th deadline. Mr. Walker left the meeting.
- f. Street Light Agreement – CSU: The Board reviewed the Street Light Agreement with CSU establishing a monthly fee for streetlight service for a period of five years. Director Pucciano moved to approve the Street Light Agreement with CSU; seconded by President Powles. Motion passed unanimously.

10. Adjournment

- a. Next Regular Meeting – March 10, 2023, at 11:00 AM via teleconference. Director Watterson moved to adjourn at 11:34 AM; seconded by President Powles. Motion passed unanimously.

Respectfully Submitted,

By: President

THESE MINUTES ARE APPROVED AS THE OFFICIAL FEBRUARY 10, 2023 MINUTES OF THE VISTAS AT WEST MESA METROPOLITAN DISTRICT.





George M. Rowley, Esq.
Shareholder

303-858-1800
growley@wbapc.com

April 14, 2023

Board of Directors
Vistas at West Mesa Metropolitan District
c/o WSDM District Managers
614 N Tejon Street
Colorado Springs, CO 80903

Re: Special Disclosure of Costs for Legal Services in Connection with Bonds

Dear Board of Directors:

White Bear Ankele Tanaka & Waldron (“**WBA**”) currently serves as general counsel to Vistas at West Mesa Metropolitan District (the “**District**”) pursuant to an engagement letter dated December 10, 2021, that defines the scope of WBA’s engagement for general counsel legal services (the “**Engagement**”). The Engagement states that fees for our services are paid monthly based on hours of service provided and other factors set forth in the Engagement. The purpose of this letter is to confirm the terms of a special fee arrangement regarding WBA’s work in connection with the expected issuance by the District of its Limited Tax General Obligation Cash Flow Bonds, Series 2023, in the estimated principal aggregate amount of up to \$749,000 (the “**Series 2023 Bonds**,” the “**Bonds**” and/or the “**Transaction**”). This letter is also intended to describe the roles of WBA and various other professionals expected to be involved in the Transaction. Due to the nature of this type of Transaction, fees for all professionals are usually paid at closing; however, our Engagement provides for monthly billing and payment, followed, typically, by reimbursement to the District for our fees from closing proceeds. This letter discloses a special billing arrangement for our fees to provide a measure of certainty to the District regarding the costs of the Transaction. Other than as specifically noted herein, this letter is not intended to alter any of the provisions of the Engagement.

The effort to close the Transaction may involve the work of several professionals outside the Firm including: (i) an investment banker (the “**Underwriter**”) who will be engaged by the District to structure and then market the Transaction; and (ii) a bond lawyer who will be engaged by the District to assist with structuring the Transaction and issue various opinions necessary to close the Transaction, including a tax exempt opinion (“**Bond Counsel**”). Please note that it is also our recommendation that the District engage an independent municipal advisor to provide advice with respect to the Transaction, specifically including advice regarding structure, timing, financial terms, and other similar matters. These professional firms are generally referred to herein as the “**Professionals**”. Our role as general counsel will be to participate with the Professionals in documenting the Transaction as to which we will render a general counsel opinion to various

parties regarding the status of the District and other matters surrounding the Transaction.

All of the Professionals will be paid out of proceeds of the Transaction on terms set forth in their individual engagements, which means they are paid by the District. Their duties to the District will be set forth in their individual engagement agreements and will run directly to the District and not to WBA. The Underwriter may choose to engage its own counsel whose duties will run to the Underwriter only, but whose fees are generally paid by the District as a cost of the Transaction at closing.

In connection with these Professional engagements, it is important to understand that WBA's role in the Transaction is limited to matters specifically set forth in our legal opinion, the anticipated form of which is attached hereto (the "**Opinion**"). If the risk or structure of the Transaction changes materially from what we anticipate at this time, resulting in changes to our Opinion which may increase the scope of our services or risk, we will advise the District and it may be necessary for us to increase our fees (as set forth below) for these services.

It is also important for the District to understand, and agree, that WBA is not engaged to oversee the efforts, work product, advice or opinions of the other Professionals. We will perform the work necessary to render our Opinion and will be sufficiently involved in the Transaction to keep the Board of Directors apprised of the status of the efforts of the other Professionals. We read their work to assure our familiarity with their documents but we do not review their work for completeness or accuracy. They are engaged because their services fall outside the scope of our expertise. Accordingly, by proceeding with the Transaction, the District acknowledges that it will rely solely on such Professionals as to the advice they render to the District and the content of their written materials, and the District further acknowledges that WBA is not the guarantor of their work. Should the District have any questions or concerns regarding the work of other Professionals, those questions should be directed to us so we can make sure they are addressed by the correct party.

As compensation for WBA's services as general counsel in connection with the approval, issuance and closing of the Transaction, the District shall pay the Firm a fee of \$35,000 for the Transaction from closing proceeds to compensate us for our time and expertise in connection with attempting to achieve a closing of the Transaction and for risks we incur in connection with the issuance of our Opinion. Accordingly, we will NOT include time and materials billings to the District as part of our routine monthly general counsel invoices; rather, a "**Bond Transaction Legal Services Invoice**" will be provided to the District at or near the closing of the Transaction and shall be due at the time of closing. In addition to these fees, there shall be due and payable upon closing of the Transaction the out of pocket expenses, including travel, telephone and telefax, staff overtime and copying expenses, and all other items and expenses incurred or paid by the Firm on behalf of the District in connection with the Transaction. Please note that if the District directs that work on the Transaction cease prior to closing, or in the event the Transaction does not close for any reason within 90 days of the date of this letter, we may opt to provide a standard invoice to you for actual time and expenses incurred, which will be due in accordance with our standard Engagement, in lieu of the Bond Transaction Legal Services Invoice referenced above.

We appreciate the opportunity to continue to provide legal services to the District. Should you have any questions regarding this matter, please do not hesitate to call us.

Sincerely,

George M. Rowley, Esq.

A handwritten signature in blue ink that reads "George M. Rowley". The signature is written in a cursive style with a large initial "G".

Vistas at West Mesa Metropolitan District Acknowledgment

By: _____
Signature

Printed Name: _____

Position: _____

Date: _____

Enclosure:

Form of General Counsel Opinion

_____, 2022

District
Address
Address
Address

Addressee (1)
Address
Address
Address

Addressee (3)
Address
Address
Address

Addressee (4)
Address
Address
Address

\$749,000
VISTAS AT WEST MESA METROPOLITAN DISTRICT
in the City of Colorado Springs,
(EL PASO COUNTY, COLORADO)
LIMITED TAX GENERAL OBLIGATION CASH FLOW BONDS, SERIES 2023
(the “Bonds”)

Ladies and Gentlemen:

We have acted as general counsel to the Vistas at West Mesa Metropolitan District, City of Colorado Springs, El Paso County, Colorado (the “**District**”) in connection with the issuance by the District of the Bonds. We are not counsel for individual directors of the District. The opinions stated herein are given in our limited capacity as legal counsel to the District for general matters. Further, neither our firm nor any of its attorneys or employees have been employed, contracted, or otherwise retained as a “municipal advisor” to the District as such term is defined in 15 U.S.C. 78o-4(e)(4), as amended by the Dodd/Frank Act (the “**Act**”), or any rules promulgated by the Securities and Exchange Commission under the Act. Any comments or advice provided by our firm regarding the issuance of securities by the District have been solely of a “traditional legal nature”, as recognized under the Act.

As to questions of fact material to our opinion, we have relied specifically upon the certified proceedings of the District relating to the authorization, issuance and delivery of the Bonds and certifications or other representations of public officials and other persons furnished to us without undertaking to verify the same by independent investigation. Whenever our opinion with respect to the existence or absence of facts is indicated to be based on our knowledge, it shall mean that, during the course of our representation as described above, no information has come to our attention which has given us actual knowledge contrary to the existence or absence of such facts. We have not undertaken any independent investigation to determine the existence or absence of such facts, nor have we undertaken any such investigation with respect to facts certified by anyone,

and no inference as to our knowledge of the existence or absence of such facts may be drawn from our representation of the District.

In connection herewith, we have assumed, without independent verification or investigation as to the same: (a) the genuineness and authenticity of all documents submitted to us as originals; (b) the conformity of the originals to all photocopies provided to us in connection with rendering this opinion; (c) that the signatures of persons signing all documents in connection with which this opinion is rendered are genuine and are authorized by the entity on whose behalf such persons have signed; provided, however, that no such assumptions as to genuineness and authorization are made as to signatures on behalf of the District; (d) that all parties to the documents reviewed by us have full power and authority and have obtained all consents and/or approvals necessary to execute, deliver and perform thereunder, provided however that no such assumptions are made as to the District regarding necessary consents and/or approvals in connection with execution, delivery, and performance of the Financing Documents, as defined below; and (e) that all such documents have been duly authorized by all necessary corporate officers, have been duly executed by such parties, and have been duly delivered by such parties; provided, however, that no such assumptions are made as to the District's execution and delivery of any Financing Documents.

The Bonds are being issued pursuant to a Resolution adopted by the Board of Directors of the District (the "**Board**") at a regular/special meeting held on _____, 20__ (the "**Authorizing Resolution**"). Capitalized words and phrases not otherwise defined herein shall have the meanings assigned in the Authorizing Resolution.

As general counsel to the District, we have reviewed the following documents:

A. The Amended and Restated Service Plan of the District, approved by the City on February 14, 2023 (the "**Service Plan**");

B. [Those portions of the [Preliminary Disclosure Document Name] dated _____, 202_ and the [Final Disclosure Document Name] dated _____, 202_ (collectively, the "**Disclosure Document**") titled: ["THE DISTRICT—INTRODUCTION", "THE DISTRICT" and "LEGAL MATTERS"];

C. The Authorizing Resolution;

D. [The Indenture of Trust between the District and _____, as trustee, dated as of _____, 20__];

E. The Bond Purchase Agreement between the District and _____, dated as of _____, 20__;

F. The [insert year] Bonds, dated as of the closing date; and

G. The Continuing Disclosure Agreement, dated as of _____, 20__.

The documents described in paragraphs [C if there is an offering document; or B if there is not an offering document] through [], above, are hereafter referred to as the “**Financing Documents.**”

Based on the foregoing, and except as otherwise qualified and limited herein and expressly qualified by paragraphs 10 [11] through 13 [14], inclusive, we are of the opinion that:

1. The District is a duly organized and existing quasi-municipal corporation and political subdivision of the State of Colorado.

2. We have not received any notice from the State Division of Local Government (the “**Division**”) concerning the intent by the Division to certify the District dissolved pursuant to § 32-1-710, C.R.S., and the officers or directors of the District have not advised us of receipt of same. Nothing has come to our attention which would lead us to believe that there are any grounds for dissolution of the District under such statute.

3. The District is not required by law to amend the Service Plan to effectuate the execution and performance of its obligations under the Financing Documents.

4. To the best of our knowledge, based upon the oral representations and affirmations provided to us by individuals serving on the Board, and without any other independent investigation or inquiry by us, for the period from the date of adoption and approval of the Authorizing Resolution to and including the date hereof, such individuals are qualified to serve as directors and officers of the District and have been duly elected or appointed.

5. The District has taken the procedural steps necessary to adopt the Authorizing Resolution in material compliance with the procedural rules of the District and the requirements of Colorado law, and the Authorizing Resolution remains in full force and effect as the date hereof.

6. The Financing Documents have been duly authorized, executed, and delivered on behalf of the District.

7. To the best of our knowledge, [and except as otherwise set forth in the Disclosure Document,] there is no action, suit, or proceeding pending in which the District is a party, nor is there any inquiry or investigation pending against the District by any governmental agency, public agency, or authority which, if determined adversely to the District, would have a material adverse effect upon the District’s ability to comply with its obligations under the Financing Documents.

8. To the best of our knowledge, the issuance, execution, and delivery of the Bonds by the District, and the execution and delivery of the Financing Documents and the performance by the District of its obligations with respect thereto, will not result in a violation of any applicable judgment, order or decree of any authority of the State of Colorado, and will not result in a breach of, or constitute a default under, any agreement or instrument to which the District is a party or by which the District is bound.

9. To the best of our knowledge, no additional or further approval, consent, or authorization of any governmental, public agency, or authority not already obtained is required by

the District in connection with the issuance of the Bonds, or entering into and performing its obligations under the Financing Documents.

10. [USE THIS PARAGRAPH AS APPLICABLE: We assisted the District in the review of portions of the Disclosure Document. We have not been engaged as disclosure counsel by the District in connection with preparation of the Disclosure Document nor by any other participant involved with the issuance of the Bonds, and have not undertaken to provide counsel in regard to the contents of the Disclosure Document and/or the disclosure or nondisclosure of matters addressed therein except as set forth in the sections of the Disclosure Document entitled: “THE DISTRICT--INTRODUCTION”, “THE DISTRICT”, and “LEGAL MATTERS-Litigation-District General Counsel Opinion” (together, the “Covered Sections”). We have generally reviewed the Covered Sections, but have not reviewed other sections of the Disclosure Document, whether or not such other sections are cross-referenced in the Covered Sections. In the course of these activities, and without further independent investigation, we are not aware that the Covered Sections of the Disclosure Document (except for the financial statements, projections and other financial and statistical information included in the Covered Sections, as to which we express no opinion) contained or contain (in the case of the Preliminary Limited Offering Memorandum, as of its date, and in the case of the Limited Offering Memorandum, as of its date and the date hereof, respectively) any untrue statement of a material fact or omitted or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading.]

This letter contains opinions of our firm which are, in their entirety, subject to and qualified generally as set forth therein, and are expressly qualified by the following paragraphs 10 [11] through 13 [14]:

10. [11]. The obligations of the District with respect to the Bonds, Financing Documents, and other documents and agreements referred to or contained therein or herein may all be affected in the future by:

(a) Provisions of bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium, or similar laws relating to or affecting the enforcement of creditor’s rights generally;

(b) Compliance or non-compliance by the directors of the District with laws contained in § 18-8-308, C.R.S., and under §§24-18-101, *et seq.*, C.R.S., regarding disclosure of potential conflicts of interest; provided, however, that we have advised the directors of the requirements of such laws and we are aware that each of the directors of the District have filed potential conflict of interest disclosure forms, if applicable, in connection with the transactions and agreements contemplated herein;

(c) Rights to indemnification and contribution which may be limited by applicable law and equitable principles;

(d) The unenforceability under certain circumstances of provisions imposing penalties, forfeiture, late payment charges or an increase in interest rate upon delinquency in payment or the occurrence of an event of default;

(e) General principles of equity now or hereafter in effect, including, without limitation, concepts of mutuality, reasonableness, good faith and fair dealing, and the possible unavailability of specific performance or injunctive relief, regardless of whether such enforceability is considered in a proceeding in equity or at law;

(f) The exercise by the United States of America of the powers delegated to it by the federal constitution;

(g) The reasonable and necessary exercise in certain exceptional situations of the police power inherent in the sovereignty of the State and its governmental bodies in the interest of serving an important public purpose; and

(h) The exercise of judicial discretion and interpretation.

11. [12]. We do not practice law in the areas of federal or state income taxation. Accordingly, we express no opinion as to the federal or state tax consequences associated with the issuance of the Bonds or with regard to execution and delivery of any of the Financing Documents.

12. [13]. The opinions expressed herein are based solely upon Colorado and applicable federal law as of the date hereof. In providing this opinion, we expressly rely on §1-1-105.5, C.R.S. and §32-1-808, C.R.S.

13. [14]. We express no opinion as to: (a) the financial ability of the District to perform its obligations under the Financing Documents; (b) the validity or enforceability of the Bonds or the Financing Documents; (c) the accuracy of any TABOR allocation made in connection with the issuance; or (d) the financial condition of the District or the sufficiency of the security provided for payment of the debt service on the Bonds.

Our only client in the transaction to which this opinion relates is the District. None of the other addressees to this letter have been or are currently clients of our firm. The inclusion of the additional addressees to this opinion shall not establish an attorney-client relationship between such addressee and our firm.

This letter and the opinions expressed herein are limited to the use of the addressees as set forth above, and may not be relied upon by other parties, and may be relied upon only as stated herein. The opinions set forth herein supersede any and all previous understandings, representations, statements, opinions, etc., provided by our firm, whether oral or written, and whether such previous understandings, representations, statements, or opinions were made to the addressees herein, or otherwise, in relation to the Bonds. We express no opinion as to matters not specifically set forth herein and no opinion may be inferred or implied beyond the matters expressly stated in this letter, subject to all assumptions, limitations, exceptions and qualifications contained herein. Further, the opinions expressed herein are based only on the laws in effect and the facts in existence as of the date hereof and in all respects are subject to and may be limited by future legislation, developing case law, and any change in facts occurring after the date of this letter. We expressly undertake no responsibility or duty to inform any party, whether addressees hereof or not, as to any change in fact, circumstance or law occurring after the date hereof which may affect or alter any of the opinions, statements or information set forth above. This letter and the opinions expressed herein may not be quoted, reproduced, circulated or referred to in whole or

in part without our express written consent except in the transcript of proceedings prepared in connection with issuance of the Bonds.

Sincerely,

WHITE BEAR ANKELE TANAKA & WALDRON



EXHIBIT A
VISTAS AT WEST MESA METROPOLITAN DISTRICT
Schedule of Fees
Effective February 10, 2023

Schedule of Fees		
Fee Type	Classifications	Rate
Operations Fee – Recurring Payment	Residential Unit	\$ 125/month
The Due Date for each Operations fee is the 1st day of each month.		
Operations Fee – Payment Due Upon a Transfer	Residential Unit	\$ 50 per Transfer
The Due Date for each Operations Fee—Payment Due Upon Transfer is the date upon which the Transfer occurs.		

PAYMENTS: Payment for each fee shall be made payable to the Vistas at West Mesa Metropolitan District and sent to the following address for receipt by the Due Date:

Vistas at West Mesa Metropolitan District
c/o WSDM District Managers
614 N Tejon Street
Colorado Springs, CO 80903



**NOTICE OF CANCELLATION OF ELECTION
and
CERTIFIED STATEMENT OF RESULTS**

VISTAS AT WEST MESA METROPOLITAN DISTRICT

NOTICE IS HEREBY GIVEN pursuant to § 1-13.5-513(6), C.R.S., that, at the close of business on February 28, 2023, there were not more candidates than offices to be filled, including candidates filing affidavits of intent to be write-in candidates, for Vistas at West Mesa Metropolitan District (the “**District**”). Therefore, the election for the District to be held on May 2, 2023 is hereby cancelled.

The following candidates for the District are declared elected by acclamation:

Jeff Powles Until May 2027

Christopher Musselman Until May 2027

The following office remains vacant:

Vacant Until May 2027

/s/ Ashley B. Frisbie
Designated Election Official

Contact Person for District:

George M. Rowley, Esq.
WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys at Law
2154 E. Commons Avenue, Suite 2000
Centennial, Colorado 80122
(303) 858-1800

PUBLISHED IN: *The Gazette*
PUBLISHED ON: March 10, 2023





MEMORANDUM

TO: VISTAS AT WEST MESA METROPOLITAN DISTRICT
BOARD OF DIRECTORS
FROM: HEATHER SMITH
SUBJECT: MANAGERS REPORT FOR APRIL 14, 2023, BOARD MEETING
DATE: APRIL 7, 2023
CC: KEVIN WALKER
BOARD PACKET

Sales & Occupancy:

- 2 New Owners:
 - 3458 Berg Point – 3/17/2023
 - 3476 Berg Point – 4/3/2023

Financial Review:

- Monthly O&M Fees and Transfer Fees are on hold pending fee adjustment from \$150 to \$125
- Payables processed 1/14/2023 & 3/17/2023
- Developer Advance - \$50,000 in January 2023
- Current Contracted Services:
 - Management
 - Trash/Recycling
 - Legal Counsel
 - Insurance

Architectural Improvement Requests:

- None yet!

Covenant Enforcement Notices:

- None yet!

Landscape Turnover:

- None yet!

Management Task List:

- Landscape Maintenance Proposals
- New Owner – Coordinate Trash Service & Welcome Packet - ongoing
- Initiate O&M Fees – May 1st
- Software Transition – CINC Homeowner Portal – Launching May 1st
- 2022 Audit – 1st round of documents provided, pending auditor in-office appointment
- Trash & Recycling Engaged - Completed
- Welcome Packet Created - Completed
- Transition Info Provided to Sales Team & Title Company – Completed
- Website Updated per Statute - Completed



Vistas At West Mesa Metropolitan District
PAYABLES
1/14/2023
GENERAL FUND ACCOUNT

Company	Invoice	Date	Amount	Comments
Walker Schooler District Managers	7264	11/30/2022	\$ 5,852.50	
Walker Schooler District Managers	7298	12/31/2022	\$ 2,237.20	
White Bear Ankele Tanaka & Waldron	25559	11/30/2022	\$ 11,405.70	
White Bear Ankele Tanaka & Waldron	26064	12/31/2022	\$ 4,182.72	
TOTAL			\$ 23,678.12	

TOTAL FOR ALL FUNDS

\$ 23,678.12

_____, President

Vistas At West Mesa Metropolitan District
PAYABLES
 3/17/2023
GENERAL FUND ACCOUNT

Company	Invoice	Date	Amount	Comments
Special District Association	2023	9/25/1956	\$ 1,237.50	
White Bear Ankele Tanaka & Waldron	26549	1/31/2023	\$ 6,825.63	
White Bear Ankele Tanaka & Waldron	27047	2/28/2023	\$ 6,840.52	
WSDM District Managers	7372	2/28/2023	\$ 2,506.18	
TOTAL			\$ 17,409.83	

TOTAL FOR ALL FUNDS

\$ 17,409.83

_____, President





SOLID WASTE AND NON-REBATE RECYCLING SERVICES AGREEMENT

This Solid Waste and Non-Rebate Recycling Services Agreement (“**Agreement**”), dated as of 1 April 2023, (“**Effective Date**”), is between HBSCO LLC, a Colorado limited liability company, d/b/a Home Builders Services, located at 9250 E. Costilla Ave, STE: 310, Greenwood Village, CO 80112 (“**Company**”) and Ventana Metro District, Vistas At West Mesa Metro District, C/S, Co (“**Customer**”). Company and Customer may be referred to herein as the “**Parties**” or each a “**Party**.” The Parties shall attach a “**Service Summary**” as Exhibit A to this Agreement which shall be subject to and exclusively governed by the terms and conditions contained in this Agreement. The Parties may update the Service Summary from time to time upon the mutual written consent of the Parties. The terms of the body of this Agreement shall prevail over any inconsistent terms in a Service Summary.

1. **SERVICES RENDERED.** Customer grants to Company the exclusive right, and Company, through itself and its subsidiaries and corporate affiliates, shall furnish Equipment, as defined in the Service Summary, and services to collect and dispose of and/or recycle Customer’s Waste Materials, as defined below (the “**Services**”). **Service collection by Company shall be as set forth in the Service Summary.** For purposes of this Agreement, “**Waste Materials**” means all non-hazardous solid waste, organic waste and Recyclable Materials (as defined in Section 12 below) generated by Customer or at the address provided by Customer in the Service Summary for pick-up (the “**Service Address**”). Waste Materials exclude: any waste tires, radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio- hazardous regulated medical or hazardous waste; toxic substance or material as defined by, characterized or listed under applicable federal, state, or local laws and regulations; and any materials containing information protected by federal, state or local privacy and security laws and regulations (“**Excluded Materials**”). Title to and liability for Excluded Materials shall remain with Customer at all times. Title to Customer’s Waste Materials is transferred to Company upon Company’s receipt or collection unless otherwise provided in this Agreement or applicable law.

2. **TERM.** The Term of this Agreement shall begin on 1 April 2023 and will continue for 12 months (the “**Initial Term**”) and shall be renegotiated at the end of the term.

3. **TERMINATION.** Either party may terminate this Agreement for any reason upon at least ninety (90) days prior written notice to the other Party before the end of the Initial Term and, after the Initial Term, thirty (30) days prior to the end of the then-existing term (“**No Cause Termination**”). If either Party fails to cure its material breach of this Agreement within five (5) business days of its receipt of a written demand from the other Party to correct such breach, the non-breaching party may terminate this Agreement upon written notice. If Company increases the Charges, as defined below, payable by Customer hereunder for reasons other than as set forth in Section 4 below, Customer shall have the right to terminate this Agreement by written notice to Company no later than thirty (30) days after Company notifies Customer of such increase in Charges in writing. If Customer so notifies Company of its termination of this Agreement, such termination shall be of no force and effect if Company withdraws or removes such increase within fifteen (15) days after Customer provides timely notification of termination. Upon termination of this Agreement for any reason, in addition to any other amounts that may be due pursuant to this Agreement, Customer shall pay Company for all Services rendered prior to the effective date of termination.

4. **CHARGES; PAYMENTS; ADJUSTMENTS.** Within thirty (30) days of the date of an invoice, Customer shall pay any and all charges, fees and other amounts payable under this Agreement for the Services and/or Equipment furnished by Company (“**Charges**”). Company reserves the right, upon written notice to Customer, to increase the Charges payable by Customer during the Term: (a) for any changes to, or differences between, the actual equipment and services provided by Company to Customer and those specified on the Service Summary; (b) to cover any increases in disposal and/or third party

transportation costs, including fuel surcharges; and (c) to cover increased costs due to changes in local, state or federal laws or regulations and imposition of taxes, fees or surcharges. Notwithstanding the foregoing, in the event that: (i) the Equipment is overloaded, (ii) Company collects additional Waste Materials or Recyclable Materials that are left outside of the Equipment, or (iii) Company's access to the Equipment is obstructed, Company shall immediately increase the Charges for such items. The increased Charges shall be binding and enforceable against Customer under this Agreement. In the event that payment is not made when due, Company retains the right to suspend service until the past due balance is paid in full. In the event that Service is suspended in excess of fifteen (15) days, Company may terminate this Agreement for such default and recover any equipment and all amounts owed hereunder, including any outstanding fees and liquidated damages under Section 7.

5. **CHANGES.** Changes in the frequency of collection service, schedule, number, capacity and/or type of equipment and any changes to amounts payable under this Agreement may be agreed to orally, in writing, by payment of the invoice or by the actions and practices of the parties.

6. **EQUIPMENT, ACCESS.** All Equipment furnished by Company shall remain its property; however, Customer shall have care, custody and control of the Equipment and shall be liable for all loss or damage to the Equipment and for its contents while at Customer's location. Customer shall not overload, move or alter the Equipment and shall use it only for its intended purpose. At the termination of this Agreement, Customer shall return the Equipment to Company in the condition in which it was provided, normal wear and tear excepted. Customer shall provide safe and unobstructed access to the Equipment on the scheduled collection day. Company shall not be responsible for any damage to the Customer's pavement or any other surface resulting from the Equipment or Company's services.

7. **LIQUIDATED DAMAGES.** In the event Customer terminates this Agreement for a No Cause Termination or in the event Company terminates this Agreement for Customer's default, Customer shall pay the following liquidated damages in addition to Company's legal fees: (a) if the remaining Term under this Agreement is six (6) or more months, Customer shall pay the average of its six (6) most recent monthly Charges multiplied by six (or, if the Effective Date is within six months of Customer's last invoice date, the average of all monthly Charges); or (b) if the remaining Term under this Agreement is less than six (6) months, Customer shall pay the average of its six (6) most recent monthly Charges multiplied by the number of months remaining in the Term. Customer acknowledges that the actual damage to Company in the event of termination is difficult to fix or prove, and the foregoing liquidated damages amount is reasonable and commensurate with the anticipated loss to Company resulting from such termination and is an agreed upon fee and is not imposed as a penalty.

8. **REPRESENTATIONS AND WARRANTIES.**

- a. **Mutual.** Each Party represents and warrants that: (1) it is a legal entity duly organized, validly existing and in good standing; (2) it has all requisite corporate power and authority to execute, deliver and perform its obligations hereunder; and (c) it will comply with all laws and regulations applicable to the performance of its obligations hereunder and will obtain all applicable permits and licenses required of it in connection with its obligations hereunder.
- b. **Customer.** Customer represents and warrants that: (1) the materials to be collected under this Agreement shall be only Waste Materials; (2) it will not deposit or permit the deposit for collection of any Excluded Materials; (3) Customer's property is sufficient to bear the weight of Company's equipment and vehicles; (4) if Customer is using Company's Recycling Services as provided in Section 12, Customer shall provide all Recyclable Materials to Company in accordance with Company's specifications and will not include Unacceptable Materials in the Recyclable Materials; and (5) Customer shall ensure all of its affiliates, employees, agents,

contractors, representatives, and homeowners receiving Services from Company under the terms of this Agreement (“**Representatives**”) abide by all of the terms of this Agreement. Customer shall be responsible to Company for its Representatives.

- c. Company. Company represents and warrants that the Services shall be performed in a professional and workmanlike manner. Company will maintain insurance coverage and furnish a Certificate of Insurance to the customer on an annual basis. A copy of Company’s existing Certificate of Insurance is attached hereto as Exhibit B.

9. **INDEMNITY; LIMITATION OF LIABILITY**. Company agrees to indemnify, defend and save Customer, its parent, subsidiaries, and corporate affiliates, harmless from and against any and all costs, fees, expenses, damages and liability which Customer may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law, to the extent caused by any willful misconduct of the Company or its employees, which occurs (a) during the collection or transportation of Customer’s Waste Materials, or (b) as a result of the disposal of Customer’s Waste Materials in a facility owned by Company or a waste management company, provided that Company’s indemnification obligations will not apply to occurrences involving Excluded Materials.

Customer agrees to indemnify, defend and save Company, its parent, subsidiaries and corporate affiliates and their joint venture partners, harmless from and against any and all costs, fees, expenses, damages and liability which Company may be responsible for or pay out as a result of bodily injuries (including death), property damage, or any violation or alleged violation of law to the extent caused by: (a) Customer’s breach of this Agreement, including, for the avoidance of doubt, Section 8 (Representation and Warranties); (b) any grossly negligent act or willful misconduct of Customer or its Representatives; (c) Customer’s use, operation or possession of any Equipment furnished by Company; or (d) the Excluded Materials.

10. **GOVERNING LAW**. This Agreement will be governed and construed in accordance with the laws of the state of Colorado, without regard to the conflicts of laws or principles thereof and applicable US federal law. Any and all disputes, claims or litigation arising from or related in any way to this Agreement or any provisions herein will be resolved exclusively in the state and federal courts located therein. The Parties hereby waive any objections against and expressly agree to submit to the personal jurisdiction and venue of such state or federal courts.

11. **MISCELLANEOUS**. (a) Except for the obligation to make payments hereunder, neither Party shall be in default for its failure to perform or delay in performance caused by events or significant threats of events beyond its reasonable control, whether or not foreseeable, including but not limited to, strikes, labor trouble, riots, imposition of laws or governmental orders, fires, acts of war or terrorism, acts of God, and the inability to obtain equipment and the affected party shall be excused from performance during the occurrence of such events. (b) This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective successors and assigns. (c) This Agreement represents the entire agreement between the parties and supersedes any and all other agreements for the same services, whether written or oral, that may exist between the parties. (d) All written notifications to Company required by this Agreement shall be by personal delivery, electronic mail or Certified Mail, Return Receipt Requested to the address listed in the beginning of this Agreement. (e) If any provision of this Agreement is declared invalid or unenforceable, then such provision shall be severed from and shall not affect the remainder of this Agreement; however, the parties shall amend this Agreement to give effect, to the maximum extent allowed, to the extent and meaning of the severed provision. (f) In the event Company successfully enforces its rights against Customer hereunder, Customer shall be required to pay Company’s attorneys’ fees and court costs.

12. **RECYCLING SERVICES.** The following shall apply to fiber and non-fiber recyclables (“**Recyclable Materials**”) and recycling services (“**Recycling Services**”). Single stream commingled Recyclable Materials (“**Single Stream**”) will consist of 100% of Customer’s clean, dry paper or cardboard without wax liners; clean, dry and empty aluminum food and beverage containers, ferrous (iron) or steel cans, and rigid container plastics #1-7. No individual items may be excluded from Single Stream service. Single Stream does not include the following materials: foam, film plastics and glass and any material not set forth above, including tissue or paper that had been in contact with food (“**Unacceptable Materials**”).

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

COMPANY:

HBSCO LLC D/B/A HOME BUILDERS SERVICES

By: _____
Name: John Bishop
Title: Director of Sales HBS Trash

CUSTOMER:

[Vistas at West Mesa Metro District REPRESENTATIVE]

By: _____
Name: Jeff Powles
Title: President