

**VISTAS AT WEST MESA METROPOLITAN DISTRICT**

Special Board Meeting

**Friday, July 19, 2024 at 11:00 a.m.**

*Via Teleconference*

<https://video.cloudoffice.avaya.com/join/348696537>

Phone: (213) 463-4500 / Meeting ID: 348696537

<b>Board of Directors</b>	<b>Title</b>	<b>Term</b>
Jeff Powles	President	May 2027
Patrick Anderson	Vice President	May 2025
Thomas Pucciano	Treasurer/Secretary	May 2025
Hannah Buzzell	Member at Large	May 2027*
Vacant	Member at Large	May 2027

\* *This seat will be a 2-year term at the May 2025 Election.*

**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 District. 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 Board. Any item may be removed from the Consent Agenda upon request of any Board member.
  - a. Approval of Meeting Minutes from May 23, 2024 (**enclosure**)
  - b. Payment of Claims – for May 23, 2024 and July 19, 2024 (**enclosures**)
  - c. Unaudited Financial Statements as of June 30, 2024 (**enclosure**)
6. Manager’s Report
7. Financial Matters
  - a. Review and Consider Approval of the 2023 Audit and Presentation (**enclosure**)
8. Legal Matters
  - a. Review and Consider Adoption of Resolution Regarding Acquisition of Public Improvements (**enclosure**)
    - i. Consider Approval of Bill of Sale and Warranty Agreement (Phase 2 -Landscape Improvements) (**enclosure**)
9. General Business
  - a. Review and Consider Approval of Trash and Recycling Services Agreement – HBS (**enclosure**)
10. Adjournment
  - a. Next Regular Meeting – September 13, 2024, at 11:00 a.m. via teleconference





**MINUTES OF A SPECIAL MEETING  
OF THE BOARD OF DIRECTORS  
VISTAS AT WEST MESA METROPOLITAN DISTRICT  
May 23, 2024 AT 11:00 AM**

Pursuant to posted notice, the special meeting of the Board of Directors of the Vistas at West Mesa Metropolitan District was held on Thursday, May 23, 2024 at 11:00 a.m., virtually via video teleconference.

In attendance were Directors:

Jeff Powles, President  
Thomas Pucciano, Treasurer / Secretary  
Patrick Anderson, Newly Appointed Vice President

Also, in attendance were:

Heather Smith, WSDM District Managers  
George Rowley, White Bear Ankele, Tanaka, Waldron  
Audrey Johnson, White Bear Ankele, Tanaka, Waldron  
Andrew Gaittens, IDES

1. Call to Order/Declaration of Quorum: Ms. Smith called the meeting to order at 11:01 a.m. 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 as to whether members of the Board had any additional disclosures of potential or existing conflicts of interest pertaining 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: President Powles moved to approve the Agenda as presented; seconded by Director Pucciano. Motion carried.
4. Acknowledgement of Board Member Resignations and Consideration of Appointment to Vacancies: President Powles moved to appoint Patrick Anderson and Hannah Buzzell to vacancies on the Board of Directors; seconded by Director Pucciano. Motion carried.

After discussion, President Powles moved to reseal the Board as follows: Jeff Powles as President, Thomas Pucciano as Treasurer/Secretary, Patrick Anderson as Vice President, and Hannah Buzzell as Assistant Secretary; seconded by Director Pucciano. Motion carried.

5. Public Comment: There was no public comment.
6. Consent Agenda: Ms. Smith introduced the items on the Consent Agenda and presented the revised Payment of Claims. After review, President Powles moved to approve the Consent Agenda as presented; seconded by Director Pucciano. Motion passed unanimously.
  - a. Approval of Meeting Minutes from January 24, 2024
  - b. Payment of Claims – through April 13, 2024
  - c. Unaudited Financial Statements as of April 30, 2024
7. Manager's Report: Ms. Smith presented the District Manager's Report in brief.
8. Development Update: President Powles indicated that the landscape through building #9 will be completed and ready for turn-over on June 20, 2024 and that the damaged retaining wall on the east side of the community has been repaired. Mr. Gaittens explained that the Tract A front retaining wall can be accepted on June 20<sup>th</sup> as well.
9. New Business:
  - a. Review and Consider Adoption of Design Guidelines: Ms. Smith presented the draft Design Guidelines. Ms. Johnson informed the Board that there are a few additional items requiring review. President Powles moved to approve the Resolution Adopting Design Guidelines subject to final review; seconded by Director Pucciano. Motion carried.
  - b. Review and Consider Appointment of Architectural Review Committee: Ms. Smith introduced the Architectural Committee Charter and requested appointment of three (3) Directors to serve as Committee members. President Powles moved to approve the Resolution Establishing Architectural Review Committee and Delegating Architectural Authority as presented; seconded by Director Pucciano. Motion carried.
  - c. Review and Consider Adoption of Resolution Regarding Policies, Procedures and Penalties for the Enforcement of the Governing Documents: Ms. Smith introduced the need for policies and procedures for enforcement of the Governing Documents. President Powles moved to approve the Resolution Regarding Policies, Procedures and Penalties for the Enforcement of the Governing Documents as presented; seconded by Director Pucciano. Motion carried.
  - d. Review and Consider Adoption of Establishing Guidelines for the Processing and Collection of Delinquent Fees and Charges: Ms. Smith introduced proposed Collections Policy. Director Pucciano moved to approve the Resolution Establishing Guidelines for the Processing and Collection of Delinquent Fees and Charges as presented; seconded by President Powles. Motion carried.
  - e. Discussion of Engagement of Special Counsel for Collection Services: Ms. Johnson presented four (4) options for engagement of Legal Counsel for collections services. After discussion, it was requested that updated pricing be obtained and the item revisited at the next Board Meeting. Item tabled.
  - f. Consider Ratification of Approval for Landscape Maintenance Agreement: Ms. Smith introduced the revised proposal for landscape maintenance services. President Powles moved to approve the proposal for landscape maintenance services as presented; seconded by Director Pucciano. Motion carried.
  - g. Review and Consider Adoption of WSDM's Website Accessibility Plan and Policy: Ms. Smith presented WSDM's draft Website Accessibility Plan and Process. Mr. Rowley explained that he had not yet reviewed the policy. President Powles moved to adopt the Plan and Policy, subject to final review by Legal Counsel; seconded by Director Pucciano. Motion carried.

10. Adjournment: The Board unanimously adjourned the meeting at 11:44 a.m.

- a. The June 14, 2024 Board Meeting has been canceled. Next Regular Board Meeting will be July 12, 2024, at 11:00 a.m. via teleconference.

Respectfully Submitted,

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By: President

THESE MINUTES ARE APPROVED AS THE OFFICIAL MAY 23, 2024 MINUTES OF THE VISTAS AT WEST MESA METROPOLITAN DISTRICT.



**Vistas At West Mesa Metropolitan District**  
**PAYABLES**  
6/19/2024  
**GENERAL FUND ACCOUNT**

Company	Invoice	Date	Amount	Comments
BrightView	5927709	5/31/2024	\$ 598.62	
BrightView	8947835	5/1/2024	\$ 1,370.88	
BrightView	8947837	6/1/2024	\$ 1,370.88	
HBS	FR4251942	5/31/2024	\$ 583.25	
White Bear Ankele Tanaka & Waldron	35316	5/31/2024	\$ 5,070.68	
WSDM District Managers	8045	5/31/2024	\$ 3,535.05	
<b>TOTAL</b>			<b>\$ 12,529.36</b>	

**DEBT SERVICE FUND ACCOUNT**

BOKF, NA	61024	6/10/2024	\$ 12,798.11	May Pledged Revenue
		<b>TOTAL</b>	<b>\$ 12,798.11</b>	

**TOTAL FOR ALL FUNDS**

\$ 25,327.47

\_\_\_\_\_, President

Bank Balance

20,157.17

Payables

(25,327.47)

Funds needed to cover payables

(5,170.30)

**Valley Maintenance Corporation**  
**PAYMENT REQUEST**  
7/19/2024

**General Account**

<b>Company</b>	<b>Invoice</b>	<b>Date</b>	<b>Amount</b>	<b>Comments</b>
Angela Olmstead	1011	7/2/2024	\$ 1,992.08	Already Paid
Case Water Treatment	70124	7/1/2024	\$ 5,092.00	
Colorado Coating Pros	1106	6/24/2024	\$ 29,150.00	
CUSI	R36381	7/10/2024	\$ 3.20	
Mailing Services, Inc.	19437	6/13/2024	\$ 71.76	
Martin Miller	70124	7/1/2024	\$ 108.50	Refund
SGS North America, Inc.	52160155945	6/25/2024	\$ 442.90	
Utility Notification Center of Colorado	224061541	6/30/2024	\$ 37.41	
WSDM District Managers	8085	6/30/2024	\$ 5,317.65	
<b>TOTAL</b>			<b>\$ 42,215.50</b>	

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Valley Maintenance Corp



## Vistas At West Mesa Metro District

07/15/24

## Balance Sheet

Accrual Basis

As of June 30, 2024

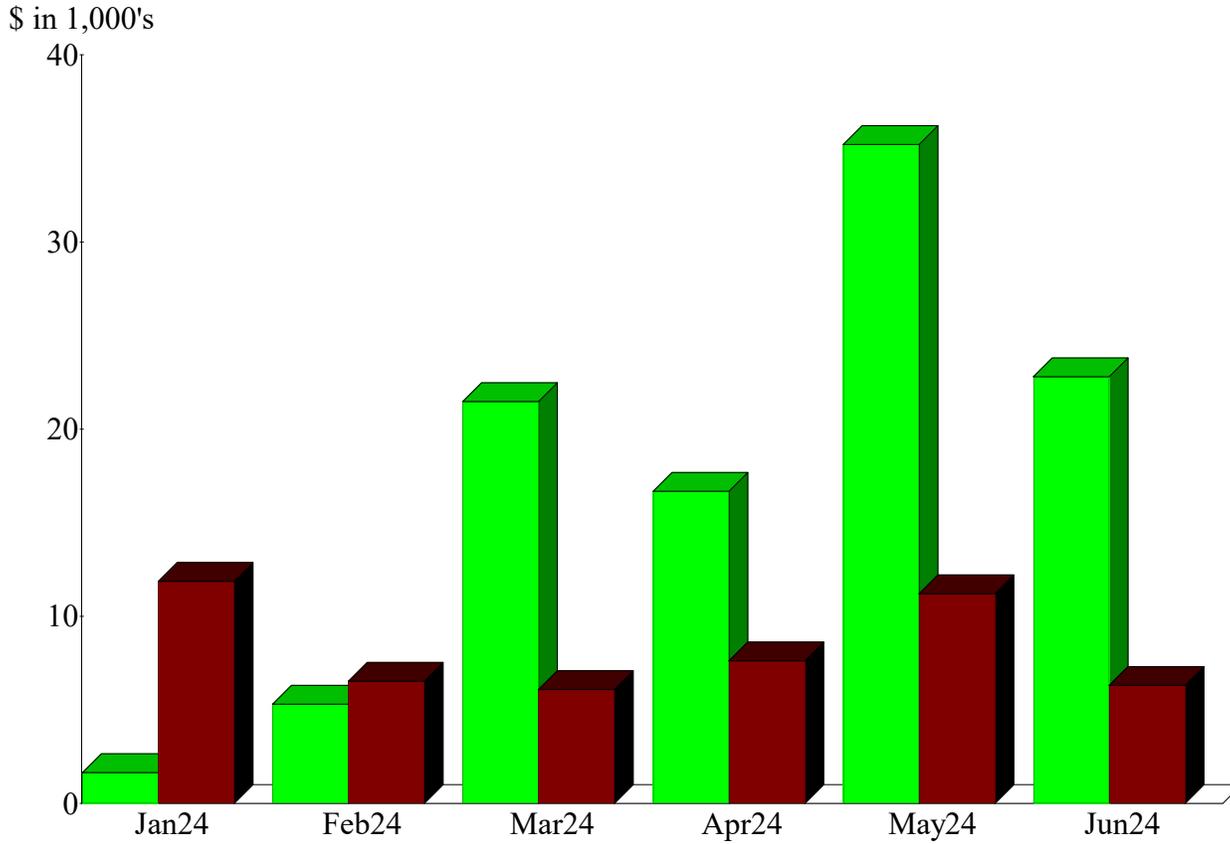
	Jun 30, 24
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
Alliance Association Bank	5,071.58
Eastern Colorado Bank	16,322.20
BOK 2023 Project Fund	40,479.17
BOK 2023 Bond Fund	26,709.42
<b>Total Checking/Savings</b>	88,582.37
<b>Accounts Receivable</b>	
Accounts Receivable	4,514.73
<b>Total Accounts Receivable</b>	4,514.73
<b>Other Current Assets</b>	
Property Tax Receivable	90,791.45
<b>Total Other Current Assets</b>	90,791.45
<b>Total Current Assets</b>	183,888.55
<b>Fixed Assets</b>	
<b>Capital Assets</b>	1,025,518.00
<b>Total Fixed Assets</b>	1,025,518.00
<b>Other Assets</b>	
Suspense	12,798.11
<b>Total Other Assets</b>	12,798.11
<b>TOTAL ASSETS</b>	<b>1,222,204.66</b>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
<b>Accounts Payable</b>	
Accounts Payable	4,694.18
<b>Total Accounts Payable</b>	4,694.18
<b>Other Current Liabilities</b>	
Accrued Interest Payable	9,094.00
Deferred Prop Tax Rev	90,791.45
Prepaid Assessment	667.08
<b>Total Other Current Liabilities</b>	100,552.53
<b>Total Current Liabilities</b>	105,246.71
<b>Long Term Liabilities</b>	
Developer Advance Pay - Lokal	50,000.00
Series 2023 Bond	2,635,000.00
<b>Total Long Term Liabilities</b>	2,685,000.00
<b>Total Liabilities</b>	2,790,246.71
<b>Equity</b>	
Retained Earnings	-1,621,531.02
Net Income	53,488.97
<b>Total Equity</b>	-1,568,042.05
<b>TOTAL LIABILITIES &amp; EQUITY</b>	<b>1,222,204.66</b>

## Vistas At West Mesa Metro District Profit & Loss Budget vs. Actual January through June 2024

	TOTAL				
	Jun 24	Jan - Jun 24	Budget	\$ Over Budget	% of Budget
<b>Ordinary Income/Expense</b>					
<b>Income</b>					
Developer Advance - O&M	0.00	25,000.00	62,000.00	-37,000.00	40.32%
Transfer & Status Letter Fee	600.00	2,400.00			
Unit Charges	4,306.49	20,348.79	24,000.00	-3,651.21	84.79%
CY Property Tax - O&M	4,744.24	14,025.59	39,966.00	-25,940.41	35.09%
Specific Ownership Tax - O&M	302.61	1,509.79	2,798.00	-1,288.21	53.96%
Delinquent Interest - O&M	3.78	3.78			
CY Property Tax - Debt	11,860.59	35,063.96	99,915.00	-64,851.04	35.09%
Specific Ownership Tax - Debt	756.52	3,774.47	7,993.00	-4,218.53	47.22%
Delinquent Interest - Debt	9.44	9.44			
<b>Total Income</b>	<b>22,583.67</b>	<b>102,135.82</b>	<b>236,672.00</b>	<b>-134,536.18</b>	<b>43.16%</b>
<b>Expense</b>					
<b>General &amp; Administrative</b>					
Audit	0.00	0.00	8,755.00	-8,755.00	0.0%
Bank Fees	0.00	0.00	20.00	-20.00	0.0%
District Management	1,475.00	17,461.35	42,000.00	-24,538.65	41.58%
Insurance	0.00	2,462.00	4,500.00	-2,038.00	54.71%
Legal	1,955.78	17,641.87	30,000.00	-12,358.13	58.81%
Office Supplies	6.65	84.46			
SDA Dues	0.00	414.97	1,500.00	-1,085.03	27.67%
Treasurer Collection Fee - O&M	72.40	210.44	599.00	-388.56	35.13%
<b>Total General &amp; Administrative</b>	<b>3,509.83</b>	<b>38,275.09</b>	<b>87,374.00</b>	<b>-49,098.91</b>	<b>43.81%</b>
<b>Operations</b>					
Contingency	0.00	0.00	5,000.00	-5,000.00	0.0%
Electricity	0.00	0.00	750.00	-750.00	0.0%
General - R&M	0.00	0.00	1,000.00	-1,000.00	0.0%
Grounds Maintenance	1,970.88	3,940.38	15,000.00	-11,059.62	26.27%
Repairs & Maintenance	0.00	617.50			
Road - R&M	0.00	0.00	1,750.00	-1,750.00	0.0%
Snow Removal	0.00	3,386.26	6,250.00	-2,863.74	54.18%
Street Sweeping	0.00	0.00	300.00	-300.00	0.0%
Stormwater	0.00	0.00	400.00	-400.00	0.0%
Trash Service	656.75	2,914.00	4,752.00	-1,838.00	61.32%
Water	0.00	0.00	2,600.00	-2,600.00	0.0%
Reserve Funding	0.00	0.00	5,000.00	-5,000.00	0.0%
<b>Total Operations</b>	<b>2,627.63</b>	<b>10,858.14</b>	<b>42,802.00</b>	<b>-31,943.86</b>	<b>25.37%</b>
<b>Bond Expense</b>					
Interest Expense	0.00	0.00	96,000.00	-96,000.00	0.0%
Treasurer Collection Fee - Debt	180.99	526.10	1,499.00	-972.90	35.1%
Trustee Fees	0.00	0.00	7,500.00	-7,500.00	0.0%
<b>Total Bond Expense</b>	<b>180.99</b>	<b>526.10</b>	<b>104,999.00</b>	<b>-104,472.90</b>	<b>0.5%</b>
<b>Total Expense</b>	<b>6,318.45</b>	<b>49,659.33</b>	<b>235,175.00</b>	<b>-185,515.67</b>	<b>21.12%</b>
<b>Net Ordinary Income</b>	<b>16,265.22</b>	<b>52,476.49</b>	<b>1,497.00</b>	<b>50,979.49</b>	<b>3,505.44%</b>
<b>Other Income/Expense</b>					
<b>Other Income</b>					
Interest Income	0.07	0.53			
Interest Income - Debt	215.22	1,011.95			
<b>Total Other Income</b>	<b>215.29</b>	<b>1,012.48</b>			
<b>Net Other Income</b>	<b>215.29</b>	<b>1,012.48</b>			
<b>Net Income</b>	<b>16,480.51</b>	<b>53,488.97</b>	<b>1,497.00</b>	<b>51,991.97</b>	<b>3,573.08%</b>

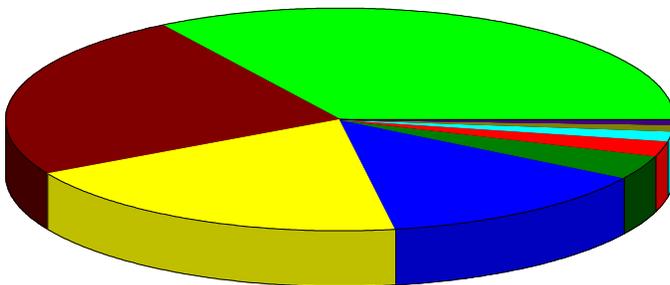
Income and Expense by Month  
January through June 2024

Income  
Expense



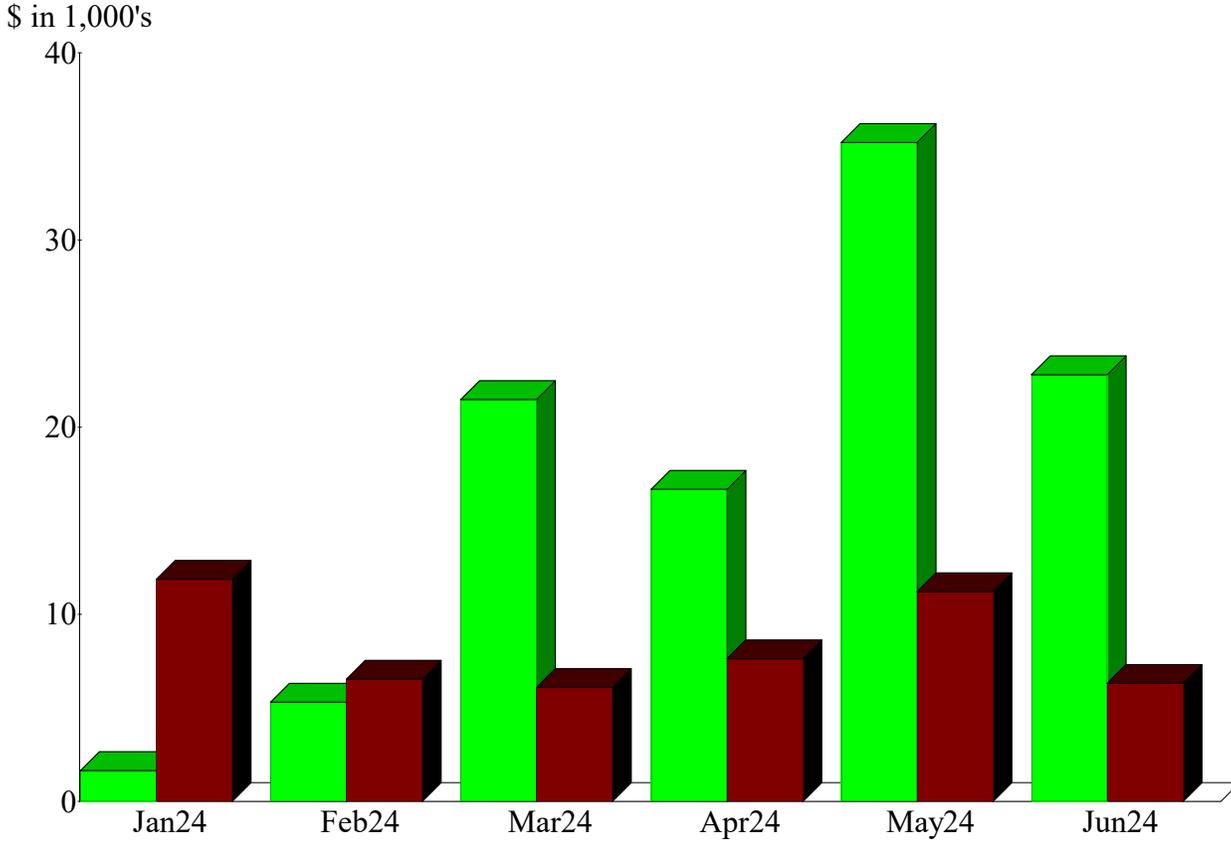
Income Summary  
January through June 2024

CY Property Tax - Debt	33.99%
Developer Advance - O&M	24.24
Unit Charges	19.73
CY Property Tax - O&M	13.60
Specific Ownership Tax - Debt	3.66
Transfer & Status Letter Fee	2.33
Specific Ownership Tax - O&M	1.46
Interest Income - Debt	0.98
Delinquent Interest - Debt	0.01
Delinquent Interest - O&M	0.01
Interest Income	0.01
<b>Total</b>	<b>\$103,148.30</b>



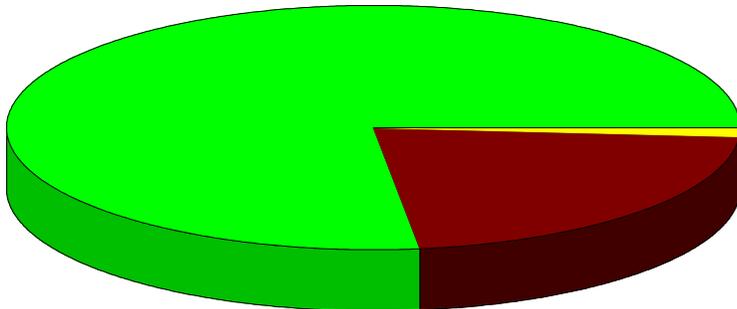
By Account

Income and Expense by Month  
January through June 2024



Expense Summary  
January through June 2024

General & Administrative	77.08%
Operations	21.87
Bond Expense	1.06
<b>Total</b>	<b>\$49,659.33</b>



By Account





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## MEMORANDUM

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**TO:** VISTAS AT WEST MESA METROPOLITAN DISTRICT  
BOARD OF DIRECTORS  
**FROM:** HEATHER SMITH  
**SUBJECT:** MANAGERS REPORT FOR JULY 19, 2023, BOARD MEETING  
**DATE:** JULY 15, 2023  
**CC:** BOARD PACKET

### Sales & Occupancy:

- 20 New Owners Year-To-Date
- New Owners since our last report:
  - 869 Beckton Heights Lot L90 06/05/2024
  - 3496 Drumlin Grove Lot L28 06/12/2024
  - 3495 Drumlin Grove Lot L29 06/20/2024
  - 3460 Drumlin Grove Lot L26 06/21/2024
  - 3492 Sobo View Lot L72 06/21/2024
  - 3480 Aiguille Point Lot L93 06/24/2024

### Financial Review:

- Monthly O&M Fees and Transfer Fees have been implemented at \$125
- Payables processed 05/23/2024 & 07/19/2024
- Current Contracted Services:
  - Management – WSDM District Managers (renewal January 1, 2025)
  - Trash/Recycling – HBS (on agenda – April renewal)
  - Legal Counsel – White Bear, Ankele, Tenaka, & Waldron (as needed / no retainer)
  - Insurance – CSD Pool (renewal January 1, 2025)
  - Bond Counsel – Sherman & Howard (2023 series bond issuance)
  - Auditor - Biggs Kofford (on agenda - 2023 audit)
  - Landscape Maintenance - Brightview (April 30, 2025)

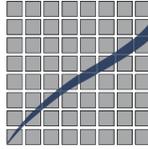
### Landscape Turnover:

- Front retaining wall & landscape through building 9 inspected – 6/20
- Robertson's addressing punch-list items – 7/15
- NES re-inspecting – 7/18
- On Agenda for acceptance – 7/19

### Management Task List:

- New Owner – Coordinate Trash Service & Welcome Packet - ongoing
- 2023 Audit – pending Board review and approval
- 2024 Annual Report
- Landscape Service Agreement updated through building 9
- Tract Warranty Deeds Filed for transitioned areas
- CSU meter and backflow address updated





**BiggsKofford**

CERTIFIED PUBLIC ACCOUNTANTS

[DATE]

Board of Directors and Management  
**Vistas at West Mesa Metropolitan District**  
El Paso County, Colorado

We have audited the financial statements of Vistas at West Mesa Metropolitan District (“District”). Professional standards require that we provide you with information about our responsibilities under auditing standards generally accepted in the United States of America (“US GAAS”), as well as certain information related to the planned scope and timing of our audit. We have communicated such information in our letter to you dated April 4, 2024. Professional standards also require that we communicate to you the following related to our audit.

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### Significant Audit Matters

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#### *Qualitative Aspects of Accounting Practices*

Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the District are described in Note 2 to the financial statements. No new accounting policies were adopted, and the application of existing policies was not changed during the year ended December 31, 2023. We noted no transactions entered into by the District during the year for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management’s knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected. The most sensitive estimate affecting the financial statements related to:

- Property taxes receivable and deferred property taxes

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosures affecting the financial statements were:

- The disclosures of capital assets and debt balances

The financial statement disclosures are neutral, consistent, and clear.

### *Difficulties Encountered in Performing the Audit*

We encountered no significant difficulties in dealing with management in performing and completing our audit.

### *Corrected and Uncorrected Misstatements*

Professional standards require us to accumulate all known and likely misstatements identified during the audit, other than those that are clearly trivial, and communicate them to the appropriate level of management. The attached schedule summarizes misstatements detected as a result of audit procedures. The adjusting journal entries include those corrected by management. The passed adjusting journal entries include uncorrected misstatements which management has determined to be immaterial both individually and in the aggregate, to the financial statements taken as a whole.

### *Disagreements with Management*

For purposes of this letter, a disagreement with management is a disagreement on a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditor's report. We are pleased to report that no such disagreements arose during the course of our audit.

### *Management Representations*

We have requested certain representations from management that are included in the management representation letter.

### *Management Consultations with Other Independent Accountants*

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the District's financial statements or a determination of the type of auditor's opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

### *Other Audit Findings or Issues*

We generally discuss a variety of matters, including the application of accounting principles and auditing standards with management each year prior to retention as the District's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

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## **Other Matters**

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### *Supplementary Information*

We were engaged to report on the supplementary information as identified in the table of contents to the financial statements ("SI"), which accompanies the financial statements but is not required supplementary information. With respect to this SI, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary

information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

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### Internal Controls

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In planning and performing our audit of the financial statements of the District as of and for the year ended December 31, 2023, in accordance with US GAAS, we considered the District's internal control over financial reporting ("internal control") as a basis for designing audit procedures that are appropriate in the circumstances and for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the District's internal control. Accordingly, we do not express an opinion on the effectiveness of the District's internal control.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the District's financial statements will not be prevented, or detected and corrected, on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Our consideration of internal control was for the limited purpose described above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies and, therefore, material weaknesses or significant deficiencies may exist that were not identified.

We consider the following to be a significant deficiency:

- *Management Override of Controls*: Our audit procedures revealed that management has the ability to override internal controls. Internal controls are designed and implemented in order to prevent and detect errors and fraud in financial reporting. The ability of management to override and circumvent certain controls increases the risks to the District for errors to exist in the financial statements, whether by mistake or fraud. Those charged with governance should be aware of this possibility in performing their role in overseeing the District.

This information is intended solely for the use of the board of directors and management and is not intended to be, and should not be, used by anyone other than the specified parties.

Sincerely,

*BiggsKofford, P.C.*

BiggsKofford, P.C.

## Adjusting Journal Entries

### Governmental Fund Adjusting Journal Entries

ADJUSTING; To convert from full accrual basis of accounting to modified accrual.

2100	Accrued Interest Payable	9,094.00	
2400	Developer Advance Pay - Lokal	50,000.00	
4610	Series 2023 Bond	2,635,000.00	
6500-BK	Principal payments on Series 2022 Bonds	1,381,000.00	
1700	Capital Assets		1,025,518.00
3000	Retained Earnings		414,576.00
7500-BK	Proceeds from Series 2023 Bonds		2,635,000.00
<b>Total</b>		<b>4,075,094.00</b>	<b>4,075,094.00</b>

ADJUSTING: To reclassify the original bond issuance discount as an other financing use.

8500-BK	Bond issuance discount	285,845.00	
6220	Bond Expense:Cost of Issuance		285,845.00
<b>Total</b>		<b>285,845.00</b>	<b>285,845.00</b>

ADJUSTING: To reclassify payments for insurance for 2024 as prepaid expense.

1200	Prepaid Insurance	3,121.00	
6000	Insurance		3,121.00
<b>Total</b>		<b>3,121.00</b>	<b>3,121.00</b>
	<b>Total Adjusting Journal Entries</b>	<b>4,364,060.00</b>	<b>4,364,060.00</b>

**Uncorrected Misstatements**

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**Government-Wide Adjusting Journal Entries**

ADJUSTING: to record the prior year adjustment (NOT TO BE POSTED BY CLIENT)

Accrued interest on Series 2022 Cash flow Bond	50,934.00	
Retained Earnings		<u>50,934.00</u>
<b>Total</b>	<b><u>50,934.00</u></b>	<b><u>50,934.00</u></b>
<b>Total Adjusting Journal Entries</b>	<b><u>50,934.00</u></b>	<b><u>50,934.00</u></b>

DRAFT

**VISTAS AT WEST MESA METROPOLITAN DISTRICT**  
**COLORADO, EL PASO COUNTY**

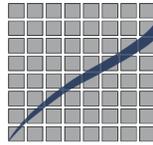
**FINANCIAL STATEMENTS**  
**DECEMBER 31, 2023**

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**BiggsKofford**

CERTIFIED PUBLIC ACCOUNTANTS

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## INDEPENDENT AUDITOR'S REPORT

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Board of Directors

**Vistas at West Mesa Metropolitan District**

Colorado, El Paso County

We have audited the accompanying financial statements of the governmental activities and each major fund of Vistas at West Mesa Metropolitan District ("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 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, the respective changes in financial position, and the 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. Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of the 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.

### **Emphasis of Matter**

As discussed in Note 12, these financial statements have been restated to correct for an understatement of interest expense and accrued interest on the Series 2022 Bonds in the previously issued December 31, 2022, financial statements. Our opinions are not modified with respect to that matter.

### **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 Responsibilities 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 auditing standards generally accepted in the United States of America 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 auditing standards generally accepted in the United States of America, we:

- Exercise professional judgment and maintain professional skepticism throughout the audit.
- Identify and assess the risks 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 judgment, 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 with 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.

### **Other Matters**

#### *Required Supplementary Information*

Management has omitted management's discussion and analysis that accounting principles generally accepted in the United States of America require to be presented to supplement the basic financial statements. Such missing information, although not a part of the basic financial statements, is required by the

Governmental Accounting Standards Board which considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinions on the basic financial statements are not affected by this missing information.

*Supplementary Information*

Our audit was conducted for the purpose of forming opinions on the financial statements that collectively comprise the District's basic financial statements. The supplementary information, as identified in the table of contents, is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information is the responsibility of management and was derived from and relates directly to the underlying accounting and other records used to prepare the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and certain additional procedures, including comparing and reconciling such information directly to the underlying accounting and other records used to prepare the basic financial statements or to the basic financial statements themselves, and other additional procedures in accordance with auditing standards generally accepted in the United States of America. In our opinion, the supplementary information is fairly stated, in all material respects, in relation to the basic financial statements as a whole.

**DRAFT ONLY, NOT FOR DISTRIBUTION**

Colorado Springs, Colorado

[REPORT DATE PENDING]

DRAFT

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## STATEMENT OF NET POSITION

DECEMBER 31, 2023

	<b>Governmental Activities</b>
<b><u>ASSETS</u></b>	
Cash and investments	\$ 18,676
Cash and investments - restricted	42,343
Receivable from County Treasurer	36
Property taxes receivable	139,881
Accounts receivable	250
Prepaid expenses	3,121
Capital assets:	
Construction in progress	1,775,110
Total assets	<u>1,979,417</u>
<b><u>LIABILITIES</u></b>	
Accounts payable	13,952
Prepaid assessment	308
Noncurrent liabilities:	
Due in more than one year	2,638,155
Total liabilities	<u>2,652,415</u>
<b><u>DEFERRED INFLOWS OF RESOURCES</u></b>	
Deferred property taxes	139,881
Total deferred inflows of resources	<u>139,881</u>
<b><u>NET POSITION</u></b>	
Restricted for:	
Emergency reserve	2,800
Unrestricted	<u>(815,679)</u>
Total net position	<u>\$ (812,879)</u>

The accompanying notes and independent auditor's report  
should be read with these financial statements.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## STATEMENT OF ACTIVITIES YEAR ENDED DECEMBER 31, 2023

<b>FUNCTIONS / PROGRAMS</b>	<u>Expenses</u>	<u>Program Revenues</u>			<b>Net (Expenses) Revenues and Changes in Net Position</b>
		<u>Charges for Services</u>	<u>Operating Grants and Contributions</u>	<u>Capital Grants and Contributions</u>	<u>Governmental Activities</u>
Primary government					
Government activities:					
General government	\$ 99,185	\$ -	\$ -	\$ -	\$ (99,185)
Interest and related costs on long-term debt	367,684	-	-	-	(367,684)
<b>Total government activities</b>	<b>\$ 466,869</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>(466,869)</b>
<b>GENERAL REVENUES</b>					
Property taxes					4,513
Specific ownership taxes					469
Investment income					6,082
Operations fee					8,302
<b>Total general revenues</b>					<b>19,366</b>
<b>Change in net position</b>					<b>(447,503)</b>
<b>Net position, beginning of year</b>					<b>(365,376)</b>
<b>Net position, end of year</b>					<b>\$ (812,879)</b>

The accompanying notes and independent auditor's report  
should be read with these financial statements.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## BALANCE SHEETS - GOVERNMENTAL FUNDS

DECEMBER 31, 2023

	General Fund	Debt Service Fund	Capital Projects Fund	Total Governmental Funds
<b>ASSETS</b>				
Cash and investments	\$ 18,676	\$ -	\$ -	\$ 18,676
Cash and investments - restricted	2,800	-	39,543	42,343
Receivable from County Treasurer	5	31	-	36
Property taxes receivable	39,966	99,915	-	139,881
Accounts receivable	250	-	-	250
Prepaid expenses	3,121	-	-	3,121
Due from other funds	24,537	-	-	24,537
<b>Total assets</b>	<b>\$ 89,355</b>	<b>\$ 99,946</b>	<b>\$ 39,543</b>	<b>\$ 228,844</b>
<b>LIABILITIES</b>				
Accounts payable	\$ 13,952	\$ -	\$ -	\$ 13,952
Prepaid assessment	308	-	-	308
Due to other funds	-	5,473	19,064	24,537
<b>Total liabilities</b>	<b>14,260</b>	<b>5,473</b>	<b>19,064</b>	<b>38,797</b>
<b>DEFERRED INFLOWS OF RESOURCES</b>				
Deferred property taxes	39,966	99,915	-	139,881
<b>Total deferred inflows of resources</b>	<b>39,966</b>	<b>99,915</b>	<b>-</b>	<b>139,881</b>
<b>FUND BALANCES</b>				
Nonspendable:				
Nonspendable	3,121	-	-	3,121
Restricted for:				
Debt service	-	(5,442)	-	(5,442)
Capital projects	-	-	20,479	20,479
Emergency reserve	2,800	-	-	2,800
Unassigned:				
Unrestricted	29,208	-	-	29,208
<b>Total fund balances</b>	<b>35,129</b>	<b>(5,442)</b>	<b>20,479</b>	<b>50,166</b>
<b>Total liabilities, deferred inflows of resources, and fund balances</b>	<b>\$ 89,355</b>	<b>\$ 99,946</b>	<b>\$ 39,543</b>	
Amounts reported in governmental activities in the statement of net position are different because:				
Capital assets used in governmental activities are not financial resources and, therefore, are not reported in the funds:				
Construction in progress				1,775,110
Long-term liabilities are not due and payable in the current period and, therefore, are not reported in the funds:				
Long-Term obligations				(2,638,155)
<b>Net position of governmental activities</b>				<b>\$ (812,879)</b>

The accompanying notes and independent auditor's report should be read with these financial statements.

**VISTAS AT WEST MESA METROPOLITAN DISTRICT**  
**STATEMENTS OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES -**  
**GOVERNMENTAL FUNDS**  
**YEAR ENDED DECEMBER 31, 2023**

	<b>General Fund</b>	<b>Debt Service Fund</b>	<b>Capital Projects Fund</b>	<b>Total Governmental Funds</b>
<b>REVENUES</b>				
Property taxes	\$ 645	\$ 3,868	\$ -	\$ 4,513
Specific ownership taxes	67	402	-	469
Investment income	-	70	6,012	6,082
Operations fee	8,302	-	-	8,302
<b>Total revenues</b>	<b>9,014</b>	<b>4,340</b>	<b>6,012</b>	<b>19,366</b>
<b>EXPENDITURES</b>				
Current:				
Bank charges	20	-	-	20
County Treasurer fees	10	58	-	68
Dues and subscriptions	1,238	-	-	1,238
Engineering	-	-	8,371	8,371
Insurance	2,076	-	-	2,076
Landscaping	1,395	-	-	1,395
Management fees	28,997	-	-	28,997
Office and supplies	85	-	-	85
Professional fees	52,950	-	-	52,950
Snow removal	1,176	-	-	1,176
Election expense	1,069	-	-	1,069
Trash	1,739	-	-	1,739
Debt service:				
Bond principal payments	-	1,381,000	-	1,381,000
Bond interest payments	-	116,513	-	116,513
Paying agent fees	-	7,500	-	7,500
Capital projects:				
Bond issuance costs	-	204,700	-	204,700
Capital outlay	-	-	749,592	749,592
<b>Total expenditures</b>	<b>90,755</b>	<b>1,709,771</b>	<b>757,963</b>	<b>2,558,489</b>
Excess of revenues over expenditures	(81,741)	(1,705,431)	(751,951)	(2,539,123)
<b>OTHER FINANCING SOURCES AND USES</b>				
Proceeds from bond issuance	-	1,985,831	649,169	2,635,000
Bond issuance discount	-	(285,845)	-	(285,845)
Proceeds from developer advances	140,000	-	-	140,000
<b>Total other financing sources and uses</b>	<b>140,000</b>	<b>1,699,986</b>	<b>649,169</b>	<b>2,489,155</b>
<b>Net change in fund balances</b>	<b>58,259</b>	<b>(5,445)</b>	<b>(102,782)</b>	<b>(49,968)</b>
Fund balances, beginning of year	(23,130)	3	123,261	100,134
<b>Fund balances, end of year</b>	<b>\$ 35,129</b>	<b>\$ (5,442)</b>	<b>\$ 20,479</b>	<b>\$ 50,166</b>

The accompanying notes and independent auditor's report should be read with these financial statements.

**VISTAS AT WEST MESA METROPOLITAN DISTRICT**  
**RECONCILIATION OF THE STATEMENTS OF REVENUES, EXPENDITURES, AND CHANGES IN FUND**  
**BALANCES OF GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES**  
**YEAR ENDED DECEMBER 31, 2023**

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Net change in fund balances \$ (49,968)

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Amounts reported for governmental activities in the statement of activities are different because:

Governmental funds report capital outlays as expenditures. In the statement of activities capital outlay is not reported as an expenditure. However, the statement of activities will report as depreciation expense the allocation of the cost of any depreciable assets over the estimated useful lives of the assets. Capital outlay and the conveyance of capital assets to other governments in the current period are as follows:

Capital outlay \$ 749,592

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The issuance of long-term debt (such as bonds, leases, and developer advances) provides current financial resources to governmental funds, while the repayment of long-term debt consumes the current financial resources of governmental funds. Neither transaction, however, has any effect on net position. Also, governmental funds report the effect of premiums, discounts, and similar items when debt is first issued, whereas these amounts are deferred and amortized in the statement of activities.

Proceeds from bond issuance	(2,635,000)
Bond principal payments	1,381,000
Original issuance bond discount	285,845
Proceeds from developer advances	(140,000)

Some items in the statement of activities do not provide or require the use of current financial resources and, therefore, are not reported as expenditures in governmental funds.

Amortization of bond discount	(4,764)
Change in accrued interest on bonds payable	(24,727)
Change in accrued interest on developer advances	(9,481)

Change in net position \$ (447,503)

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The accompanying notes and independent auditor's report  
should be read with these financial statements.

**VISTAS AT WEST MESA METROPOLITAN DISTRICT**  
**GENERAL FUND - STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE**  
**(BUDGET AND ACTUAL)**  
**YEAR ENDED DECEMBER 31, 2023**

	<u>Original Budget</u>	<u>Amended and Final Budget</u>	<u>Actual</u>	<u>Variance</u>
<b><u>REVENUES</u></b>				
Property taxes	\$ 635	\$ 635	\$ 645	\$ 10
Specific ownership taxes	102	102	67	(35)
Investment income	-	10	-	(10)
Operations fee	23,314	3,163	8,302	5,139
<b>Total revenues</b>	<b>24,051</b>	<b>3,910</b>	<b>9,014</b>	<b>5,104</b>
<b><u>EXPENDITURES</u></b>				
Bank charges	63	20	20	-
County Treasurer fees	10	10	10	-
Dues and subscriptions	500	1,238	1,238	-
Insurance	4,500	2,526	2,076	450
Landscaping	6,250	4,000	1,395	2,605
Management fees	15,000	30,000	28,997	1,003
Miscellaneous	10,548	-	-	-
Office and supplies	-	4,691	85	4,606
Professional fees	46,000	53,500	52,950	550
Repairs and maintenance	3,250	-	-	-
Snow removal	6,250	-	1,176	(1,176)
Election expense	1,250	1,069	1,069	-
Trash	4,725	2,320	1,739	581
<b>Total expenditures</b>	<b>98,346</b>	<b>99,374</b>	<b>90,755</b>	<b>8,619</b>
<b>Excess of revenues over expenditures</b>	<b>(74,295)</b>	<b>(95,464)</b>	<b>(81,741)</b>	<b>13,723</b>
<b><u>OTHER FINANCING SOURCES AND USES</u></b>				
Proceeds from developer advances	55,000	130,000	140,000	10,000
<b>Total other financing sources and uses</b>	<b>55,000</b>	<b>130,000</b>	<b>140,000</b>	<b>10,000</b>
<b>Net change in fund balance</b>	<b>\$ (19,295)</b>	<b>\$ 34,536</b>	<b>58,259</b>	<b>\$ 23,723</b>
Fund balance, beginning of year			(23,130)	
Fund balance, end of year			<b>\$ 35,129</b>	

The accompanying notes and independent auditor's report  
should be read with these financial statements.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2023

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### 1. DEFINITION OF REPORTING ENTITY

Vistas at West Mesa Metropolitan District ("District"), a quasi-municipal corporation and political subdivision of the state of Colorado, was formed in November 2021, and is governed pursuant to provisions of the Colorado Special District Act. The District's service area is located in El Paso County, Colorado ("County"). The District was organized to construct public improvements including street, curb and gutters, sidewalks, detention facilities, trails, and public landscaping improvements needed for the area.

The District follows Governmental Accounting Standards Board ("GASB") accounting pronouncements which provide guidance for determining which governmental activities, organizations, and functions should be included within the financial reporting entity. GASB pronouncements set 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, and potential for the organization to provide specific financial benefits or burdens and fiscal dependency.

The District is not financially accountable for any other organization nor is the District a component unit of any other primary governmental entity.

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

### 2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

#### Government-wide and fund financial statements

The government-wide financial statements include the statement of net position and the statement of activities. These financial statements include all of the activities of the District. Material interfund activity has been removed from these statements. Governmental activities are normally supported by taxes and intergovernmental revenues.

The statement of net position reports all financial and capital resources of the District. The difference between the assets plus deferred outflows of resources and the liabilities plus deferred inflows of resources is reported as net position.

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 charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment; and grants and contributions that are restricted to meet the operational or capital requirements of a particular function or segment. Taxes and other items are properly excluded from program revenues and are reported as general revenues.

#### Measurement focus, basis of accounting, and financial statement position

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 related cash flows.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. Revenues are recognized when they are both measurable and available. Revenues are considered to be available when they are collectable 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 major sources of revenue susceptible to accrual are property taxes. All other revenue items are considered to be measurable and available only when cash is received by the District. Expenditures, other than interest on long-term obligations, are recorded when the liability is incurred or the long-term obligation is due.

See independent auditor's report.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2023

---

The District reports the following major governmental funds:

The *general fund* accounts for all financial resources of the District except those required to be accounted for in another fund.

The *debt service fund* accounts for the servicing of general long-term debt and revenues generated and received by the District that are required to be used for repayment of debt.

The *capital projects fund* accounts for financial resources to be used for the acquisition and construction of capital equipment and facilities.

### *Debt service fund deficit*

The debt service fund reported a fund balance deficit as of December 31, 2023. This deficit is expected to be eliminated with the receipt of pledged revenues in the future.

### Budgets

In accordance with state budget law, the District holds public hearings in the fall each year to approve the budget and appropriate funds for the ensuing year. The appropriation is at the total fund expenditures, fund balance remaining, and other financing uses level, and lapses at year end. The District's board of directors can modify the budget by line item within the total appropriation without notification. The 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 District amended its annual budget for the year ended December 31, 2023.

### Pooled cash and investments

The District follows the practice of pooling cash and investments of funds to maximize investment earnings. Except when required by trust or other agreements, cash is deposited to and disbursed from a single bank account. Cash in excess of immediate operating requirements is pooled for deposit and investment flexibility. Investment earnings are allocated periodically to the participating funds based upon each fund's average balance.

### 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 and attaches as an enforceable lien as of January 1 of the following year. The County Treasurer collects the taxes during the ensuing calendar year. The taxes are payable by April or, at the taxpayer's election, in February and June in equal installments. Delinquent taxpayers are notified in August and sales of tax liens on delinquent properties are generally held in November or December. The County Treasurer remits the taxes collected to the District monthly.

Property taxes, net of estimated uncollectable amounts, are recorded initially as deferred revenues in the year they are levied and measurable. The deferred property tax revenues are recorded as revenues in the year they are available or collected.

### Capital assets

Capital assets, which include property, equipment, and infrastructure assets (e.g., roads, sidewalks, and similar items), are reported in the applicable governmental activities column in the government-wide financial statements. Capital assets are defined by the District as assets with an initial individual cost of more than \$1,000 and a useful life greater than two years. Such assets are recorded at cost or estimated cost if purchased or constructed. Contributed capital assets are recorded at estimated acquisition value at the date of contribution. For intangible assets such as leases, only those intangible lease assets that cost more than \$15,000 are reported as capital assets.

See independent auditor's report.

**VISTAS AT WEST MESA METROPOLITAN DISTRICT**  
**NOTES TO FINANCIAL STATEMENTS**  
**DECEMBER 31, 2023**

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Maintenance and repairs are charged to expense as incurred. At the time of retirement or disposition of depreciable assets, the related cost and accumulated depreciation are removed from the accounts, and the resulting gain or loss, if any, is reflected in revenues or expenses.

Capital assets which are anticipated to be conveyed to other governmental entities are not depreciated or included in the calculation of net investment in capital assets component of the District's net position.

Bond discount

In the government-wide financial statements, bond discounts are deferred and amortized over the life of the bonds using the effective interest method.

Deferred inflows of resources

In addition to liabilities, the statement of net position reports a separate section for deferred inflows of resources. This separate financial statement element represents an acquisition of net position that applies to a future period and so will not be recognized as an inflow of resources (revenues) until that time. Accordingly, property taxes are deferred and recognized as an inflow of resources in the period that the amounts become available.

Interfund balances and transactions

The District reports interfund balances and transfers that are representative of lending and borrowing arrangements between funds in the fund financial statements as due to other funds and due from other funds, respectively. The interfund balances have been eliminated in the government-wide statements.

Net position and fund balances

*Net position*

For government-wide presentation purposes, when both restricted and unrestricted resources are available for use, it is the District's practice to use restricted resources first, then unrestricted resources as they are needed.

*Fund balances*

Fund balances for governmental funds are reported in classifications that comprise a hierarchy based on the extent to which the government is bound to honor constraints on the specific purposes for which spending can occur. Governmental funds report up to five classifications of fund balance. Because circumstances differ among governments, not every government or every governmental fund will present all of these components. The following classifications describe the relative strength of the spending constraints:

The *nonspendable fund balance* is the portion of fund balance that cannot be spent because it is either not in spendable form (such as prepaid amounts or inventories) or is legally or contractually required to be maintained intact.

The *restricted fund balance* is the portion of fund balance that is constrained to being used for a specific purpose by external parties (such as bondholders), constitutional provisions, or enabling legislation.

The *committed fund balance* is the portion of fund balance that can only be used for specific purposes pursuant to constraints imposed by formal action of the government'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.

The *assigned fund balance* is the portion of fund balance that is constrained by the government's intent to be used for specific purposes, but is neither restricted nor committed. Intent is expressed by the board of directors to be used for a specific purpose. Constraints imposed on the use of assigned amounts are more easily removed or modified than those imposed on amounts that are classified as committed.

See independent auditor's report.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2023

The *unassigned fund balance* is the residual portion of fund balance that does not meet any of the criteria described above.

For fund presentation purposes, if more than one classification of fund balance is available for use when an expenditure is incurred, it is the District's policy to use the most restrictive classification first.

### Use of estimates

The preparation of the basic financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

### Subsequent events

The District has evaluated subsequent events through the date of the attached independent auditor's report, the date these financial statements were available to be issued.

## 3. CASH AND INVESTMENTS

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

Statement of net position:	
Cash and investments	\$ 18,676
Cash and investments - restricted	42,343
	<u>61,019</u>
	<u>\$ 61,019</u>

The carrying amounts of cash and investments, which equal estimated fair value, as of December 31, 2023, are as follows:

Deposits with financial institutions	\$ 21,476
Investments	39,543
	<u>61,019</u>
	<u>\$ 61,019</u>

### Deposits with financial institutions

The Colorado Public Deposit Protection Act ("PDPA") requires that all units of local government deposit cash in eligible public depositories. Eligibility is determined by state regulators. Amounts on deposit in excess of federal insurance levels must be collateralized. The eligible collateral is determined by the PDPA. The PDPA allows the institution to create a single collateral pool for all public funds. The pool for all the uninsured public deposits as a group is to be maintained by another institution or held in trust. The market value of the collateral must be 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.

As of December 31, 2023, the District's cash deposits had a bank balance of \$21,476 and a carrying balance of \$21,476.

### Investments

The District has not adopted a formal investment policy; however, the District follows state statutes regarding investments.

The District generally limits its concentration of investments to those below which are believed to have minimal credit risk, minimal interest rate risk, and no foreign currency risk. The District is not subject to concentration risk disclosure requirements or subject to investment custodial credit risk for investments that are in the possession of another party.

See independent auditor's report.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2023

Colorado revised statutes limit investment maturities to five years or less unless otherwise formally approved by the board of directors. Such actions are generally associated with a debt service reserve or sinking fund requirements.

Colorado statutes specify investment instruments meeting defined rating and risk criteria in which local governments may invest which include:

- Obligations of the US and certain US government agency securities
- Certain international agency securities
- General obligation and revenue bonds of US local government entities
- Bankers' acceptances of certain banks
- Commercial paper
- Written repurchase agreements collateralized by certain authorized securities
- Certificates of deposit in Colorado PDPA approved banks or savings banks
- Certain money market funds
- Guaranteed investment contracts
- Local government investment pools

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

Investment	Maturity	Amount
Certain money market funds	Weighted average under 60 days	\$ 39,543

### Invesco Treasury Portfolio

The District invested in the Invesco Treasury Portfolio Short-Term Investment Trust ("Invesco Trust" or "Trust"), an investment vehicle established in the US. The Trust offers the following portfolio: Invesco Treasury Obligations Portfolio.

Invesco Treasury, operates similarly to a money market fund in which each share is equal in value to \$1, with a percentage of daily liquidity available. The portfolio may invest in US Treasury securities and repurchase agreements collateralized by US Treasury securities.

A designated custodial bank serves as custodian for the Trust's portfolios pursuant to a custodian agreement. The custodian acts as safekeeping agent for the Trust's investment portfolios and provides services as the depository in connection with direct investments and withdrawals. The custodian's internal records segregate investments owned by the Trust. Invesco Trust is rated AAAM by Standard & Poor's, and Aaa-mmf by FitchRatings. BOK Financial records its investment at fair value and the District records its investment in Invesco Trust at NAV as determined by fair value. There are no unfunded commitments, the redemption frequency is daily or weekly, and there is no redemption notice period.

## 4. CAPITAL ASSETS

Capital asset activity for the year ended December 31, 2023, is as follows:

	Balance 01-01-23	Additions	Dispositions	Reclassifications	Balance 12-31-23
<u>Governmental activities</u>					
Capital assets, not depreciable:					
Construction in progress	\$ 1,025,518	\$ 749,592	\$ -	\$ -	\$ 1,775,110
Capital assets, not depreciable	<u>\$ 1,025,518</u>	<u>\$ 749,592</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 1,775,110</u>

See independent auditor's report.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2023

### 5. LONG-TERM OBLIGATIONS

Long-term debt activity for the year ended December 31, 2023, is as follows:

	Balance 01-01-23	Additions	Repayments / Amortization	Balance 12-31-23	Due Within One Year
<u>Governmental activities</u>					
Bonds payable:					
Series 2022 Bonds	\$ 1,381,000	\$ -	\$ (1,381,000)	\$ -	\$ -
Accrued interest on Series 2022 Bonds	58,702	53,549	(112,251)	-	-
Series 2023 Bonds	-	2,635,000	-	2,635,000	-
Discount on Series 2023 Bonds	-	(285,845)	4,764	(281,081)	-
Accrued interest on Series 2023 Bonds	-	87,690	(4,261)	83,429	-
Total bonds payable	<u>1,439,702</u>	<u>2,490,394</u>	<u>(1,492,748)</u>	<u>2,437,348</u>	<u>-</u>
Other long-term obligations:					
Developer advances - operating	50,000	140,000	-	190,000	-
Accrued interest on developer advances	1,326	9,481	-	10,807	-
Total other long-term obligations	<u>51,326</u>	<u>149,481</u>	<u>-</u>	<u>200,807</u>	<u>-</u>
Total long-term obligations	<u>\$ 1,491,028</u>	<u>\$ 2,639,875</u>	<u>\$ (1,492,748)</u>	<u>\$ 2,638,155</u>	<u>\$ -</u>

#### Series 2023(3) General Obligation Limited Tax Refunding and Improvement Bonds

On July 21, 2023, the District issued Series 2023(3) General Obligation Limited Tax Refunding and Improvement Bonds ("Series 2023 Bonds") for the purpose of: (i) paying the costs of refunding the refunded bonds ("Series 2022 Bonds"); (ii) paying the project costs; and (iii) paying other costs incurred in connection with the issuance of the Series 2023 Bonds and the refunding of the Series 2022 Bonds. The Series 2023 Bonds were issued in the amount of \$2,635,000, minus an original issue discount of \$285,845. \$1,836,576 of the principal was issued for the purpose of refunding the Series 2022 Bonds, and the remaining \$798,424 was issued for the purpose of paying project costs. The bonds bear interest at a rate of 7.5% per annum, payable to the extent of pledged revenues available therefore on each December 1, and mature on December 1, 2053. On December 2, 2061, no payments will be due and the Series 2023 Bonds will be deemed to be paid, satisfied, and discharged regardless of the amount of principal and interest paid prior to that date. Accordingly, the timing of repayment is uncertain and a maturity schedule is not included in these financial statements.

#### *Pledged revenue*

The Series 2023 Bonds are secured by and payable from the pledged revenue consisting of monies derived by the District from the following sources, net of any collection costs: (i) the required mill levy; (ii) the capital fees, if any; (iii) the portion of the specific ownership tax which is collected as a result of imposition of the required mill levy; and (iv) any other legally available monies which the District determines to be treated as pledged revenue. Required mill levy means an ad valorem mill levy imposed upon all taxable property of the District each year in an amount sufficient to pay the principal, premium if any, and interest on the bonds as they become due and payable. The mill levy is adjusted for changes in the ratio of actual value to assessed value of property within the District.

See independent auditor's report.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2023

### *Optional redemption*

The Series 2023 Bonds are subject to redemption prior to maturity, at the option of the District, as a whole or in integral multiples of \$1,000, in any order of maturity and in whole or partial maturities, on March 1, 2027, and on any date thereafter, upon payment of par, accrued interest, and a redemption premium on the principal amount redeemed, as follows:

<u>Date of Redemption</u>	<u>Redemption Premium</u>
March 1, 2027 to February 29, 2028	3.00%
March 1, 2028 to February 28, 2029	2.00%
March 1, 2029 to February 28, 2030	1.00%
March 1, 2030 and thereafter	0.00%

### *Events of default*

The occurrence of any one or more of the following events or the existence of any one or more of the following conditions constitutes an event of default under the indenture.

- i. The District fails to impose the required mill levy or to apply the pledged revenue.
- ii. The District defaults in the performance or observance of any of the covenants, agreements, or conditions on the part of the District in the indenture or the bond resolution, and fails to remedy the same after notice from the trustee or the District of the occurrence of such failure.
- iii. The District files a petition under the federal bankruptcy laws or other applicable bankruptcy laws seeking to adjust the obligation represented by the bonds.

Upon the occurrence and continuance of an event of default, the trustee will have the following rights and remedies which may be pursued:

- i. Receivership: Upon the filing of a bill in equity or other commencement of judicial proceedings to enforce the rights of the trustee and of the owners of the bonds, the trustee will be entitled as a matter of right to the appointment of a receiver or receivers of the trust estate, and of the revenues, income, product, and profits thereof pending such proceedings, subject however, to constitutional limitations inherent in the sovereignty of the District; but notwithstanding the appointment of any receiver or other custodian, the trustee will be entitled to the possession and control of any cash, securities, or other instruments at the time held by, or payable or deliverable under the provisions of the indenture to, the trustee.
- ii. Suit for judgement: The trustee may proceed to protect and enforce its rights and the rights of the owners of the bonds under the act, the bonds, the bond resolution, the indenture, and any provision of law by such suit, action, or special proceedings as the trustee, being advised by counsel, deems appropriate.
- iii. Mandamus or other suit: The trustee may proceed by mandamus or any other suit, action, or proceeding at law or in equity, to enforce all rights of the owners of the bonds.

It is acknowledged that, due to the limited nature of the pledged revenue, the failure to pay the principal of or interest on the bonds when due does not, in itself, constitute an event of default under the indenture.

Notwithstanding the foregoing, acceleration will not be an available remedy for an event of default.

See independent auditor's report.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2023

### Debt authorization

As of December 31, 2023, the District's debt authorized, authorization used, and amounts authorized but unissued are as follows:

	<u>Electoral Authorization</u>	<u>Service Plan Authorization</u>
Amount authorized	\$ 108,000,000	\$ 4,500,000
Authorization used:		
Series 2022 Bonds	(1,381,000)	(1,381,000)
Series 2022 Bonds refunding	-	1,381,000
Series 2023 Bonds	<u>(2,635,000)</u>	<u>(2,635,000)</u>
Authorized but unissued indebtedness	<u>\$ 103,984,000</u>	<u>\$ 1,865,000</u>

On November 2, 2021, the District's voters authorized the issuance of indebtedness at an interest rate not to exceed 18%. The service plan set the maximum mill levy at 50 mills.

### Developer Advances

#### *Funding and reimbursement agreement (operations and maintenance)*

Effective March 11, 2022 and as amended November 8, 2023, the District and the developer entered into a Funding and Reimbursement Agreement ("FRA"). Pursuant to the FRA, the District acknowledged the developer has incurred operational and administrative expenses that are subject to reimbursement to the extent funds are available. The developer has agreed to advance the District funds necessary to fund operational and administrative expenses on a periodic basis through 2025 not to exceed \$390,000. Advances made by the developer will accrue simple interest at 8.00% per annum. Payments by the District to the developer will first be applied to unpaid interest and then to outstanding principal due. Any obligation of the District to reimburse the developer will expire on March 11, 2032. As of December 31, 2023, the outstanding developer advance totaled \$190,000 and accrued interest totaled \$10,807.

#### *Infrastructure acquisition and reimbursement agreement*

Effective March 11, 2022, the District and the developer entered into an Infrastructure Acquisition and Reimbursement Agreement ("IARA"). Pursuant to the IARA, the District acknowledged the developer has or may in the future incur costs (either directly or indirectly through advances to the District) related to the acquisition, financing, planning, design, construction, and installation of public infrastructure that may be lawfully funded by the District under the Colorado Special District Act and the Districts' service plan. Advances made by the developer will accrue simple interest at 8.00% per annum. Payments by the District to the developer will first be applied to unpaid interest and then to outstanding principal due. Any outstanding principal or interest obligation of the District under the IARA will be discharged and satisfied in full on March 11, 2037. As of December 31, 2023, there was no outstanding balance under this agreement.

## 6. NET POSITION

The District has net position consisting of: restricted and unrestricted.

Restricted net position includes balances with external restrictions imposed by creditors, grantors, contributors, or laws and regulations of other governments; or imposed by law through constitutional provisions or enabling legislation. The District had a restricted net position as of December 31, 2023 as follows:

Restricted net position:

Emergency reserve (Note 11)	<u>\$ 2,800</u>
	<u>\$ 2,800</u>

See independent auditor's report.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2023

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The District has a deficit in unrestricted net position as of December 31, 2023. This deficit is the result of the District being responsible for the repayment of bonds issued for public improvements, of which a significant portion were conveyed to other governmental entities and which costs were removed from the District's financial records.

### 7. OPERATIONS FEE

Effective February 10, 2023, the District imposed an operations fee on residential units. The fee consists of two components. The first component is a one-time fee of \$50 per residential unit upon transfer of residential units to residents. The second component is a recurring fee of \$125 per month for each residential dwelling unit due on the first day of each month. The operations fee applies to all residential units constructed within the District's boundaries to provide payment for the operations costs provided by the District.

### 8. RELATED PARTIES

The developer of the property within the District is Greys Development Company, Inc. The members of the board of directors are officers, employees, or associated with the developer and may have conflicts of interest in dealing with the District.

### 9. ECONOMIC DEPENDENCY

The District has not yet established a revenue base sufficient to pay operational expenditures. Until an independent revenue base is established, continuation of operations in the District will be dependent upon funding by the developer.

### 10. RISK MANAGEMENT

The District is exposed to various risks of loss related to torts, thefts of, damage to, or destruction of assets; errors or omissions; injuries to employees; or acts of God.

The District is a member of the Colorado Special Districts Property and Liability Pool ("Pool"). The Pool is an organization created by intergovernmental agreement to provide property, liability, public officials' liability, boiler and machinery, and workers' compensation coverage to its members. Settled claims have not exceeded this coverage in any of the past three fiscal years.

The District pays annual premiums to the Pool for liability, property, and public officials' liability coverage. In the event aggregated losses incurred by the Pool exceed amounts recoverable from reinsurance contracts and funds accumulated by the Pool, the Pool may require additional contributions from the Pool 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.

### 11. TAX, SPENDING, AND DEBT LIMITATIONS

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

Spending and revenue limits are determined based on the prior 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. Revenues in excess of the fiscal year spending limit must be refunded unless the voters approve retention of such revenues. On November 2, 2021, the District's voters approved a ballot issue allowing the District to retain all revenues.

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.

District management believes the District 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 likely require judicial interpretation.

See independent auditor's report.

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## NOTES TO FINANCIAL STATEMENTS

DECEMBER 31, 2023

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### 12. CORRECTION OF ERROR ON PREVIOUSLY ISSUED FINANCIAL STATEMENTS

The District discovered that interest accrued on the Series 2022 Bonds had been understated in the previously issued December 31, 2022, financial statements. The error has been corrected by restating each of the affected financial statement line items as follows:

	<u>As Previously Reported</u>		<u>Adjustment</u>		<u>As Restated</u>
Government-wide financial statements:					
Governmental activities net position	\$ (314,442)	\$	(50,934)	\$	(365,376)

\* \* \* \* \*

DRAFT

See independent auditor's report.

**SUPPLEMENTARY INFORMATION**

DRAFT

# VISTAS AT WEST MESA METROPOLITAN DISTRICT

## DEBT SERVICE FUND - SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE (BUDGET AND ACTUAL) YEAR ENDED DECEMBER 31, 2023

	<u>Original Budget</u>	<u>Amended and Final Budget</u>	<u>Actual</u>	<u>Variance</u>
<b><u>REVENUES</u></b>				
Property taxes	\$ 3,807	\$ 3,807	\$ 3,868	\$ 61
Specific ownership taxes	305	305	402	97
Investment income	-	6,860	70	(6,790)
<b>Total revenues</b>	<b>4,112</b>	<b>10,972</b>	<b>4,340</b>	<b>(6,632)</b>
<b><u>EXPENDITURES</u></b>				
County Treasurer fees	57	58	58	-
Bond principal payments	-	1,381,000	1,381,000	-
Bond issuance costs	170,000	210,620	204,700	5,920
Bond interest payments	-	112,251	116,513	(4,262)
Paying agent fees	-	7,500	7,500	-
<b>Total expenditures</b>	<b>170,057</b>	<b>1,711,429</b>	<b>1,709,771</b>	<b>1,658</b>
<b>Excess of revenues over expenditures</b>	<b>(165,945)</b>	<b>(1,700,457)</b>	<b>(1,705,431)</b>	<b>(4,974)</b>
<b><u>OTHER FINANCING SOURCES AND USES</u></b>				
Proceeds from bond issuance	1,168,000	2,635,000	1,985,831	(649,169)
Bond issuance discount	-	(285,845)	(285,845)	-
Transfers between funds	(998,000)	(649,169)	-	649,169
<b>Total other financing sources and uses</b>	<b>170,000</b>	<b>1,699,986</b>	<b>1,699,986</b>	<b>-</b>
<b>Net change in fund balance</b>	<b>\$ 4,055</b>	<b>\$ (471)</b>	<b>(5,445)</b>	<b>\$ (4,974)</b>
Fund balance, beginning of year			3	
Fund balance, end of year			<b>\$ (5,442)</b>	

The accompanying notes and independent auditor's report  
should be read with these financial statements.

**VISTAS AT WEST MESA METROPOLITAN DISTRICT**  
**CAPITAL PROJECTS FUND - SCHEDULE OF REVENUES, EXPENDITURES, AND CHANGES IN FUND**  
**BALANCE (BUDGET AND ACTUAL)**  
**YEAR ENDED DECEMBER 31, 2023**

	<u>Original and Final Budget</u>	<u>Actual</u>	<u>Variance</u>
<b><u>REVENUES</u></b>			
Investment income	\$ -	\$ 6,012	\$ 6,012
Total revenues	-	6,012	6,012
<b><u>EXPENDITURES</u></b>			
Engineering	-	8,371	(8,371)
Capital outlay	772,430	749,592	22,838
Total expenditures	772,430	757,963	14,467
Excess of revenues over expenditures	(772,430)	(751,951)	20,479
<b><u>OTHER FINANCING SOURCES AND USES</u></b>			
Proceeds from bond issuance	649,169	649,169	-
Total other financing sources and uses	649,169	649,169	-
Net change in fund balance	<u>\$ (123,261)</u>	(102,782)	<u>\$ 20,479</u>
Fund balance, beginning of year		123,261	
Fund balance, end of year		<u>\$ 20,479</u>	

The accompanying notes and independent auditor's report  
should be read with these financial statements.



**RESOLUTION  
OF THE BOARD OF DIRECTORS OF THE  
VISTAS AT WEST MESA METROPOLITAN DISTRICT**

**REGARDING ACQUISITION OF PUBLIC IMPROVEMENTS**

---

WHEREAS, Vistas at West Mesa Metropolitan District, City of Colorado Springs, El Paso 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 March 11, 2022 (the "**Acquisition Agreement**"), by and between the District and Grays Development Company, Inc. (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 acquiring Public Improvements; and

WHEREAS, the Board has reviewed the information provided in accordance with the Acquisition Agreement and has determined that the best interests of the District, its residents, users, and property owners would be served by the District's acquisition of the Public Improvements from the Developer; and

WHEREAS, the Board desires to acquire certain of the Public Improvements from the Developer, subject to the availability of District funds for such purpose.

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

1. Acquisition of Improvements. The District hereby agrees to accept the Landscape Improvements for Phase 2 of the Vistas at West Mesa project, as further outlined in **Exhibit A**, attached hereto and incorporated by reference.

2. Engineer's Certification. 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) and the District is in receipt of an "**Engineer's Verification.**" attached hereto as **Exhibit B.**

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

*Signature page follows.*

ADOPTED THIS 19<sup>TH</sup> DAY OF JULY, 2024.

**VISTAS AT WEST MESA METROPOLITAN  
DISTRICT**

---

Officer of the District

---

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

---

General Counsel to the District

**EXHIBIT A**

Phase 2 Landscape Improvements



N.E.S. Inc.  
619 N. Cascade Avenue, Suite 200  
Colorado Springs, CO 80903  
Tel. 719.471.0073  
Fax 719.471.0267  
www.nescolorado.com  
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# VISTAS AT WEST MESA

PUD  
DEVELOPMENT PLAN  
MINOR AMENDMENT  
0 CENTENNIAL DRIVE

DATE: 5.16.22  
PROJECT MGR: C. LIEBER  
PREPARED BY: J. SHAGIN

## ENTITLEMENT

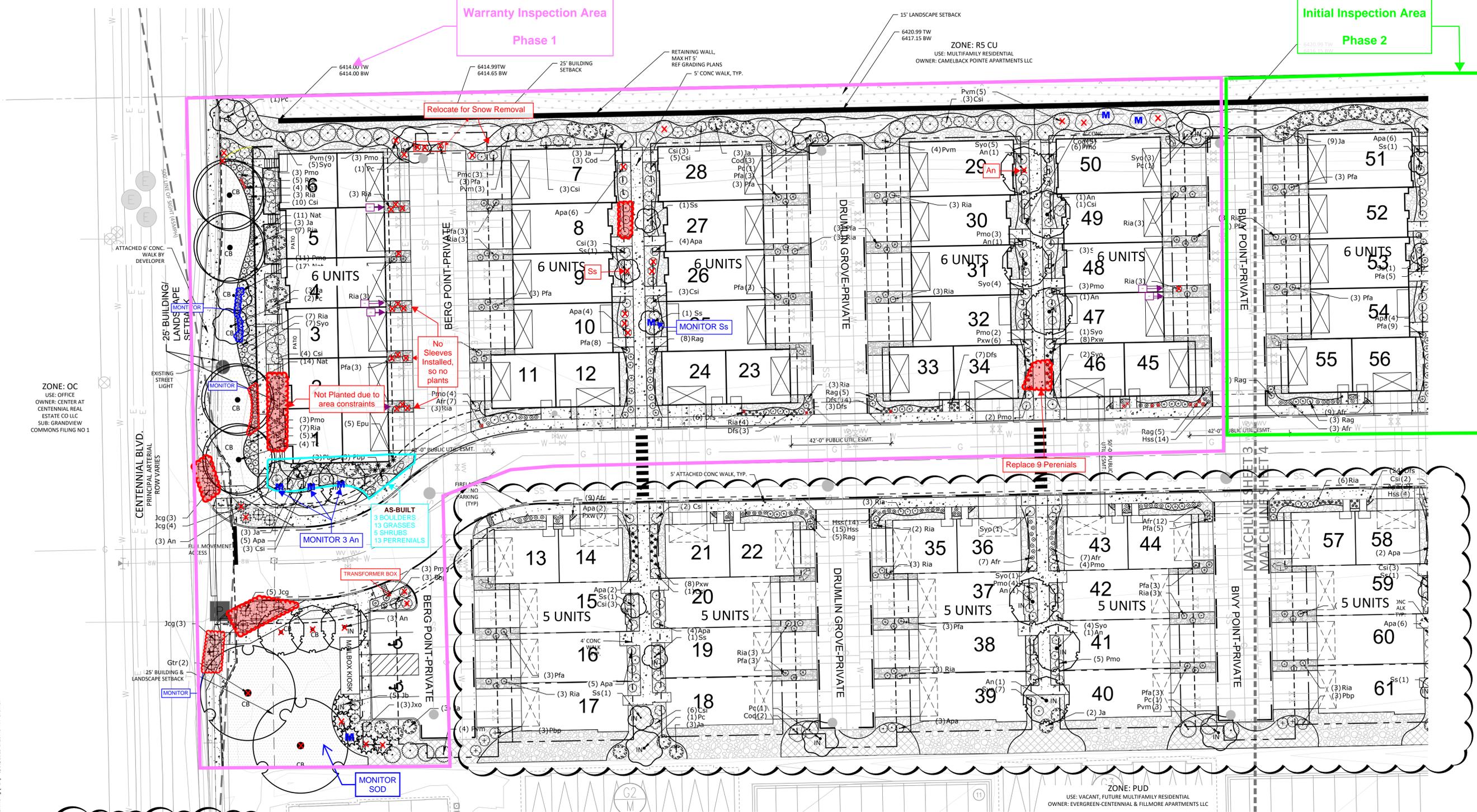
DATE: BY: DESCRIPTION:

## FINAL LANDSCAPE PLAN

7 OF 18

Initial Inspection Area  
Phase 2

Warranty Inspection Area  
Phase 1



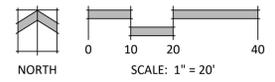
	ROCK COBBLE 2-4" Speckled White River Rock	24,110 sf
	SHRUB BED 3/4" Regal Rose Decorative Rock Mulch	21,905 sf
	SOD Kentucky Blue Grass Blend	7,354 sf
	EL PASO COUNTY LOW GROW SEED MIX El Paso County Seed Mix Sideoats Grama - 29% Buffalograss - 25% Blue Grama - 20% Western Wheatgrass - 20% Green Needlegrass - 20% Sand Dropseed - 1% Drilled at 21 PL5/Acre, Hydroseeded on slopes 3:1 & Greater at 42 PL5/Acre	15,344 sf

**N.E.S. Inc.**  
619 North Cascade Ave, Suite 200  
Colorado Springs, CO 80903  
719-471-0073

Inspected by: CAD  
Inspection Date: 6-18-2024

\*\*\*NOTE: Heucheras (Coral Bells) o'located on south side of building may be substituted for Delosperma (Ice Plant) or any of the low-growing varieties of Nepeta faassenii (Catmint)

- Landscape Legend
- Missing/Dead
  - Missing/Dead (Does NOT need to be replaced)
  - Missing/Dead M
  - A/C Units
  - Phase Boundaries



SEE SHEET 5 OF 18 FOR PLANT SCHEDULE/LANDSCAPE NOTES

P:\Local\Homes\Fillmore and Centennial Residential\Drawings\Final-Land\Landscaping\05102023 1:26:49 PM araman



N.E.S. Inc.  
619 N. Cascade Avenue, Suite 200  
Colorado Springs, CO 80903  
Tel. 719.471.0073  
Fax 719.471.0267  
www.nescolorado.com  
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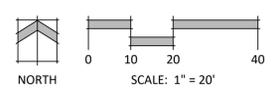
**VISTAS AT WEST MESA**  
PUD DEVELOPMENT PLAN  
MINOR AMENDMENT  
O CENTENNIAL DRIVE

DATE: 5.16.22  
PROJECT MGR: C. LIEBER  
PREPARED BY: J. SHAGIN

N.E.S. Inc.  
619 North Cascade Ave, Suite 200  
Colorado Springs, CO 80903  
719-471-0073  
Inspected by: CAD  
Inspection Date: 6-18-2024

**Landscape Legend**

- Missing/Dead
- Missing/Dead (Does NOT need to be replaced)
- Missing/Dead M
- A/C Units
- Phase Boundary



SEE SHEET 5 OF 18 FOR PLANT SCHEDULE/LANDSCAPE NOTES

**ENTITLEMENT**

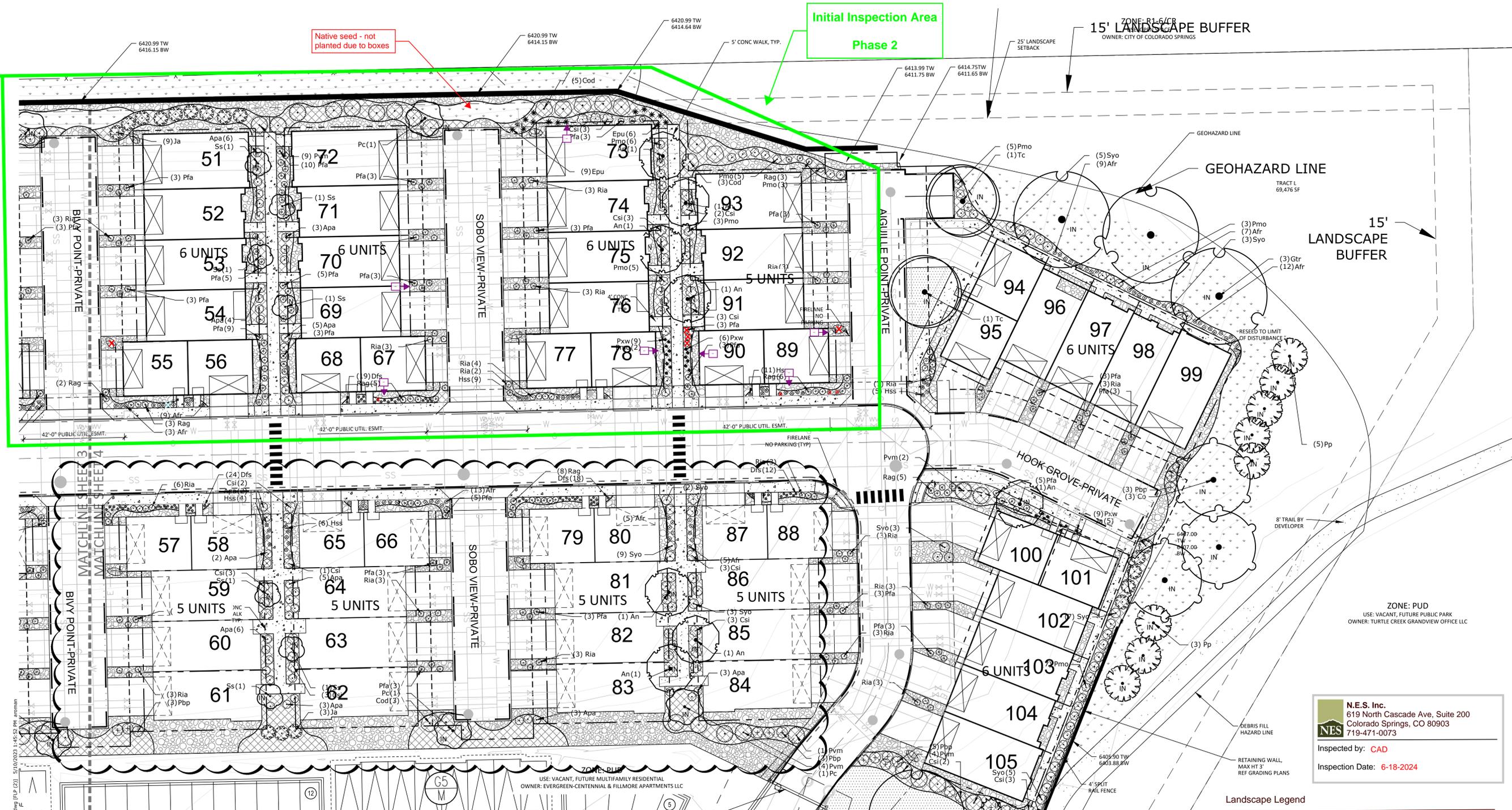
DATE:	BY:	DESCRIPTION:

**FINAL LANDSCAPE PLAN**

8

8 OF 18

PUDD-23-0022



Native seed - not planted due to boxes

Initial Inspection Area  
Phase 2

15' LANDSCAPE BUFFER  
OWNER: CITY OF COLORADO SPRINGS

15' LANDSCAPE BUFFER

GEOHAZARD LINE

HOOK GROVE-PRIVATE

SOBO VIEW-PRIVATE

ANGUILE POINT-PRIVATE

BIY POINT-PRIVATE

**CONCEPT PLANT SCHEDULE**

	ROCK COBBLE 2-4" Speckled White River Rock	24,110 sf
	SHRUB BED 3/4" Regal Rose Decorative Rock Mulch	21,905 sf
	SOD Kentucky Blue Grass Blend	7,354 sf
	EL PASO COUNTY LOW GROW SEED MIX El Paso County Seed Mix Sideoats Grama - 29% Buffalograss - 25% Blue Grama - 20% Western Wheatgrass - 20% Green Needlegrass - 20% Sand Dropseed - 1% Drilled at 21 PLS/Acre, Hydroseed on slopes 3:1 & Greater at 42 PLS/Acre	15,344 sf

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**EXHIBIT B**  
**Engineer's Verification**



**BILL OF SALE**  
**(Phase 2 Landscape Improvements)**

---

KNOW ALL MEN BY THESE PRESENTS that GRAYS DEVELOPMENT COMPANY, INC., a Colorado corporation, hereinafter referred to as “Seller”, for good and valuable consideration, the receipt of which is hereby acknowledged, paid by the VISTAS AT WEST MESA METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado, whose address is 2154 E. Commons Ave., Suite 2000 Centennial, CO 80211 (the “District”), has bargained and sold, and by these presents, does grant, assign, and convey unto the District, its successors and assigns, all of its right, title and interest in the Phase 2 Landscape Improvements of the Vistas at West Mesa Development Final Landscape Plan, as further described herein in **Exhibit A** (the “Improvements”), and all things of value, including all work product, both tangible and intangible, including legal, accounting, engineering, and management costs related thereto, accruing from the costs associated with the provision of the Improvements.

TO HAVE AND TO HOLD the same unto District, its successors and assigns forever; and Seller, its successors and assigns, shall warrant and defend the sale of the Improvements, property, services and facilities made unto the District, its successors or assigns, against all and every person or persons whomsoever, and warrants that the conveyance of the Improvements, property, services and facilities to the District, its successors and assigns, is made free from any claim or demand whatever.

IN WITNESS WHEREOF, Seller, by and through its authorized representatives, hereby executes this Bill of Sale as of this 19th day of July, 2024.

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



N.E.S. Inc.  
619 N. Cascade Avenue, Suite 200  
Colorado Springs, CO 80903  
Tel. 719.471.0073  
Fax 719.471.0267  
www.nescolorado.com  
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# VISTAS AT WEST MESA

PUD  
DEVELOPMENT PLAN  
MINOR AMENDMENT  
0 CENTENNIAL DRIVE

DATE: 5.16.22  
PROJECT MGR: C. LIEBER  
PREPARED BY: J. SHAGIN

## ENTITLEMENT

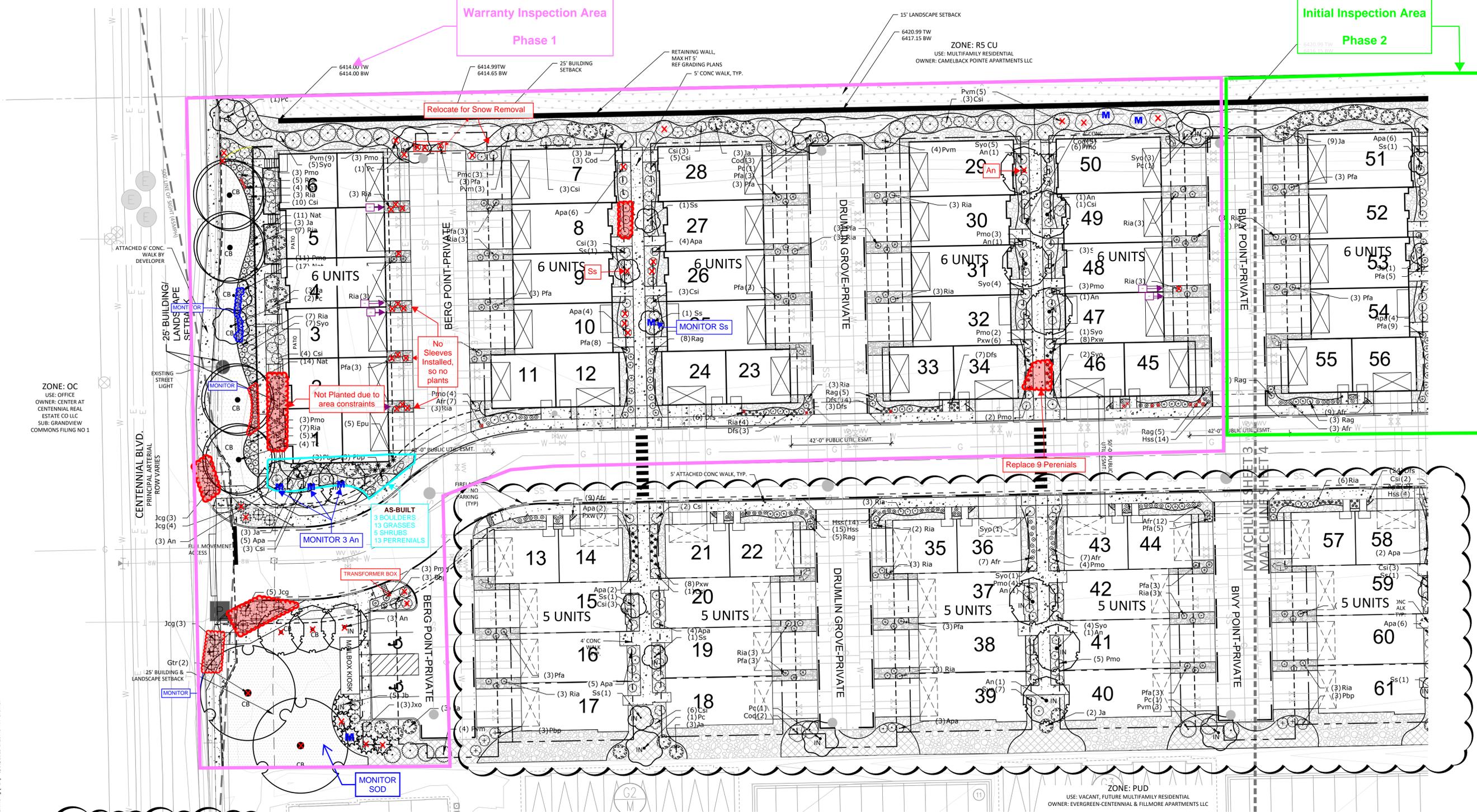
DATE: BY: DESCRIPTION:

## FINAL LANDSCAPE PLAN

7 OF 18

Initial Inspection Area  
Phase 2

Warranty Inspection Area  
Phase 1



	ROCK COBBLE 2-4" Speckled White River Rock	24,110 sf
	SHRUB BED 3/4" Regal Rose Decorative Rock Mulch	21,905 sf
	SOD Kentucky Blue Grass Blend	7,354 sf
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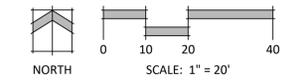
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\*\*\*NOTE: Heucheras (Coral Bells) o'located on south side of building may be substituted for Delosperma (Ice Plant) or any of the low-growing varieties of Nepeta faassenii (Catmint)

### Landscape Legend

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- Missing/Dead (Does NOT need to be replaced)
- Missing/Dead M
- A/C Units
- Phase Boundaries



SEE SHEET 5 OF 18 FOR PLANT SCHEDULE/LANDSCAPE NOTES

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### VISTAS AT WEST MESA

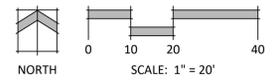
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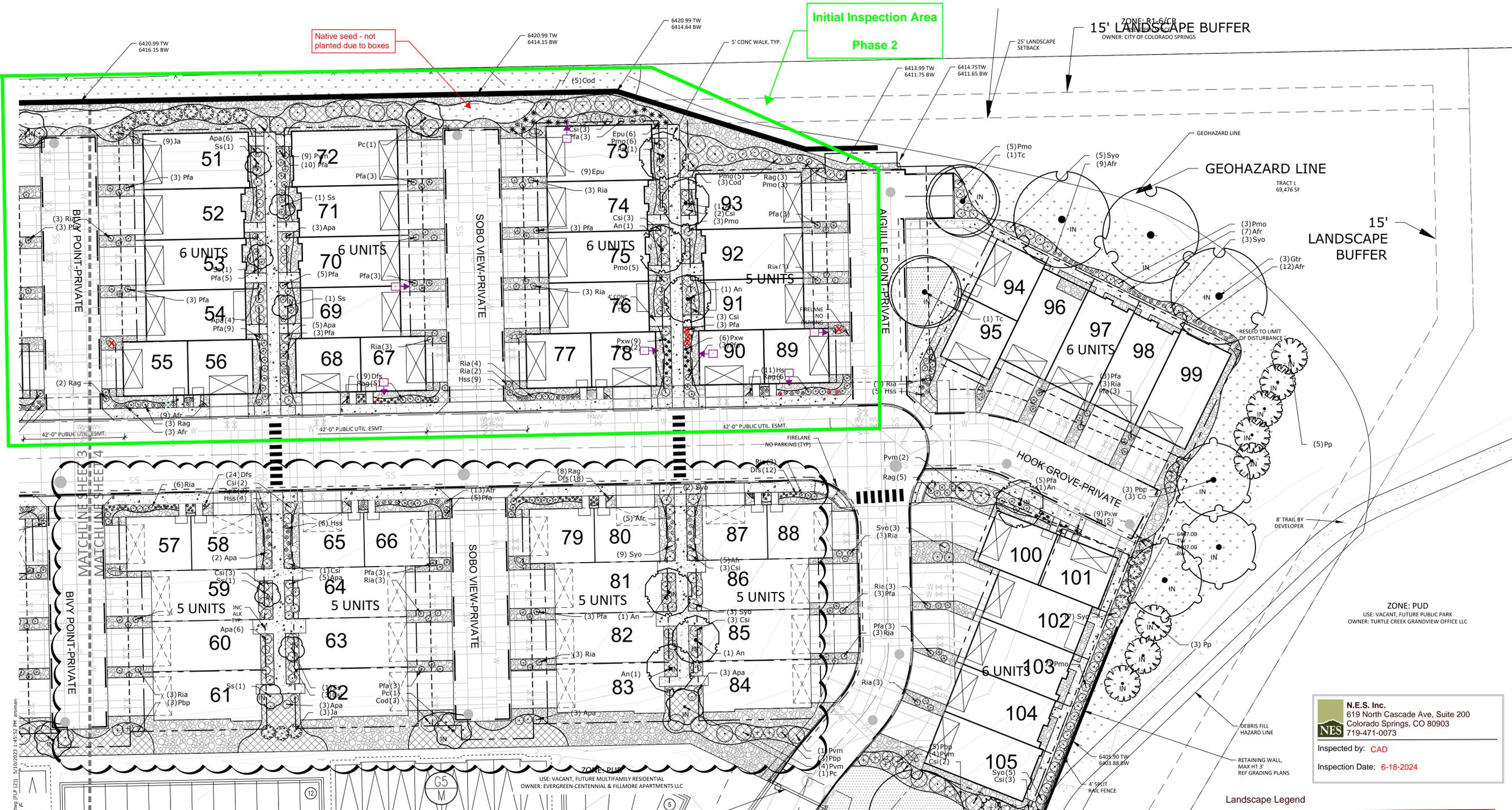
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#### ENTITLEMENT

DATE: BY: DESCRIPTION:

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8 OF 18  
PUDD-23-0022



Native seed - not planted due to boxes

Initial Inspection Area  
Phase 2

15' LANDSCAPE BUFFER  
OWNER: CITY OF COLORADO SPRINGS

15' LANDSCAPE BUFFER

GEOHAZARD LINE

#### CONCEPT PLANT SCHEDULE

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2-4" Speckled White River Rock
- SHRUB BED 21,905 sf  
3/4" Regal Rose Decorative Rock Mulch
- SOD 7,354 sf  
Kentucky Blue Grass Blend
- EL PASO COUNTY LOW GROW SEED MIX 15,344 sf  
El Paso County Seed Mix  
Sideoats Grama - 29%  
Buffalograss - 25%  
Blue Grama - 20%  
Western Wheatgrass - 20%  
Green Needlegrass - 20%  
Sand Dropseed - 1%  
Drilled at 21 PLS/Acre, Hydroseed on slopes 3:1 & Greater at 42 PLS/Acre

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## WARRANTY AGREEMENT

### (Phase 2 - Landscape Improvements)

This WARRANTY AGREEMENT (“**Agreement**”) is entered into to become effective as of July 19, 2024 (the “**Effective Date**”), by and between VISTAS AT WEST MESA METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and GRAYS DEVELOPMENT COMPANY, INC., a Colorado corporation (“**GDC**”). The District and GDC are sometimes collectively referred to herein as the “**Parties**” or individually as a “**Party**.”

### RECITALS

WHEREAS, the District and GDC entered into an Infrastructure Acquisition and Reimbursement Agreement dated March 11, 2021 (the “**Acquisition Agreement**”); and

WHEREAS, GDC has constructed certain public improvements described in **Exhibit A** (the “**District Improvements**”); and

WHEREAS, GDC and the District entered into that certain Bill of Sale, dated July \_\_\_, 2024, related to the District Improvements; and

WHEREAS, pursuant to the Acquisition Agreement, conditions precedent of the District’s acceptance of the District Improvements include (1) an assignment of any warranties or guaranties and (2) a Warranty Agreement in form and substance acceptable to the District; and

WHEREAS, the District and GDC desire to state their intentions with regards to the warranty for the District Improvements.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, GDC and the District hereby agree as follows:

### TERMS AND CONDITIONS

1. Warranty for District Improvements. GDC agrees to warrant and to make any repairs or changes required by the District to the District Improvements for a period of one year following the execution of this Agreement (the “**Warranty Period**”). GDC further warrants to the District that the District Improvements are of good quality and new unless otherwise required or permitted, and that the District Improvements conform to the District’s requirements. District Improvements not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The obligations under this Agreement shall automatically terminate for each of the Improvements upon the expiration of the Warranty Period.

2. Assignment of Warranties. To the extent that warranties, including warranties for materials, subcontractors and material suppliers, are still in effect at the time that the District accepts ownership of the District Improvements in accordance with the Acquisition Agreement, GDC agrees that such warranties, if assignable, will be assigned to the District. To the extent that

such outstanding warranties are not legally assignable, GDC hereby agrees to enforce such warranties on behalf of the District during the Warranty Period.

3. Indemnification. GDC hereby represents that no liens or claims have been filed against the Improvements and agrees to resolve any claims at its expense and to indemnify and hold harmless the District, its successors, and assigns, against all liabilities, losses and/or damages of any kind arising out of any liens, claims, demands, costs, judgments, and/or other expenses associated with any act or omission of GDC related to the Improvements; the foregoing specifically includes, without limitation, attorney's fees. Any and all damage or incidents must be reported to the District immediately after its occurrence.

4. Default. If either party to this Agreement fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, after giving ten (10) days written notice to the other party of the alleged default, and upon said party in default having failed to cure said breach within ten (10) days, the other party shall have the right to pursue any remedy available by law or in equity.

5. Assignment. This Agreement, inclusive of any of the rights, obligations, duties and/or authority hereunder, may not be assigned, in whole or in part, by the District or GDC without the prior, written consent of the other parties, which consent shall not be unreasonably withheld. Any assignment made in violation of this Section shall be immediately void and of no force or effect. Consent to one assignment shall not constitute consent to any subsequent assignment, nor shall it constitute a waiver of any right to consent to such subsequent assignment. For purposes of this Agreement, assignments shall include all delegations.

6. Amendment. This Agreement may only be modified, amended or changed, in whole or in part, by way of a written agreement, executed by both parties with the same formalities as this Agreement.

7. Choice of Law/Venue. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, forum non-conveniens or otherwise. At the District's request, GDC shall carry on its duties and obligations under this Agreement during any legal proceedings until and unless this Agreement is otherwise terminated. In the event that it becomes necessary for either party to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees.

8. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person

acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

9. Severability. If any covenant, term, condition or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition or provision shall not affect any other provision contained herein, the intention being that such provisions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

10. Counterpart Execution. This Agreement may be executed in counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

11. No Third-Party Beneficiaries. Nothing expressed or implied in this Agreement is intended confer upon, or give to, any third person or entity that is not a party hereto any right, remedy, or claim hereunder. All of the covenants, terms, conditions, and provisions of this Agreement exist for the sole and exclusive benefit of the District, and GDC.

12. Notices. Except as otherwise provided herein, all notices or payments given under this Agreement must be made in writing and shall be hand delivered, sent by Certified U.S. Mail with return receipt requested, sent via First Class U.S. Mail, or sent via facsimile to the following addresses:

The District:	Vistas at West Mesa Metropolitan District c/o White Bear Ankele Tanaka & Waldron 2154 E. Commons Avenue Suite 2000 Centennial, Colorado 80122 303.858.1800 (phone) <a href="mailto:growley@wbapc.com">growley@wbapc.com</a>
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GDC:	Grays Development Company, Inc. 555 DTC Parkway, Suite 330 Greenwood Village, CO 80111 Attention: Ryan Lantz (303) 501-0175 (phone) <a href="mailto:rlantz@lokalhomes.com">rlantz@lokalhomes.com</a>
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All notices or documents delivered or required to be delivered under the provisions of this Agreement shall be deemed received one (1) day after sent via email, hand delivery or facsimile, or three (3) days after deposit with the United States Postal Service. Either the District or GDC

may change the address to which future notices shall be sent by written notice, sent as described above.

13. Attorney Fees. In the event of any litigation involving the District or GDC concerning the subject matter of this Agreement, the prevailing party in such litigation shall receive from the losing party, in addition to the amount of any judgment or other award entered therein, all reasonable costs, expenses and attorney's fees incurred by said prevailing party during litigation.

14. Further Assurances. The District and GDC each covenant that they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and transfers as may reasonably be required for the performance of their respective obligations hereunder.

15. No Waiver. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein. No waiver of any default hereunder shall be deemed to constitute a waiver of any subsequent default hereunder.

*[Signature Pages Follow]*

Entered into and executed as of the date first written above.

GDC:

**GRAYS DEVELOPMENT COMPANY,  
INC.**, a Colorado corporation

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

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

*GDC Signature Page to Warranty Agreement*

DISTRICT:

**VISTAS AT WEST MESA METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado

---

Officer of the District

ATTEST:

---

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

---

General Counsel to the District

*District Signature Page to Warranty Agreement*

**EXHIBIT A to WARRANTY AGREEMENT**  
**(District Improvements – Phase 2 Landscape Improvements)**



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# VISTAS AT WEST MESA

PUD  
DEVELOPMENT PLAN  
MINOR AMENDMENT  
0 CENTENNIAL DRIVE

DATE: 5.16.22  
PROJECT MGR: C. LIEBER  
PREPARED BY: J. SHAGIN

## ENTITLEMENT

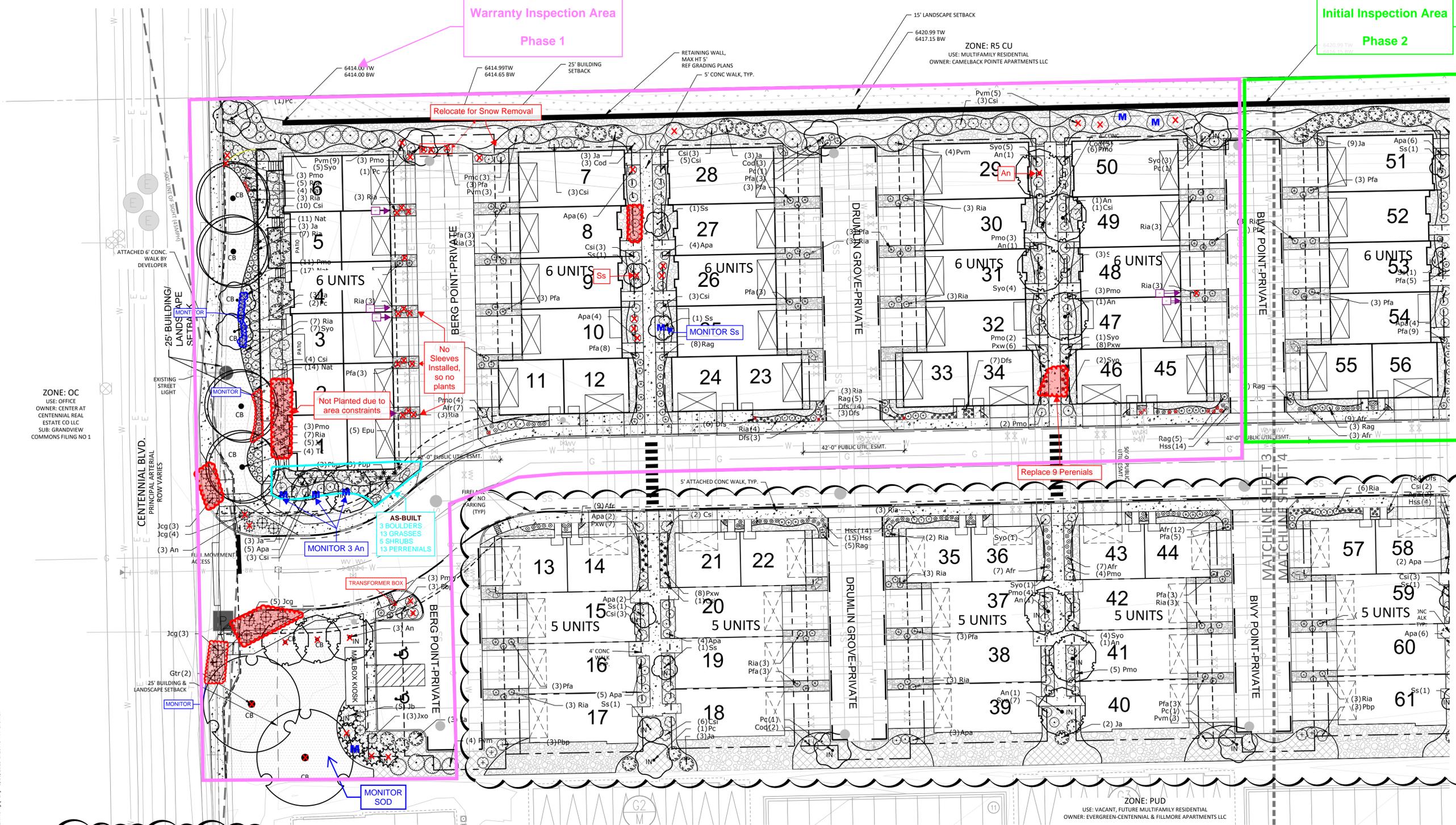
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## FINAL LANDSCAPE PLAN

7 OF 18

Initial Inspection Area  
Phase 2

Warranty Inspection Area  
Phase 1



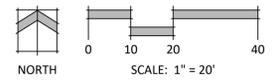
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SEE SHEET 5 OF 18 FOR PLANT SCHEDULE/LANDSCAPE NOTES

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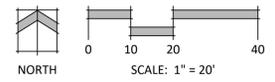
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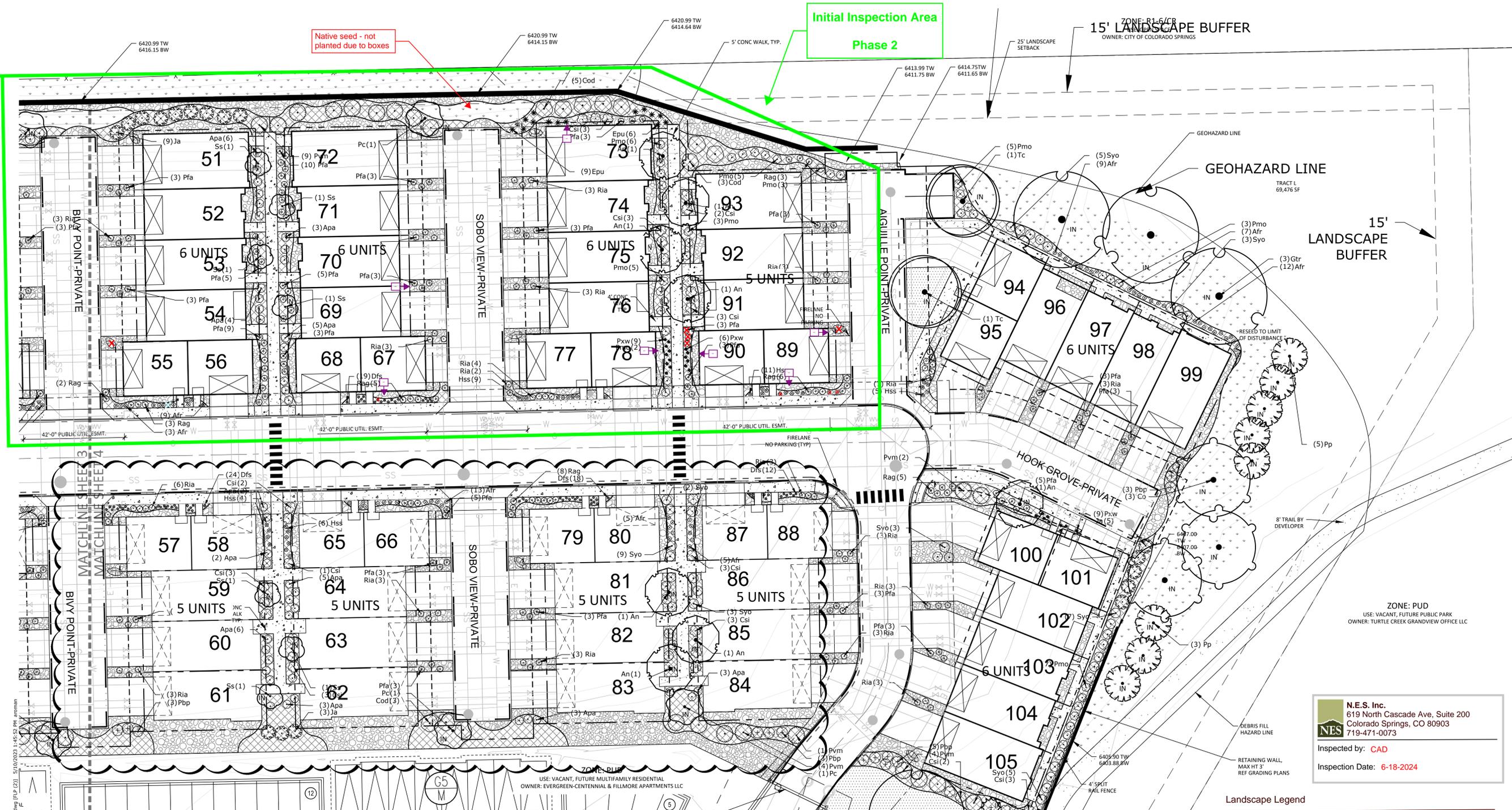
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#### FINAL LANDSCAPE PLAN

8 OF 18  
PUDD-23-0022



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OWNER: CITY OF COLORADO SPRINGS

15' LANDSCAPE BUFFER

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## HBS SOLID WASTE AND NON-REBATE RECYCLING SERVICES AGREEMENT

This Solid Waste and Non-Rebate Recycling Services Agreement (“**Agreement**”) dated as of **07/1/24** (“**Effective Date**”), is between HBSCO LLC, a Colorado limited liability company, d/b/a HBS Trash Services, located at 9250 E Costilla Ave, Greenwood Village CO (“**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 and Recycling 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 13 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 8/1/24 and will continue for **12 Months** (the “**Initial 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, unless Company was grossly negligent or reckless.

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: (a) if the remaining Term under this Agreement is three (3) or more months, Customer shall pay the average of its three (3) most recent monthly Charges multiplied by three (3); or (b) if the remaining Term under this Agreement is less than three (3) months, Customer shall pay the average of its three (3) most recent monthly Charges will be 3 months penalty 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 13, Customer in their best effort 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. Company cannot be held liable if landfill rejects load is contaminated by Customer best effort as company will attempt to recycle with its best effort also.

- c. Company. Company represents and warrants that the Services shall be performed in a professional and workmanlike manner.

9. **INSURANCE**. Company shall, in a manner satisfactory to Customer, maintain at its own expense until the termination of this Services, the following insurance:

(a) Worker's Compensation and Employer's Liability:

- (i) Meeting the Colorado statutory requirements.
- (ii) Coverage "B" Employer's Liability -Limit \$ 500,000.

(b) Comprehensive General Liability:

- (i) Comprehensive General Liability Form, including Premises Operations, Elevators and Escalators, Independent Associations, Products-Completed Operations, Broad Form Property Damage (including Completed Operations), and affording coverage for explosion, collapse and underground hazards (X, C and U hazards).
- (ii) Contractual Liability; Blanket basis insuring the liability assumed under this Addendum.
- (iii) Limits of Liability; Bodily Injury -\$2,000,000 each Occurrence, \$2,000,000 annual aggregate; Property Damage \$1,000,000 each Occurrence \$2,000,000 annual aggregate.

(c) Comprehensive Automobile Liability:

- (i) Comprehensive Automobile Liability Form, including all owned, non-owned and hired vehicles.
- (ii) Limits of Liability: Bodily Injury -\$500,000 each person; \$1,000,000 each occurrence aggregate; Property Damage -\$500,000 each occurrence aggregate.

Maintenance of the required insurance protection does not relieve the Company of responsibility for any losses not covered by the above required policies. Prior to commencing Services, Contractor shall furnish original certificates, together with copies of the policies, evidencing the existence of the required coverage. A copy of Company's existing Certificate of Insurance is attached hereto as **Exhibit B**.

10. **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 gross negligence, or reckless or willful misconduct of the Company or its employees, which occurs (a) during the collection or transportation of Customer's Waste Materials, (b) as a result of Company's breach of this Agreement, including, for the avoidance of doubt, Section 8 (Representation and Warranties); or (c) 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 through the HOA liability agreement, 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 reckless 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.

11. **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. The prevailing party in any litigation arising from this Agreement shall be entitled to its reasonable attorney fees and costs.

12. **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. This agreement cannot be assigned without customer prior written approval. (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.

13. **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 glass, 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 unwashed 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 HBS Trash Services**

By: \_\_\_\_\_  
Name: Michael Mink  
Title: Director of Marketing  
Date: \_\_\_\_\_

**Vistas at West Mesa Metro District (Representative)**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## Exhibit A

### Service Summary

#### Vistas at West Mesa Metro District

Greetings from HBS Trash Services,

HBS Trash Services is a locally owned and operated company here in Colorado. We currently operate out of four locations in Colorado Springs, Ellicott, Kiowa, and Denver. Today we serve over 75,000+ residential customers and operate approximately 148 waste collection vehicles in these areas. HBS Trash Services **uses automated trucks in our collection process**. *With the use of an automated truck for pickup, time spent on collection in your neighborhood will be greatly reduced while minimizing the physical labor on our employees. The automated trucks enable our drivers to get easier protection from traffic and minimizing injuries.* Carts will be left upright at the curb, please ensure your cart is placed curbside and free of any obstacles.

**Vistas at West Mesa Metro District currently has 36** with a buildout of \_\_\_\_\_ Single Family Homes Trash pickup day is weekly. Recycle pickup is EOW. An excel file with service addresses needs to be provided for routing and HBS will provide a welcome letter and Calendar for electronic distribution.

**Trash Weekly:** weekly in each home will be provided at no charge one 95-gallon cart.

**Recycle EOW:** eow in each home will be provided at no charge one 95-gallon cart with yellow lid.

**Standard waste and recycle services:** provided will be curbside pickup and curbside drop. We will allow up to 3 extra bags or bundles of yard waste measuring less than 4 feet outside the carts of waste only.

#### **Pricing:**

**Total Household Services for weekly trash service and EOW recycle is: \$18.91 per month for each house.**

**Cost for 1 additional trash cart can be utilized by a per month rental at \$5.00 per additional cart, this 2<sup>nd</sup> trash cart and would be paid by each individual homeowner contacting HBS Trash for set up and billing per-** Vistas at West Mesa Metro District

**\*\*Increase of \$0.91 per home\*\***

**Exhibit B**  
**Certificate of Insurance**

[SENDING SEPARATELY ]