

ANNUAL INFORMATION REPORT
for the year 2021
DENARGO MARKET METROPOLITAN DISTRICT NO. 1 (the “District”)

- (i) A copy of the 2022 Budget is attached hereto as **Exhibit A**.
- (ii) There were no new improvements constructed by the District in 2021.
- (iii) The audit for the year ended December 31, 2021 is attached hereto as **Exhibit B**.
- (iv) The total debt authorized is \$25,615,500. In 2010, the District issued a Subordinate Nonrevolving Line of Credit Note, Series 2010 in the amount of \$22,612,000, as reissued to Denargo Market Development, LLC on December 2015 and Amended and Restated on September 29, 2016 (“Reissued Denargo 1 Note”). All of the amounts outstanding under the Reissued Denargo 1 Note were paid with the proceeds from Denargo Market Metropolitan District No. 2’s (“District No. 2” and collectively with the District and Denargo Market Metropolitan District No. 3, the “Districts”) issuance of its Limited Tax (Convertible to Unlimited Tax) General Improvement Loan and Taxable Limited Tax (Convertible to Unlimited Tax) General Obligation Advancing Improvement Loan (collectively “District No. 2’s 2016 Loan”). Per the District’s Service Plan, the maximum amount of debt that the District can issue is \$22,612,500 without prior written approval from the City and County of Denver. No subsequent debt has been issued by the District.

(v) As of December 31, 2021, the names and terms of the members of the Board of Directors and Officers are as follows:

Laura H. Newman	President	May 2023
Donald D. Cabrera	Treasurer	May 2023
Jeffrey D. Jones	Asst. Secretary	May 2022
David H. Smith	Asst. Secretary	May 2022
Todd T. Wenskoski	Asst. Secretary	May 2022
Matt Cohrs	Secretary	N/A

- (vi) The District adopted Rules and Regulations in 2021. The Denargo Market Metropolitan District No. 1 Amended and Restated Rules and Regulations for Construction Activity are attached hereto as **Exhibit C**.
- (vii) During 2021 the District entered into the Denargo Market Development Agreement by and among the City and County of Denver, JV Denargo LLC and the District, recorded in the Real Property Records of the City and County of Denver on June 17, 2021 at Reception No. 2021116089.
- (viii) A summary of all contracts for services or construction entered into in 2021 are listed below:
 1. Proposal for Winter Watering with BrightView Landscape Services, Inc., dated January 11, 2021.

2. Service Agreement for Utility Locate Services with Diversified Underground, Inc, dated January 1, 2021.
3. Change Order No. 4 to Service Agreement for Site Inspection Services/Construction Oversight with Triunity Engineering and Management, Inc., dated October 7, 2020).
4. Proposal for Detention Pond Maintenance with Consolidated Divisions, Inc., d/b/a CDI Environmental Contractors, dated November 2, 2020.
5. Proposal for Breeze Path Erosion Repair with BrightView Landscape Services, Inc., dated February 26, 2021.
6. Proposal for New Paver Paths with BrightView Landscape Services, Inc., dated February 26, 2021.
7. Proposal for Paver Repair with BrightView Landscape Services, Inc., dated February 26, 2021.
8. Proposal for Future Dog Park Fence Area with BrightView Landscape Services, Inc., dated February 26, 2021.
9. Proposal for Tree Installation Area with BrightView Landscape Services, Inc., dated February 15, 2021.
10. Proposal for Extra Trash Day During Summer with BrightView Landscape Services, Inc., dated March 3, 2021.
11. Proposal for Asphalt Repair on Delgany Street with ABC Asphalt Inc., dated March 16, 2021
12. Proposal for Removal of Damaged Tree in Tree Well Along Delgany Street with Brightview, dated April 26, 2021.
13. Proposal for Replacing Two Missing Trees Along Delgany Street with BrightView Landscape Services, Inc., dated April 28, 2021.
14. Proposal for Removal of Umbrellas in the Park with BrightView Landscape Services, Inc., dated March 31, 2021.
15. Change Order No. 1 to Service Agreement for Snow Removal Services with BrightView Landscape Services, Inc., dated August 24, 2021.

16. Change Order No. 11 to Service Agreement for Landscape Services with BrightView Landscape Services, Inc., dated October 5, 2021.
 17. Service Agreement for Creation of a Dog Play Area with Crest Exteriors LLC, dated October 13, 2021.
 18. Engagement of Dazzio & Associates, P.C. to perform 2021 Audit.
 19. Master Service Agreement for Accounting Services by and between the District and CliftonLarsonAllen LLP and related Statement(s) of Work.
 20. Service Agreement for 2022 Detention Pond Maintenance with Consolidated Divisions Inc., dba CDI Environmental Contractor, dated August 9, 2021.
- (ix) There are no credit enhancements.
- (x) A copy of the Resolution Authorizing the Issuance of \$22,612,000 Subordinate Nonrevolving Line of Credit Note, Series 2010, as reissued to Denargo Market Development, LLC on December 22, 2015, and Amended and Restated on September 29, 2016, and a copy of the Amended and Restated Note, Series 2010, was attached to the 2016 Annual Report. All amounts due under this Note have been repaid.
- (xi) A copy of the Service Plan approved March 8, 2010 was attached to the 2010 Annual Report.
- (xii) The Management District's contact information is listed below:
- c/o Special District Management Services, Inc.
Attn: Ann Finn
141 Union Boulevard, Suite 150
Lakewood, Colorado 80228
Phone: (303) 987-0835
- (xiii) There are no changes in proposed development assumptions that will impact the financial projections at this time.

EXHIBIT A

DENARGO MARKET METROPOLITAN DISTRICT NO. 1

ANNUAL BUDGET

FOR THE YEAR ENDING DECEMBER 31, 2022

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
GENERAL FUND
2022 BUDGET
WITH 2020 ACTUAL AND 2021 ESTIMATED
For the Years Ended and Ending December 31,**

1/14/22

	ACTUAL 2020	ESTIMATED 2021	BUDGET 2022
BEGINNING FUND BALANCE	\$ 44,408	\$ 189,905	88,195
REVENUES			
Interest income	59	144	1,000
Other revenue	35	-	-
Permit fees	57,602	21,000	5,000
Transfer from District No. 2	288,785	282,303	328,738
Total revenues	346,481	303,447	334,738
Total funds available	390,889	493,352	422,933
EXPENDITURES			
General and administrative			
Accounting	31,252	33,000	35,000
Auditing	4,500	8,500	9,000
City of Denver Annual Fee	6,000	6,000	6,000
Directors' fees	2,500	2,500	2,500
District management	41,845	57,000	57,000
Dues and licenses	-	1,140	1,300
Election expense	2,257	-	2,300
Insurance and bonds	10,804	10,517	11,800
Legal services	17,995	32,000	35,000
Miscellaneous	2,059	2,200	2,500
Payroll taxes	298	200	200
Contingency	-	-	12,400
Operations and maintenance			
Detention pond cleanup	1,829	9,000	10,000
Landscape & irrigation repairs	40,064	66,000	35,000
Landscape & Options	-	51,800	55,000
Locates	1,401	2,300	3,500
Repairs and maintenance	1,029	49,000	25,000
Security	2,940	4,900	7,500
Site inspection	6,525	24,000	24,000
Site lighting	1,242	1,100	5,000
Snow removal	15,802	34,000	25,000
Street sweeping	-	-	1,000
Streets and sidewalk	-	-	27,000
Utilities	10,642	10,000	15,000
Total expenditures	200,984	405,157	408,000
Total expenditures and transfers out requiring appropriation	200,984	405,157	408,000
ENDING FUND BALANCE	\$ 189,905	\$ 88,195	\$ 14,933
EMERGENCY RESERVE	\$ 10,400	\$ 9,200	\$ 10,100
TOTAL RESERVE	\$ 10,400	\$ 9,200	\$ 10,100

No assurance provided. See summary of significant assumptions.

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
PROPERTY TAX SUMMARY INFORMATION
2022 BUDGET
WITH 2020 ACTUAL AND 2021 ESTIMATED
For the Years Ended and Ending December 31,**

1/14/22

	ACTUAL 2020	ESTIMATED 2021	BUDGET 2022
ASSESSED VALUATION			
Vacant land	\$ 30	\$ 30	\$ 30
Personal property	-	-	530
Certified Assessed Value	\$ 30	\$ 30	\$ 560
 MILL LEVY			
Total mill levy	0.000	0.000	0.000
 PROPERTY TAXES			
Budgeted property taxes	\$ -	\$ -	\$ -
 BUDGETED PROPERTY TAXES			
	\$ -	\$ -	\$ -

No assurance provided. See summary of significant assumptions.

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
2022 BUDGET
SUMMARY OF SIGNIFICANT ASSUMPTIONS**

Services Provided

The District, a quasi-municipal corporation, was formed in June 2010, and is governed pursuant to provisions of the Colorado Special District Act. The District's service area is located in Denver, Colorado.

The District was established to provide for acquisition, construction, and installation of water, sanitation, drainage, street improvements, parks and recreational facilities, television relay and translation, and mosquito control.

The District prepares its budget on the modified accrual basis of accounting in accordance with the requirements of Colorado Revised Statutes C.R.S. 29-1-105 using its best estimates as of the date of the budget hearing. These estimates are based on expected conditions and its expected course of actions. The assumptions disclosed herein are those that the District believes are significant to the budget. There will usually be differences between the budget and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material.

Revenues

Property Taxes

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

Interest Income

Interest earned on the District's available funds has been estimated based on historical information.

Developer Advance

The District is in the development stage. As such, the portion of the capital expenditures is expected to be funded by the Developer. Developer advances are recorded as revenue for budget purposes with an obligation for future repayment when the District is financially able to reimburse the Developer from bond proceeds and other legally available revenue.

Expenditures

Administrative and Operating Expenditures

Administrative and operating expenditures include the estimated services necessary to maintain the District's administrative viability such as legal, management, accounting, insurance, banking, and meeting expense.

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
2022 BUDGET
SUMMARY OF SIGNIFICANT ASSUMPTIONS**

Debt and Leases

The District doesn't have any debt or leases.

Reserve Fund

Emergency Reserve

The District has provided for an Emergency Reserve equal to at least 3% of fiscal year spending, as defined under the TABOR Amendment.

This information is an integral part of the accompanying budget.

EXHIBIT B

**DENARGO MARKET METROPOLITAN
DISTRICT NO. 1
City and County of Denver, Colorado**

FINANCIAL STATEMENTS

YEAR ENDED DECEMBER 31, 2021

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
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Dazzio & Associates, PC

Certified Public Accountants

INDEPENDENT AUDITOR'S REPORT

Board of Directors
Denargo Market Metropolitan District No. 1
City and County of Denver, Colorado

Report on the Audit of the Financial Statements

Opinions

We have audited the accompanying financial statements of the governmental activities and each major fund of the Denargo Market Metropolitan District No. 1 (the District), as of and for the year ended December 31, 2021, 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, 2021, and 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 our report. We are required to be independent of the District and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinions.

Responsibilities of Management for the Financial Statements

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

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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 generally accepted auditing standards 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 generally accepted auditing standards, 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.

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 who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. Our opinion on the basic financial statements is not affected by this missing information.

Daggio & Associates, P.C.

July 19, 2022

BASIC FINANCIAL STATEMENTS

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
STATEMENT OF NET POSITION
DECEMBER 31, 2021

	Governmental Activities
ASSETS	
Cash and Investments	\$ 170,851
Cash and Investments - Restricted	9,300
Due from District No. 2	1,021
Prepaid Insurance	900
Capital Assets, Net of Accumulated Depreciation	3,813,030
Total Assets	3,995,102
 LIABILITIES	
Accounts Payable	52,999
Payroll Taxes Payable	459
Total Liabilities	53,458
 NET POSITION	
Investment in Capital Assets	3,813,030
Restricted for:	
Emergency Reserves	9,300
Unrestricted	119,314
Total Net Position	\$ 3,941,644

See accompanying Notes to Basic Financial Statements.

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
STATEMENT OF ACTIVITIES
YEAR ENDED DECEMBER 31, 2021**

FUNCTIONS/PROGRAMS	Expenses	Program Revenues		Capital Grants and Contributions	Net Revenues (Expenses) and Change in Net Position
		Charges for Services	Operating Grants and Contributions	Governmental Activities	
Primary Government:					
Government Activities:					
General Government	\$ 486,935	\$ -	\$ 309,482	\$ -	\$ (177,453)
Total Governmental Activities	\$ 486,935	\$ -	\$ 309,482	\$ -	(177,453)
GENERAL REVENUES					
Interest Income					96
Total General Revenues					96
CHANGE IN NET POSITION					(177,357)
Net Position - Beginning of Year					4,119,001
NET POSITION - END OF YEAR					\$ 3,941,644

See accompanying Notes to Basic Financial Statements.

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
BALANCE SHEET –
GOVERNMENTAL FUNDS
DECEMBER 31, 2021**

	General
ASSETS	
Cash and Investments	\$ 170,851
Cash and Investments - Restricted	9,300
Due from District No. 2	1,021
Prepaid Insurance	900
Total Assets	\$ 182,072
LIABILITIES AND FUND BALANCES	
LIABILITIES	
Accounts Payable	\$ 52,999
Payroll Taxes Payable	459
Total Liabilities	53,458
FUND BALANCES	
Nonspendable for:	
Prepaid Expenses	900
Restricted for:	
Emergency Reserves	9,300
Assigned to:	
Subsequent Year's Expenditures	73,262
Unassigned	45,152
Total Fund Balances	128,614
Amounts reported for 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 fund financial statements.	3,813,030
Net Position of Governmental Activities	\$ 3,941,644

See accompanying Notes to Basic Financial Statements.

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES –
GOVERNMENTAL FUNDS
YEAR ENDED DECEMBER 31, 2021**

	<u>Total Governmental Funds</u>
REVENUES	
Interest Income	\$ 96
Permit Fees	26,387
Transfer from District No. 2	283,095
Total Revenues	<u>309,578</u>
EXPENDITURES	
Current:	
Accounting	32,095
Auditing	8,500
City of Denver Annual Fee	6,000
Detention Pond Cleanup	9,000
Director's Fees	2,700
District Management	52,544
Dues and Licenses	1,140
Insurance and Bonds	10,517
Landscape and Irrigation Repairs	44,237
Landscape and Options	40,030
Legal Services	30,753
Locates	3,516
Miscellaneous	2,315
Payroll Taxes	237
Repairs and Maintenance	27,704
Security	3,965
Site Lighting	1,678
Site Inspection	48,062
Snow Removal	22,135
Streets and Sidewalk	15,334
Utilities	8,407
Total Expenditures	<u>370,869</u>
NET CHANGE IN FUND BALANCES	(61,291)
Fund Balances - Beginning of Year	<u>189,905</u>
FUND BALANCES - END OF YEAR	<u><u>\$ 128,614</u></u>

See accompanying Notes to Basic Financial Statements.

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
RECONCILIATION OF THE STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES
IN FUND BALANCES OF THE GOVERNMENTAL FUNDS TO THE STATEMENT OF ACTIVITIES
YEAR ENDED DECEMBER 31, 2021**

Net Change in Fund Balances - Governmental Funds \$ (61,291)

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/amortization expense the allocation of the cost of any depreciable asset over the estimated useful life of the asset. Therefore, this is the amount of capital outlay, net of depreciation/amortization, in the current period.

Capital Outlay	55,693
Depreciation Expense	<u>(171,759)</u>

Changes in Net Position of Governmental Activities \$ (177,357)

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
GENERAL FUND
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCE –
BUDGET AND ACTUAL
YEAR ENDED DECEMBER 31, 2021**

	Original and Final Budget	Actual Amounts	Variance with Final Budget Positive (Negative)
REVENUES			
Interest Income	\$ 2,000	\$ 96	\$ (1,904)
Permit Fees	-	26,387	26,387
Transfer from District No. 2	281,900	283,095	1,195
Total Revenues	<u>283,900</u>	<u>309,578</u>	<u>25,678</u>
EXPENDITURES			
Current:			
Accounting	24,500	32,095	(7,595)
Auditing	4,500	8,500	(4,000)
City of Denver Annual Fee	6,000	6,000	-
Contingency	54,623	-	54,623
Detention Pond Cleanup	10,000	9,000	1,000
Director's Fees	1,000	2,700	(1,700)
District Management	45,000	52,544	(7,544)
Dues and Licenses	-	1,140	(1,140)
Insurance and Bonds	11,800	10,517	1,283
Landscape and Irrigation Repairs	35,000	44,237	(9,237)
Landscape and Options	95,725	40,030	55,695
Legal Services	30,000	30,753	(753)
Locates	3,500	3,516	(16)
Miscellaneous	2,500	2,315	185
Payroll Taxes	77	237	(160)
Repairs and Maintenance	25,000	27,704	(2,704)
Security	7,500	3,965	3,535
Site Lighting	5,000	1,678	3,322
Site Inspection	24,000	48,062	(24,062)
Snow Removal	25,000	22,135	2,865
Street Sweeping	1,000	-	1,000
Streets and Sidewalk	27,000	15,334	11,666
Utilities	15,000	8,407	6,593
Total Expenditures	<u>453,725</u>	<u>370,869</u>	<u>82,856</u>
NET CHANGES IN FUND BALANCES	(169,825)	(61,291)	108,534
Fund Balance - Beginning of Year	<u>197,976</u>	<u>189,905</u>	<u>(8,071)</u>
FUND BALANCE - END OF YEAR	<u>\$ 28,151</u>	<u>\$ 128,614</u>	<u>\$ 100,463</u>

See accompanying Notes to Basic Financial Statements.

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 1 DEFINITION OF REPORTING ENTITY

Organization

Denargo Market Metropolitan District No. 1 (the District, District No. 1, or Management District), a quasi-municipal corporation and political subdivision of the state of Colorado was organized by recorded order and decree of the District Court for the City and County of Denver (the City) on June 30, 2010, and is governed pursuant to provisions of the Colorado Special District Act (Title 32, Article 1, Colorado Revised Statutes). The District operates under a Service Plan approved by the City on March 8, 2010. The District's service boundaries are located entirely within the City. The District is one of three related districts: Denargo Market Metropolitan Districts Nos. 1, 2, and 3 (the Districts). As of December 31, 2021, the Districts have the same membership of their respective Boards of Directors. Pursuant to the Service Plan, Districts Nos. 2 and 3 are referred to as the Financing Districts or Taxing Districts and District No. 1 is the Management District.

The District, in its capacity as the Management District, is responsible for managing, implementing, and coordinating the financing, acquisition, construction, completion, operation and maintenance of all public infrastructure and services within and without the project known as Denargo Market. The Financing Districts provide the funding for the improvements and the tax base needed to support ongoing operations of the Districts.

The Taxing Districts are responsible for supporting the Management District in managing, implementing and coordinating the financing, acquisition, construction, completion, and maintenance of the Improvements (as defined in the Service Plan), some of which may ultimately be transferred to the City or other governmental entity, and the provision of related services within and without the boundaries of the Districts and the Service Area (as defined in the Service Plan).

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

The District follows the 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, a potential for the organization to provide specific financial benefits or burdens, and fiscal dependency.

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

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization (Continued)

The more significant accounting policies of the District are described as follows:

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. The effect of 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 sum of assets and deferred outflows and the sum of liabilities and deferred inflows 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: 1) charges to customers or applicants who purchase, use, or directly benefit from goods, services, or privileges provided by a given function or segment, and 2) grants and contributions that are restricted to meeting the operational or capital requirements of a particular function or segment. Taxes and other items not properly included among program revenues are reported instead as general revenues.

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

Measurement Focus, Basis of Accounting and Financial Statement Presentation

The government-wide financial statements are reported using the economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recorded when a liability is incurred, regardless of the timing of 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 as soon as they are both measurable and available. Revenues are considered to be available when they are collectible within the current period or soon enough thereafter to pay liabilities of the current period. For this purpose, the government 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 and intergovernmental revenues. 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.

The District reports the following major governmental fund:

The General Fund is the District's primary operating fund. It accounts for all financial resources of the general government, except those required to be accounted for in another fund.

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Budgets

In accordance with the State Budget Law, the District's Board of Directors holds public hearings in the fall each year to approve the budget and appropriate the funds for the ensuing year. The appropriation is at the total fund expenditures 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.

Pooled Cash and Investments

The District follows the practice of pooling cash and investments of all funds to maximize investment earnings. Except when required by trust or other agreements, all 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 equity balance in the total cash.

Capital Assets

Capital assets, which include property and equipment, are reported by the District. Capital assets are defined by the District as assets with an initial, individual cost of more than \$5,000. Such assets are recorded at historical cost or estimated historical cost if purchased or constructed. Donated capital assets are recorded at acquisition value at the date of donation.

Capital assets which are anticipated to be conveyed to other governmental entities are recorded as construction in progress and are not included in the calculation of net investment in capital assets.

The costs of normal maintenance and repairs that do not add to the value of the asset or materially extend the life of the asset are not capitalized. Improvements are capitalized and depreciated over the remaining useful lives of the related fixed assets, as applicable.

Depreciation expense has been computed using the straight-line method over the following estimated economic useful lives:

Streets	30 Years
Sidewalks	30 Years
Street Lights	30 Years
Parks	30 Years

Equity

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.

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (CONTINUED)

Equity (Continued)

Fund Balance

Fund balance for governmental funds should be 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: nonspendable, restricted, committed, assigned, and unassigned. 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:

Nonspendable Fund Balance – The portion of fund balance that cannot be spent because it is either not in spendable form (such as prepaid amounts or inventory) or legally or contractually required to be maintained intact.

Restricted Fund Balance – 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.

Committed Fund Balance – 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.

Assigned Fund Balance – 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.

Unassigned Fund Balance – The residual portion of fund balance that does not meet any of the criteria described above.

If more than one classification of fund balance is available for use when an expenditure is incurred, it is the District's practice to use the most restrictive classification first.

NOTE 3 CASH AND INVESTMENTS

Cash and investments as of December 31, 2021, are classified in the accompanying financial statements as follows:

Cash and Investments	\$ 170,851
Cash and Investments - Restricted	9,300
Total Cash and Investments	<u>\$ 180,151</u>

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 3 CASH AND INVESTMENTS (CONTINUED)

Cash and investments as of December 31, 2021, consist of the following:

Cash and Investments	\$ 170,851
Cash and Investments - Restricted	<u>9,300</u>
Total Cash and Investments	<u><u>\$ 180,151</u></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. 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 at least 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.

At December 31, 2021, the District had a bank balance of \$36,685 and a carrying balance of \$36,223.

Investments

The District has adopted an investment policy by which it follows state statutes regarding investments.

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

Colorado revised statutes limit investment maturities to five years or less unless 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 United States, certain U.S. government agency securities and securities of the World Bank
- . General obligation and revenue bonds of U.S. local government entities
- . Certain certificates of participation
- . Certain securities lending agreements
- . Bankers' acceptances of certain banks
- . Commercial paper

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 3 CASH AND INVESTMENTS (CONTINUED)

Investments (Continued)

- . Written repurchase agreements and certain reverse repurchase agreements collateralized by certain authorized securities
- . Certain money market funds
- . Guaranteed investment contracts
- * Local government investment pools

As of December 31, 2021, the District had the following investments:

<u>Investment</u>	<u>Maturity</u>	<u>Amount</u>
Colorado Local Government Liquid Asset Trust (COLOTRUST)	Weighted-Average Under 60 Days	<u>\$ 143,928</u>

COLOTRUST

The District invested in the Colorado Local Government Liquid Asset Trust (COLOTRUST) (the Trust), an investment vehicle established for local government entities in Colorado to pool surplus funds. The State Securities Commissioner administers and enforces all State statutes governing the Trust. The Trust currently offers three portfolios – COLOTRUST PRIME, COLOTRUST PLUS+, and COLOTRUST EDGE.

COLOTRUST PRIME and COLOTRUST PLUS+, which operate similarly to a money market fund and each share is equal in value to \$1.00, offer daily liquidity. Both portfolios may invest in U.S. Treasury securities and repurchase agreements collateralized by U.S. Treasury securities. COLOTRUST PLUS+ may also invest in certain obligations of U.S. government agencies, highest rated commercial paper and any security allowed under CRS 24-75-601.

COLOTRUST EDGE, a variable Net Asset Value (NAV) Local Government Investing Pool, offers weekly liquidity and is managed to approximate a \$10.00 transactional share price. COLOTRUST EDGE may invest in securities authorized by CRS 24-75-601, including U.S. Treasury securities, repurchase agreements collateralized by U.S. Treasury securities, certain obligations of U.S. government agencies, highest rated commercial paper, and any security allowed under CRS 24-75-601.

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. COLOTRUST is rated AAAM by Standard & Poor’s. COLOTRUST records its investments at fair value and the District records its investment in COLOTRUST at net asset value as determined by fair value. There are no unfunded commitments, the redemption frequency is daily, and there is no redemption notice period.

The District holds all its investments in the COLOTRUST PLUS+ portfolio.

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 4 CAPITAL ASSETS

An Analysis of the changes in capital assets for the year ended December 31, 2021, follows:

	Balance - December 31, 2020	Increases	Decreases	Balance - December 31, 2021
Capital Assets, Being Depreciated				
Streets	\$ 2,542,371	-	-	\$ 2,542,371
Parks	2,582,542	55,693	-	2,638,235
Total Capital Assets, Being Depreciated	5,124,913	55,693	-	5,180,606
Less: Accumulated Depreciation For:				
Streets	(593,222)	(84,746)	-	(677,968)
Parks	(602,595)	(87,013)	-	(689,608)
Total Accumulated Depreciation	(1,195,817)	(171,759)	-	(1,367,576)
Total Capital Assets, Being Depreciated, Net	3,929,096	(116,066)	-	3,813,030
Capital Assets, Net	<u>\$ 3,929,096</u>	<u>\$ (116,066)</u>	<u>\$ -</u>	<u>\$ 3,813,030</u>

Depreciation expense was charged for functions/programs of the District as follows:

Governmental Activities	<u><u>\$ 116,066</u></u>
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DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 5 AUTHORIZED DEBT

On May 4, 2010, a majority of the qualified electors of the District authorized the issuance of indebtedness in an amount not to exceed \$256,155,000 at an interest rate not to exceed 18% per annum. On May 6, 2014, a majority of the qualified electors of the District authorized the issuance of indebtedness in an amount not to exceed \$307,386,000 at an interest rate not to exceed 18% per annum. At December 31, 2021, the District had authorized but unissued indebtedness in the following amounts allocated for the following purposes:

	Amount Authorized on May 4, 2010	Amount Authorized on May 6, 2014	Series 2010 Subordinate Note	Authorized But Unissued
Streets	\$ 25,615,500	\$ 25,615,500	\$ -	\$ 51,231,000
Parks and Recreation	25,615,500	25,615,500	-	51,231,000
Water	25,615,500	25,615,500	-	51,231,000
Sanitation	25,615,500	25,615,500	-	51,231,000
Transportation	25,615,500	25,615,500	-	51,231,000
Mosquito Control	25,615,500	25,615,500	-	51,231,000
Traffic and Safety Controls	25,615,500	25,615,500	-	51,231,000
Operations and Maintenance	25,615,500	25,615,500	-	51,231,000
Refundings	25,615,500	25,615,500	-	51,231,000
Intergovernmental Agreements	25,615,500	25,615,500	-	51,231,000
Television Relay and Translation	-	25,615,500	-	25,615,500
Security Services and Improvements	-	25,615,500	-	25,615,500
Debt Issuances	-	-	(7,191,918)	(7,191,918)
Total	<u>\$ 256,155,000</u>	<u>\$ 307,386,000</u>	<u>\$ (7,191,918)</u>	<u>\$ 556,349,082</u>

Pursuant to the Service Plan, the District is permitted to issue bonded indebtedness of up to \$22,612,500; provided however, that the total debt authorization of \$22,612,500 may increase by an additional \$3,000,000 with the prior written approval of the Manager of Finance of the City and County of Denver.

In the future, the District may issue a portion or all of the remaining authorized but unissued general obligation debt for purposes of providing public improvements to support development as it occurs within the District's service area.

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021**

NOTE 6 DISTRICT AGREEMENTS

Memorandum of Understanding

A Memorandum of Understanding was entered into on October 29, 2010, and amended on August 22, 2016, by and among the District, District No. 2 and District No. 3 (MOU). The MOU acknowledges that District No. 1 shall provide for the financing, construction, design, operation and maintenance of the Improvements, as well as the overall administration of the Districts and further acknowledges that the District has the authority to enter into agreement(s) and other obligations with the developer of the Property to provide for the financing of such services. The First Amendment to MOU acknowledges District No. 2 will issue debt to repay the Developer Note (which has since been paid off) and District No. 2 and District No. 3 (at such time as it has real property within its boundaries) will impose an operation mill levy to fund the Districts' services provided by the District. The First Amendment to MOU acknowledges that the Districts will enter into an IGA detailing such services ("District IGA").

The First Amendment to MOU also provides that the District IGA shall provide for District No. 2 and District No. 3 to remit revenues to the District for all costs incurred by the District pursuant to the First Amendment to MOU based on an allocable basis to be set forth in the District IGA. The District IGA also provides for the District and District No. 3 to reimburse District No. 2 for any debt issued by District No. 2 for public improvements based in allocable basis to be set forth in the District IGA.

During the year ending December 31, 2021, District No. 2 transferred a total of \$283,095 representing property and specific ownership taxes collected by District No. 2.

NOTE 7 NET POSITION

The District has a net position consisting of two components – investment in capital assets, restricted and unrestricted.

Investment in capital assets consists of capital assets, net of accumulated depreciation and reduced by the outstanding balances of bonds, mortgages, notes, or other borrowings that are attributable to the acquisition, construction, or improvement of those assets, if any. As of December 31, 2021, the District had investment in capital assets calculated as follows:

	Governmental Activities
Investment in Capital Assets	
Capital Assets, Net	\$ 3,813,030
Investment in Capital Assets	\$ 3,813,030

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 7 NET POSITION (CONTINUED)

Restricted net position includes assets that are restricted for use either externally imposed by creditors, grantors, contributors, or laws and regulation of other governments or imposed by law through constitutional provisions or enabling legislation. The District had restricted net position as of December 31, 2021 as follows:

Restricted Net Position:	
Emergency Reserves	\$ 9,300
Total Restricted Net Position	<u>\$ 9,300</u>

NOTE 8 RELATED PARTY

Some members of the Board of Directors of the District may be or have been employees, consultants, owners of, or otherwise associated with the current developer of the property located within the Districts, JV Denargo LLC (Current Developer), and may have conflicts of interest in dealing with the District. Additionally, one of the directors is employed by the City and as such, may have conflicts of interest in dealing with the District. Specific details of transactions with the Current Developer regarding advances and debt are described elsewhere in these footnotes.

NOTE 9 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 natural disasters.

The District is a member of the Colorado Special Districts Property and Liability Pool (the 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 general and automobile liability, public officials, auto physical damage and worker's compensation coverage. In the event aggregate 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.

DENARGO MARKET METROPOLITAN DISTRICT NO. 1
NOTES TO BASIC FINANCIAL STATEMENTS
DECEMBER 31, 2021

NOTE 10 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.

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

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

On May 4, 2010, the voters approved the District to increase property taxes \$3,000,000 annually for the purpose of paying the District's operations and maintenance expenses and \$6,000,000 (up to 10 mills) for paying the costs associated with regional improvements as required by the City, without regard to any spending, revenue raising or other limitation contained within Article X, Section 20 of the Colorado Constitution or any other property tax limitation or law.

Additionally, the voters authorized the District to collect, retain and spend all revenues received by the District during 2011 and all subsequent years as voter-approved revenue changes without regard to any spending, revenue raising or other limitation.

On May 6, 2014, the voters approved the District to increase property taxes \$3,000,000 annually for the purpose of paying the District's operations and maintenance expenses up and \$6,000,000 (up to 10 mills) for paying the costs associated with regional improvements as required by the City, without regard to any spending, revenue raising or other limitation contained within Article X, Section 20 of the Colorado Constitution or any other property tax limitation or law.

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

EXHIBIT C

**DENARGO MARKET METROPOLITAN DISTRICT NO. 1
AMENDED AND RESTATED RULES AND REGULATIONS
FOR CONSTRUCTION ACTIVITY**

ARTICLE 1. GENERAL

1.1 Applicability and Purpose. These Rules and Regulations for Construction Activity shall apply to any construction activity that impacts any District Property and are enacted to provide funds necessary for the costs of administration, management, restoration or reconstruction of District Property impacted or damaged by construction activity, to reduce the damage to District Property, and to protect the integrity of the District's road and irrigation systems, landscaping and other public facilities. To achieve this purpose, it is necessary to establish permit procedures and to fix and collect fees and charges.

1.2 Definitions. Unless the context indicates otherwise, the meaning of the terms used in these Rules and Regulations shall be as follows:

- (a) City means the City and County of Denver, Colorado.
- (b) Construction Activity Permit means permit issued by the District authorizing a Contractor to undertake construction work that will impact District Property as more fully described in Sections 2.1 and 2.5.
- (c) Contractor means a contractor that is properly licensed and bonded for the proposed work as detailed in Chapter 49, Article XVII, of the City's Revised Municipal Code.
- (d) Construction Parking Plan means the Permittee's plan for parking of construction vehicles and contractor and employee vehicles during the term of the Permitted Project, which shall provide for primarily off-street parking thereof.
- (e) Damage Deposit means a deposit, or letter of credit or other security in lieu thereof reasonably acceptable to the District, made at the time of issuance of a Construction Activity Permit in the amount of hundred percent (100%) of the total estimated replacement cost of all District Property impacted by the Permitted Project as more fully described in Section 2.6.
- (f) District means Denargo Market Metropolitan District No. 1.
- (g) District Property means any real or personal property within the District's service area that is owned, operated, and/or maintained by the District, including, but not limited to, roadways, signage, lighting, sidewalks, landscaping, irrigation systems, or any portion thereof, as generally depicted on Exhibit A attached hereto and incorporated herein by this reference, as may be amended.
- (h) Parking Rules and Regulations means the District's Parking Rules and Regulations, as may be amended from time to time, governing use of the District's roadways including parking restrictions.

(i) Permit Fee means a fee charged by the District to issue a Construction Activity Permit, as more fully described in Section 2.5.

(j) Permitted Project means a construction project for which a valid Construction Activity Permit has been issued by the District.

(k) Permittee means the property owner to whom a Construction Activity Permit is issued.

1.3 Use of District Property.

(a) Except as otherwise authorized in these Rules and Regulations, no Permittee shall construct or place any structure, building or fencing, whether temporary or permanent, or plant or locate any trees, on any part of the District Property without having first obtained the prior written consent of the District, which consent shall not be unreasonably withheld or delayed if the proposed improvements will not materially interfere with the District Property. Any structure, building or fencing, whether temporary or permanent, or any trees situated on District Property without such prior written consent may be removed by the District without liability for damages arising therefrom. Except as authorized herein, no Permittee shall take any action or locate any improvements or landscaping features which would materially impair the functions of the District Property.

(b) Upon completion of any activities subject to a Construction Activity Permit which disturb District Property, the Permittee shall promptly, but in no event later than thirty (30) days (or such longer period as may be approved by the District in its discretion), restore or commence restoration (and diligently prosecute to completion) of the District Property at its sole cost and expense, to the condition it was in immediately prior to such disturbance, except as otherwise provided herein or as necessarily modified to accommodate any approved facilities or improvements associated with the Permitted Project.

(c) Except in the event of emergency, the Permittee shall provide written notice to the District at least seventy-two (72) hours prior to the full or partial closure of any District Property, including, but not limited to, streets and sidewalks, which notice shall specify the scope and duration of the anticipated closure as well as traffic control and safety measures during the closure.

ARTICLE 2. CONSTRUCTION ACTIVITY PERMIT

2.1 Application for Permit. Any Contractor or property owner intending to design, plan, construct, reconstruct, or remodel any improvements that will impact any portion of the District Property shall file a written application for a Construction Activity Permit with the District prior to commencing any construction. The application shall include the following:

(a) A general description of the work proposed to be done, together with its location, and any plans and specifications for the proposed work, including an anticipated schedule for completion of construction;

- (b) List of required permits and licenses required by all governmental entities with jurisdiction over the work constituting the Permitted Project;
- (c) Evidence of the Contractor's license and bonding as required by the City;
- (d) Description of insurance to be maintained through the duration of the Permitted Project complying with the minimum City standards for the type of work undertaken as part of the Permitted Project;
- (e) Description of any anticipated encumbrances on the District Property during the construction of the Permitted Project;
- (f) Description of the Construction Parking Plan, including the estimated number of construction vehicles and contractor and employee vehicles anticipated to be accessing the construction area;
- (g) Contact information for the Permittee and Contractor; and
- (h) A statement of the estimated costs of the horizontal site work that will be subject to the Damage Deposit, which costs shall be borne by the Permittee.

2.2 Construction Standards. Except as otherwise specified herein, all work on District Property, including, but not limited to, replacement of or repairs to existing facilities such as sidewalks, driveways, and curb and gutter as well as excavation work shall be conducted in accordance with the applicable provisions of the Charter of the City, City ordinances, rules and regulations of the City, and rules and regulations of the District in effect at the time of construction as well as any state and federal laws. The District acknowledged that the District-owned and maintained roadways described on Exhibit A have not been constructed in accordance with all City ordinances and rules and regulations and as a result have not been dedicated to the City. Notwithstanding any provisions of subsections 2.5(j) and (k) herein to the contrary, to the extent a Construction Activity Permit requires repairs to a District-owned roadway, such roadway shall be reconstructed or repaired to the standards specified in the original plans and specifications prepared by J3 Engineering, a copy of which plans and specifications shall be made available upon request to the District Manager.

2.3 Site Inspection. Prior to commencement of construction activity requiring a Construction Activity Permit, and as a condition of receipt of a Construction Activity Permit, the District shall schedule a site inspection with the Contractor to establish baseline conditions for the Permitted Project, review the Construction Parking Plan, and discuss any terms for mitigation of any impact to District Property.

2.4 Construction Parking Plan. In acknowledgment of the limited parking available on the District's roadways, which parking is inadequate for residents, property owners and visitors within the District and is regulated by the Parking Rules and Regulations, and in the interest of minimizing damage to District Property, a Construction Parking Plan describing the Permittee's overall construction parking plan and identifying off-street construction parking shall be required as a condition of each Construction Activity Permit.

2.5 Construction Activity Permit. Upon receipt of the application described in Section 2.1, the District Manager shall have thirty (30) days to review the application and approve the issuance of a Construction Activity Permit, which issuance shall be made subject to the following conditions:

- (a) Payment of a non-refundable Permit Fee in the amount of \$10,000.00 to cover the District's administrative and inspection costs for the Permitted Project;
- (b) Payment to the District of any fee identified in the most current City and County of Denver Department of Public Works "Fee Schedules" for equivalent work;
- (c) Delivery of the Damage Deposit, as more fully described below in Section 2.6;
- (d) That all costs incident to the work shall be borne solely by the Permittee;
- (e) That the work shall be done only by a Contractor appropriately licensed to perform that particular type of work;
- (f) That the Permittee, in performance of the work, observe and comply with the provisions of the Charter of the City, City ordinances, and rules and regulations of the City and the District in effect at the time of construction and any state and federal laws which, in any manner, limit, control or apply thereto, and that all permits and licenses required in the prosecution of the work will be obtained and paid for by the Permittee;
- (g) That the Permittee obtain and comply with all permits or licenses required by all jurisdictional entities to undertake and complete the Permitted Project;
- (h) That the Permittee and its agents, employees and consultants observe and comply with the Construction Parking Plan;
- (i) That the Construction Activity Permit shall be effective for thirty (30) days after issuance or other time period specified in the Construction Activity Permit. If work has not begun within such specified time, a new Construction Activity Permit must be secured;
- (j) Any other site-specific terms and conditions deemed to be necessary by the District, in its reasonable discretion, following review of the plans and specifications and the site inspection;
- (k) That in the event a Permittee intends to cut and/or excavate any portion of a District-owned roadway, and except as specified in Section 2.2 herein, the Permittee shall also be subject to the then-current City Rules and Regulations Governing Street Cuts and Roadway Excavation Specifications, which are incorporated herein by reference and attached hereto as Exhibit B, and as more fully set forth in Chapter 49, Article VIII, of the City's Revised Municipal Code, as it may be amended (the "City Rules and Regulations Governing Street Cuts and Roadway Excavation"); and

(1) That in the event a Permittee intends to construct any curbs, gutters, sidewalks, detached sidewalks, driveways, or pave any portion of a District-owned roadway, and except as specified in Section 2.2. herein, the Permittee shall also be subject to the then-current City Rules and Regulations for the Construction of Curbs, Gutters, Sidewalks, Driveways, Street Paving, and Other Public Right-of-Way Improvements, which are incorporated herein by reference and attached hereto as Exhibit C, and as more fully set forth in Chapter 49, Article VI, of the City's Revised Municipal Code, as it may be amended (the "City Rules and Regulations for the Construction of Curbs, Gutters, Sidewalks, Driveways, Street Paving, and Other Public Right-of-Way Improvements," and together with the City Rules and Regulations Governing Street Cuts and Roadway Excavation, the "City Rules and Regulations").

2.6 Damage Deposit. In addition to the Permit Fee, a refundable Damage Deposit (or a letter of credit or other security in lieu thereof reasonably acceptable to the District) in the amount of hundred percent (100%) of the total estimated replacement cost of all District Property impacted by the Permitted Project shall be due at the time of issuance of a Construction Activity Permit. Upon completion of the Permitted Project, an authorized representative of the District shall inspect any areas of District Property that may have been affected by the Permitted Project. If no damage to District Property is found, then the District will either return the full amount of the Damage Deposit to the Permittee or release the letter of credit or other security delivered in lieu thereof. If there has been damage to District Property, then the District shall provide written notice to Permittee of such damage. Permittee shall promptly, but in no event later than thirty (30) days (or such longer period as may be approved the District in its discretion), repair or commence repair (and diligently prosecute to completion) of any damage to District Property identified by the District. In the event Permittee fails to repair damage to District Property in such timeframe, the District may use the Damage Deposit (or draw upon the letter of credit or other security delivered in lieu thereof) to pay for any repairs needed and shall return any funds remaining once the repairs have been completed to the Permittee. The Permittee shall be liable to the District for any repair costs that exceed the amount of the Damage Deposit (or the letter of credit or other security delivered in lieu thereof).

2.7 Right of Inspection. The District shall have a right to inspect at all times any construction activity that impacts District Property to ensure that no District Property has been damaged or is likely to be damaged by the Permitted Project. Authorized representatives of the District shall be allowed reasonable access at all reasonable hours to any construction site to ensure compliance with these Rules and Regulations. All such access shall be at the sole risk of the District, and the District's authorized representative shall be required to follow all on-site safety policies and procedures of the Permittee and its contractors. If the District determines that the work is not being performed in accordance with these Rules and Regulations, the District shall have the right to order the work to cease until there is satisfactory evidence that the work conforms to these Rules and Regulations.

2.8 Site Maintenance. The Permittee shall remove all rubbish and debris promptly as the work progresses, leaving the site and adjoining property in neat condition. Rubbish and debris will not be permitted to be piled in or on District Property.

2.9 Mechanic's and Materialmen's Liens. As a condition of Construction Activity Permit issuance, the Permittee shall covenant and agree not to suffer or permit any lien of

mechanics or materialmen or others to be placed against the District Property with respect to work or services claimed to have been performed for, or materials claimed to have been furnished to the Permittee. If any lien arises because of the Permittee's construction, repair, restoration or maintenance work associated with the Permitted Project, the Permittee shall immediately take all steps to remove the lien, including, if necessary, the immediate posting of appropriate collateral or bond to remove the lien.

2.10 Warranty. The Permittee shall guarantee any work located on District Property, or which the District will have any obligation to maintain, for a period of three (3) years after completion against defective workmanship and materials and shall keep the same in good order and repair. The determination of the necessity during such guarantee period for the Permittee to repair or replace any portion of the work that impacts District Property thereof shall rest entirely with the District, whose decision upon the matter shall be final and obligatory upon the Permittee.

2.11 Violations.

(a) Generally. If, upon inspection, the District determines that a violation of these Rules and Regulations (a "Violation") has occurred, the District shall give the Permittee written notice of the Violation (the "Notice of Violation"), including a specific description of the Violation and require the Permittee to take such action as necessary to remedy the Violation within a time period that shall not exceed ten (10) business days unless an alternate time period is specified in writing by the District. In the event the Permittee fails to take action to remedy the Violation within the time period specified, the District may pursue any one or more of the following remedies without further notice to Permittee: (a) levy fines, as described herein, upon the Permittee for each Violation or the continuance of a single Violation; (b) cause the Violation to be cured and charge the cost thereof to the Permittee; (c) revoke the Permittee's Construction Activity Permit and withhold additional Construction Activity Permits until assurance is received that the Construction Activity Permit terms and conditions will be complied with and that non-compliant work will be replaced satisfactorily; and (d) file a perpetual lien on the Permittee's property, which lien may be foreclosed in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens.

(b) Fines. Following issuance of the Notice of Violation and failure by the Permittee to remedy the violation as provided in subsection (a) above, the District may also impose the following fines for each violation or the continuance of a single Violation:

- (i) First Notice of Violation = \$100
- (ii) Second Notice of Violation = \$250
- (iii) Third Notice of Violation = \$500
- (iv) Continuing Violation = Cost to Correct the Violation. The cost for the District to remedy the violation will be billed to the Permittee.

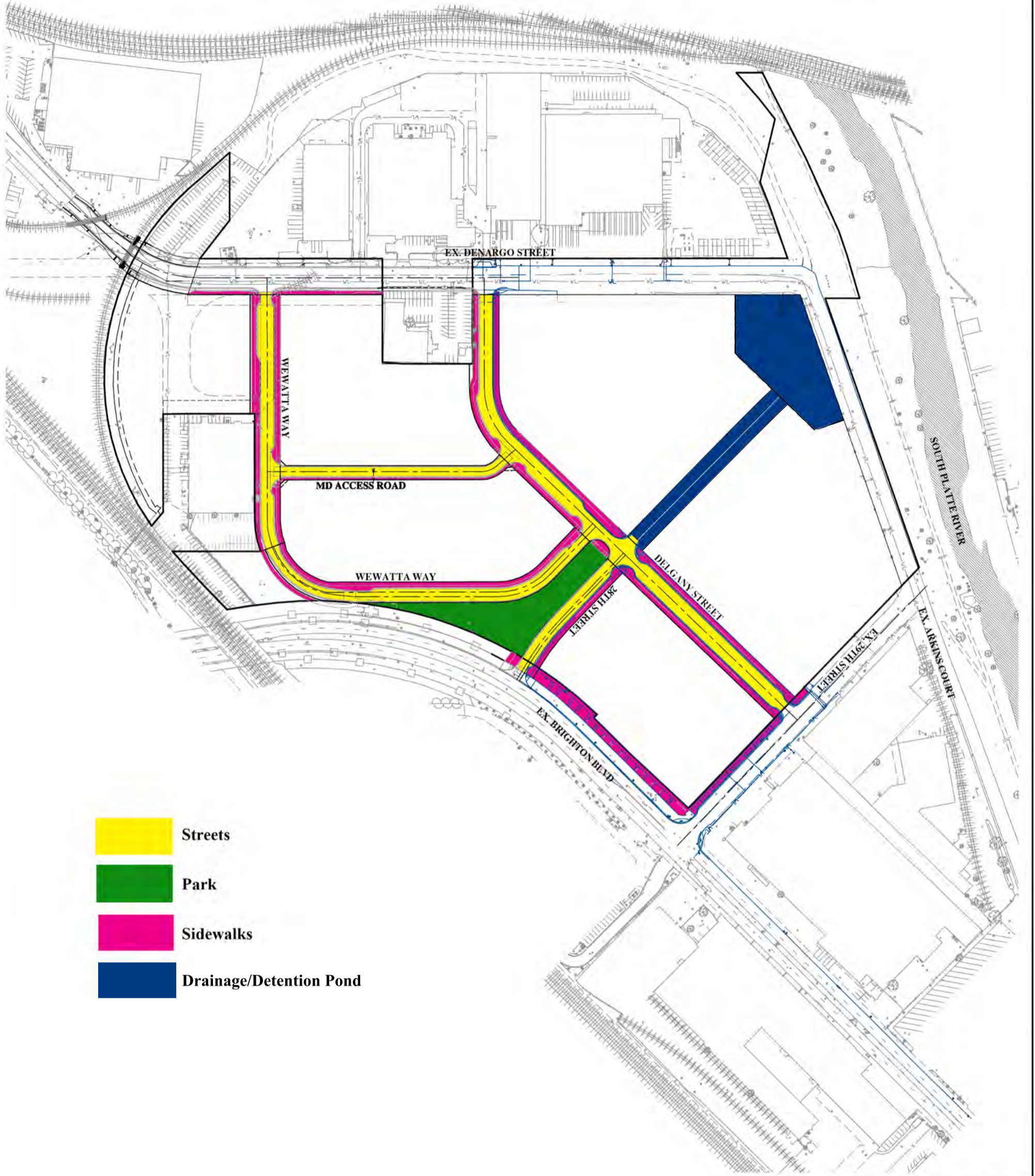
ARTICLE 3. ADDITIONAL PROVISIONS

3.1 Questions Regarding Rules and Regulations. Any questions as to the applicability of the City Rules and Regulations shall be directed to the District in writing for interpretation. The District shall review and respond promptly to any questions submitted by the Permittee.

3.2 Conflicts. In the event of any conflict between these Rules and Regulations and the City Rules and Regulations, the more specific regulations shall control.

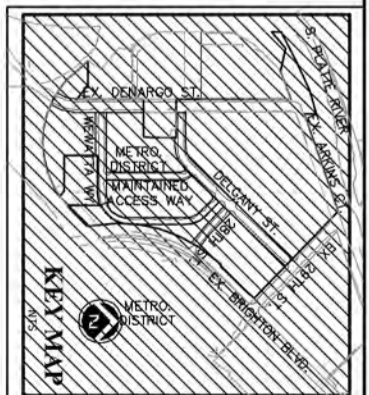
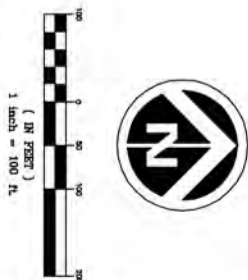
EXHIBIT A

ATTACHMENT A



- Streets
- Park
- Sidewalks
- Drainage/Detention Pond

To request marking of underground facilities
811
Know what's below.
Call before you dig.
 Call 811 or visit call811.com
 for more information.
 It is the contractor's responsibility to contact
 UNCC a minimum of 2 days prior to the start
 of construction operations. Inc claims no
 responsibility for the underground facilities
 depicted in this plan set.



Project Number:
07200101
 Designed By:
BEC
 Checked By:
JAM
 Sheet Number:



No.	Date	Description

Denargo Market
 Metropolitan District
 141 Union Blvd.
 Suite 150
 Lakewood, CO 80228
 Tel: (303) 987-0835
 FAX: (303) 987-2032

**DENARGO MARKET METROPOLITAN
 DISTRICT NO. 1**
 OVRRA I ROAD MAP

**ENGINEERING
 CONSULTANTS**
 Contact: Jason A. Monforton, PE
 3151 S. Vaughn Way, Suite 680 - Aurora, CO 80014-3517
 (303) 368-5601 - FAX: (303) 368-5602
 Email: jmonforton@j3Engineering.net

EXHIBIT B

ARTICLE VIII. - STREET CUTS

Footnotes:

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Editor's note— Ord. No. 492-91, § 1, adopted July 1, 1991, amended this article in its entirety, in effect repealing former art. VIII, relative to excavations, divs. 1—3, §§ 49-191—49-198, 49-206—49-211, and 49-221—49-223, and enacting new provisions in lieu thereof as art. VIII, §§ 49-191—49-208. Formerly, such sections derived from §§ 333.1—333.9 and 333.11—333.13 of the city's 1950 Code.

Cross reference— Excavations generally, Ch. 19; duties of police department concerning excavation in streets, § 42-23.

Sec. 49-191. - Purpose.

This article is enacted to provide funds necessary for the costs of administration, management, operation and maintenance, planning and engineering, construction, reconstruction of street cuts, and to protect the integrity of the road system. To achieve this purpose, it is necessary to establish permit procedures and to fix and collect fees and charges.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-192. - Definitions.

As used in this article and the rules and regulations of the manager of transportation and infrastructure, the following words shall have the meanings given to them in this section except where the context clearly indicates and requires a different meaning. The words "shall" and "must" are to be construed as mandatory and not directory.

- (a) *Manager* shall mean the manager of transportation and infrastructure or his or her designee.
- (b) *Entire expense* shall mean the total cost of replacing the paving or surfacing material, and the base or subbase, including the long-term costs of repair directly caused by the street cut. This total cost includes the loss of the surface life of the pavement on a long-term basis.
- (c) *Street cut* shall mean a cut made in the ground or pavement of any city street, alley or other right-of-way, including excavation, backfill and paving.
- (d) *Licensed contractor* shall mean:
 - (1) Any general contractor who is licensed as detailed in sections 49-596 and 49-598 by excise and license under the authority of the manager to do work in and on the street right-of-way; or
 - (2) Any sewer contractor who is licensed as detailed in section 49-616 and 49-618 by excise and license under the authority of the manager to do work in and on the street right-of-way; or
 - (3) Any paving contractor who is licensed as detailed in sections 49-626 and 49-628 by excise and license under the authority of the manager to do work in and on the street right-of-way.
- (e) *Code* shall mean any part of the Denver Revised Municipal Code (specifically article VIII of chapter 49) dealing with street cuts.
- (f) *Franchisee* shall mean a public utility exercising rights granted by franchise from the city to use and occupy streets, alleys, viaducts, bridges, roads, lanes, public ways, and other public places for the

construction, maintenance and operation of its facilities.

- (g) *Radium street* shall mean any street which is included in Operable Unit VII, Denver Radium Streets, of the Denver Radium Superfund Site, and designated by the United States Environmental Protection Agency in the Record of Decision, dated March 24, 1986, and Explanation of Significant Differences, dated October 9, 1992, or other streets, alleys and public rights-of-way designated by the manager based on United States Environmental Protection Agency studies.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 549-96, § 2, 7-1-96; Ord. No. 39-20, § 107, 2-3-20)

Sec. 49-193. - Permit required.

- (a) It shall be unlawful for any person, firm or corporation, including the city, to disturb the ground or pavement in any public right-of-way including any streets or alleys within the city without first obtaining a written permit therefor from the manager.
- (b) The applicant for a permit, other than the city and franchisee, shall be licensed under this article to perform street cuts. All applicants, before the issuance of the permit, shall submit the following to the manager:
- (1) An application for a street cut permit on forms furnished by the city;
 - (2) Evidence that the applicant is not delinquent in payments due the city on prior work;
 - (3) Evidence of all permits or licenses required to do the proposed work, if licenses or permits are required under the laws of the state or ordinances of the city;
 - (4) A satisfactory plan of work showing protection of the subject property and adjacent properties when a transportation and infrastructure safety representative determines such protection is necessary;
 - (5) A plan for the protection of shade and ornamental trees and the restoration of turf when the city forester determines that damage may occur to such trees or turf;
 - (6) Evidence that all orders issued by the department to correct deficiencies under previous permits issued under this article have been satisfied;
 - (7) Payment of a permit fee under section 49-197;
 - (8) A health and safety plan designed to assure protection of workers and the public, if a street cut is to be performed in a radium street.
- (c) The permit shall specify the period of time when the work shall be performed, and if the work is not completed within the period specified a new permit shall be obtained.
- (d) No permit issued under the provisions hereof shall be for more than one (1) excavation project.
- (e) Emergencies. Excavations may be started by a person authorized to perform street cuts prior to issuance of a permit when necessary for preservation of life or property, provided that the person, firm or corporation making such excavation shall apply to the manager for a permit on the first working day after such excavation is commenced. Even in emergency situations, notice shall be given immediately to the street closure section and the street maintenance section of the department of transportation and infrastructure.
- (f) A street cut permit shall not be required for sidewalk, driveway, curb cuts, curb and gutter, curb ramps or cross-pan construction. All other applicable permits shall be required.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 549-96, § 3, 7-1-96; Ord. No. 39-20, § 108, 2-3-20)

Sec. 49-194. - Exhibition.

Street cut permits issued under this article shall be available at the work site for inspection while the work is in progress.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-195. - Warranting street cuts.

- (a) As a condition for the issuance of the permit, the permittee shall warrant against any defects due to faulty materials or workmanship and that there will be no subsidence of the excavation for three (3) years following the final inspection and acceptance by the manager. If subsidence occurs within three (3) years, the manager shall notify the permittee and repairs and repaving shall be commenced within fourteen (14) days unless the area of the subsidence is a hazard to the health, safety or welfare of the public in which case the manager shall order the permittee to immediately repair the subsidence. In the event that the permittee fails or refuses to make repairs as ordered, the manager shall cause the repairs to be made, and all costs, including administrative costs, shall be paid by the permittee within ten (10) days of the billing of costs. In addition to costs, interest in the same amount as for delinquent ad valorem taxes shall be collected. Any person failing to pay the costs billed under this section shall be barred from performing any work in the public right-of-way until all costs, including interest, are paid.
- (b) For the purpose of this article, date of completion is the date upon which permanent pavement resurfacing is finished and accepted by the manager.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 505-00, § 1, 6-26-00)

Sec. 49-196. - Records.

The manager shall keep a record of all applications made for street cut permits and of the permits so issued.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-197. - Permit fee.

- (a) An administrative and inspection fee, as defined in the manager's rules and regulations, shall be payable for any street cut permit anywhere within the city right-of-way. Such fee shall be based on the administrative costs of permitting, inspecting and regulating the permit system.
- (b) The administrative fee for excavation or improvement permits shall be doubled if work is commenced prior to obtaining a permit. Paying double fees does not waive other penalties. This subsection shall not apply to emergency excavations as defined in section 49-193(e).
- (c) An additional administrative fee for excavation and improvement permits in a radium street shall be assessed by the manager based on the city's costs associated with the regulation, oversight, management and disposal of radium contaminated material; provided, however, that this additional fee shall not be assessed for radium street cuts that disturb less than two hundred (200) cubic feet of radium

contaminated material or in cases in which the person performing the street cut lawfully disposes of all radium contaminated material disturbed at a properly sited and lawfully permitted radioactive waste disposal facility located outside a major metropolitan area.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 549-96, § 4, 7-1-96)

Sec. 49-198. - Paved streets and alleys.

- (a) If the city has agreed to permanently resurface a street cut as detailed in section 49-198(c), no permit to make a street cut in any paved or hard topped street or alley shall be issued unless the applicant shall have first deposited with the manager a sum of money to be fixed by the manager, sufficient to cover the entire expense of replacing the paving or surface material.
- (b) If the amount deposited is insufficient, the excavator shall pay to the manager the deficiency within ten (10) days after notice.
- (c) Placement of temporary pavement by the permittee, using material approved by the city engineer, is required immediately after completion of backfilling. Permanent resurfacing shall be completed within fourteen (14) working days after completion of backfilling of each city block. Failure to complete resurfacing in a timely manner shall be a violation of this provision, and the city may correct all deficiencies at the permittee's expense.
- (d) If it is necessary for the city to correct the deficiencies, the manager shall send the permittee an itemized statement of all charges for labor and materials furnished by the street maintenance division. Charges shall first be taken from the permittee's deposit. Any amount due over and above the deposit shall be paid in full within thirty (30) days of the date of such statement. Interest on past due amounts shall be collected in an amount equal to that charged for delinquent ad valorem taxes. The permittee shall also be prohibited from performing work in any city right-of-way until the costs including interest are paid.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-199. - Excavator's license.

It shall be unlawful for any person other than the city or a franchisee to engage in the business of performing excavations on public property without first having obtained an excavation license from the director of excise and licenses.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-200. - Requirements for obtaining an excavation license and suspension or revocation of license.

- (a) In addition to the requirements of chapter 32 of the Denver Revised Municipal Code, applicants for excavation licenses shall meet one (1) or more of the following additional requirements:
 - (1) Provide proof of being a licensed contractor;
 - (2) Provide proof of being a registered engineer; or
 - (3) Provide proof, as outlined in the manager's rules and regulations, to the manager of the competence of the applicant to conduct excavation work in the public right-of-way.

- (b) The applicant for a license, except an applicant with a paving contractor license under division 5 of article XV chapter 49, shall furnish a bond by some reliable surety company approved by the manager in the sum of five thousand dollars (\$5,000.00), which bond shall be conditioned on compliance with all requirements, specifications and instructions of the manager and all of the requirements of the Code and ordinances of the city pertaining to street cuts, including the payment of all fees, penalties or cost of repairs.
- (c) The applicant for a license shall provide a certificate of insurance naming the city as an additional insured affording the following coverage:

General Liability

Coverage	Minimum limits of liability
Commercial General Liability (coverage at least as broad as that provided by ISO form CG0001 1/96 or equivalent)	Each Occurrence: \$1,000,000
	General aggregate limit: \$2,000,000
	Products-completed operations aggregate limit: \$2,000,000
	Personal and advertising injury: \$1,000,000
	Fire damage (any one fire): \$50,000

This insurance shall include coverage for collapse and underground (CU) hazard, explosions (X) coverage, and contractual liability.

Automobile Liability

Coverage	Minimum limits of liability
Business automobile liability (coverage at least as broad as ISO form CA 0001 12/93)	Combined single limit: \$1,000,000

This insurance shall include coverage for owned, nonowned and hired vehicles. The manager may accept satisfactory evidence of self-insurance in lieu of the above coverage. The above-referenced certificate shall show the insurance will not be canceled without thirty (30) days written notice to the manager.

- (d) Suspension or revocation of license. The manager may suspend or revoke a license when the licensee commits one (1) or more of the following acts or omissions:
- (1) Fails to comply with the responsibilities as outlined in the *Roadway Excavation Specifications* and/or the provisions as outlined in article VIII, chapter 49 of the Denver Revised Municipal Code.
 - (2) Conspires with any person to permit a license to be used by another person.
 - (3) Willfully violates or disregards any of the provisions of the Code.
 - (4) Creates, as a result of work performed, an unsafe condition.
 - (5) Fails to obey orders in a timely fashion.
 - (6) Fails to obey a stop work order.
- (e) Procedure for revocation or suspension of license. When any of the acts or omissions outlined in

subsection (d) above are committed by a license holder, and the manager deems that the license shall be suspended or revoked, the action shall be as follows:

- (1) The department shall notify the licensee in writing by certified mail or personal service at least seven (7) days prior to suspension or revocation.
 - (2) Upon receipt of the notice, the licensee may request a hearing to show cause why the license should not be suspended or revoked. This request shall be in writing to the department within thirty (30) days after the notice is mailed.
 - (3) If a hearing is requested by the licensee, the manager shall set a time, date and place, and so notify the licensee. Suspension or revocation of the license shall be stayed until after the hearing.
 - (4) When a hearing is conducted, the licensee, the department and other interested parties may attend. Upon completion of the hearing, the manager shall take all evidence available as a result of the department's investigation and all evidence presented at the hearing under advisement, and shall notify the licensee in writing of the findings and decision, including length of suspension or revocation if any, by certified mail or personal service.
- (f) Emergency suspension. If the manager finds that cause exists for emergency suspension or revocation of a license, he may enter an order for the immediate suspension of the license, pending further investigation. The licensee may, upon notice of the suspension, request an immediate hearing before the manager. The suspension or revocation is not stayed while the hearing is pending.
- (g) Time of suspension or revocation. Time of suspension may be up to one (1) year. Time of revocation may be from one (1) year to five (5) years.
- (h) Delegation of authority. The manager may appoint a qualified member of the department to sit in his stead as hearing officer to conduct the hearing. Final decision shall be rendered by the manager.
- (i) Appeal rights. Any person who disputes a license suspension or revocation, suspension or revocation of a street cut permit, or any other actions of the city pursuant to this article, may appeal the decision as outlined in section 56-106 of the Denver Revised Municipal Code. The appeal shall stay all orders pending the decision on the appeal, unless an emergency suspension as outlined in section 49-200(f). The permittee shall be responsible for all costs of corrections as required as a result of the appeal.
- (j) Appeal. An appeal of a decision rendered under section 56-106 of the Revised Municipal Code shall be in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 505-00, § 2, 6-26-00)

Sec. 49-201. - Fees.

For application and license fees for contractors' licenses, refer to section 32-73.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-202. - Excavation and backfill of street cuts.

- (a) All street cuts performed in city rights-of-way shall be done in conformity with the rules and regulations of the manager which shall provide for the proper care and protection of the streets, alleys, sidewalks

and other public places of the city and persons and property either on the public right-of-way or adjacent thereto.

- (b) Excavations and backfills shall be made in accordance with the plans and specifications furnished by the applicant which:
 - (1) Are prepared in accordance with accepted engineering standards;
 - (2) Are adapted to the particular conditions of travel, load requirements, terrain, subsoil, moisture, etc., where the excavation backfill is to be performed; and
 - (3) Are approved by the manager.
- (c) Where a permit has been issued, or where an excavation has been done under subsection 49-193(e), the excavator shall notify the manager of the time and date of the backfilling of the excavations will commence. In the event the manager determines that the permittee is not using acceptable backfill materials or acceptable backfilling procedures, he/she may order the suspension of all work at the site. The manager may require the permittee to furnish a soil test by a recognized soil testing laboratory or registered professional engineer specializing in soil mechanics in order to determine whether the backfill for the excavation was adequately compacted. All expense of such tests shall be borne by the permittee, and surface repair shall not commence until the manager is satisfied that the backfill has been restored to a density condition meeting the requirements of the rules and regulations adopted by the manager.
- (d) The permittee shall repair any damage caused by the work performed under this article including, but not limited to, reestablishing any grass or sprinkler system damaged as a result of work performed by the permittee in accordance with specifications adopted by the manager. Where existing topsoil is deemed of insufficient quality, the manager may require the top six (6) inches be replaced with new topsoil.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-203. - Traffic safety.

- (a) It shall be unlawful, for purposes of making a street cut, to stop up or obstruct more than one (1) block and one (1) intersection at the same time on any street, or to keep the same blocked up for more than two (2) days after the repaving is finished without the permission of the manager and the issuance of a street occupancy permit as required in section 54-652.
- (b) It shall be unlawful for any person to dig or cause to be dug any hole, drain, ditch or any other excavation in any street, alley, sidewalk or other public place in the city without providing sufficient lights during the nighttime. To prevent persons, animals and vehicles from sustaining injury or damage, such lights shall be placed with a suitable barricade or temporary fence around the hole, drain, ditch or other excavation.
- (c) During the daytime, the barricade shall be maintained, but warning lights are not required.
- (d) Every street cut shall further be protected at all times by traffic safety devices as prescribed by the *Uniform Manual of Traffic Control Devices* in order to minimize the disruption of the flow of traffic in the vicinity of the excavation.
- (e) It shall be unlawful to damage, displace, remove or interfere with any barricade, warning light or any other traffic safety device which is lawfully placed around or about any street, alley, sidewalk or other excavation or construction work in the city.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-204. - Obstruction of construction operations.

It shall be unlawful to hinder or obstruct any paving operations or excavations conducted in conformance with the provisions of this article.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-205. - Disclaimer.

The granting of a permit or the monitoring of operations conducted under any permit shall not make the manager responsible for construction means, methods, techniques, sequences, procedures or permittee's failure to perform the work in accordance with the standards and specifications set forth in the *Uniform Manual of Traffic Control Devices*, nor shall any approval granted by any city official make any such official responsible for any personal injury or property damage occurring as a result of the permittee's operation.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-206. - Liability for damages.

Any person who shall undertake work pursuant to a permit issued under provisions of this article, or work under contracts with the city, shall be answerable for any damage occasioned to persons, animals or property by reason of carelessness or negligence connected with such work, and shall be subject to civil penalties as set forth in sections 56-106 and 56-107 and indemnity; and shall defend the city from all claims arising from work performed on the public right-of-way under this article.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-207. - Moratorium.

- (a) No street cuts shall be allowed in any public street or alley for a period of three (3) years from the completion of street resurfacing and/or reconstruction without written approval from the manager. Written approvals will be issued only after submittal and approval of a plan outlining the course of remediation. Street cuts required due to emergency situations shall require submittal of a plan within forty-eight (48) hours from the time of the cut for the approval of the manager, outlining the course of remediation. Remediation will consist of a curb to curb profile and overlay, a centerline to curb profile and overlay or a lane line to curb profile and overlay whichever is necessary in order not to decrease the life expectancy of the street surface.
- (b) Street cuts performed during the months of December, January and February shall be limited in quantity and extent. Due to problems associated with permanent patching during adverse winter conditions, street cuts shall be performed only under conditions which will provide adequate time for permanent patching to be completed using material approved by the city engineer. The manager shall be notified in advance of all work occurring during these winter months.

(Ord. No. 492-91, § 1, 7-1-91; Ord. No. 505-00, § 3, 6-26-00)

Sec. 49-208. - Information on pipes and other structures.

It shall be the duty of every person to furnish on request to the manager information regarding the horizontal location in any street, alley, sidewalk or other public place of the city of any pipe or other structure installed, maintained or utilized by such person.

(Ord. No. 492-91, § 1, 7-1-91)

Sec. 49-209—49-245. - Reserved.

EXHIBIT C

ARTICLE VI. - SIDEWALKS, CURBS, GUTTERS AND DRIVEWAYS

DIVISION 1. - GENERALLY

Secs. 49-101—49-110. - Reserved.

DIVISION 2. - CONSTRUCTION, RECONSTRUCTION AND REPAIR

Footnotes:

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Charter reference— *Local public improvements, § A2.4 et seq.*

Sec. 49-111. - Permit for sidewalk, driveway or curb cut construction.

- (a) No person shall construct, reconstruct or repair sidewalks, driveways, curbs, gutters or curb cuts on the public right-of-way without first obtaining a permit to do so from the manager of transportation and infrastructure.
- (b) The fee for a permit under this section shall be set by the manager of transportation and infrastructure, which fee schedule shall be posted for public inspection in the office of the city engineer.
- (c) Where sidewalk, driveway or curb cut are constructed or reconstructed simultaneously, only one (1) permit and fee shall be required.
- (d) The permit shall specify the work to be done, and any violation of the terms of such permit shall render the same null and void.

(Code 1950, §§ 320.1, 320.3, 321.1; Ord. No. 39-20, § 88, 2-3-20)

Sec. 49-112. - Construction materials.

All sidewalks constructed on the public right-of-way in the city shall be constructed of the size, in the location and according to the specifications as contained in the rules and regulations pertaining to sidewalk construction as promulgated by the manager of transportation and infrastructure under authority of this section.

(Code 1950, § 320.2; Ord. No. 39-20, § 89, 2-3-20)

Sec. 49-113. - Location.

All sidewalks hereafter constructed or reconstructed shall be located to conform with the rules and regulations promulgated by the manager of transportation and infrastructure under the authority of this division and of the Charter.

(Code 1950, § 320.5; Ord. No. 39-20, § 90, 2-3-20)

Sec. 49-114. - Extension beyond prescribed limits or conversion to private use of sidewalks.

- (a) On all streets where courts or open spaces are permitted for the planting of trees or grass plots, the same shall be kept level and to grade and free of any obstruction, fence, railing, bench, hedge or bush, unless objects are used to define tree planting spaces, water quality or green infrastructure facilities, bike rack areas, or other acceptable amenities to ensure safe use of the public right-of-way.
- (b) When trees are located within a concrete sidewalk area, all planting spaces shall be designed in a manner as deemed necessary for the public safety by the manager of transportation and infrastructure in consultation with the city forester.
- (c) No person shall construct or reconstruct a loading platform upon city property without first obtaining a permit to do so from the manager of transportation and infrastructure.

(Code 1950, § 320.4; Ord. No. 1017-17, § 8, 10-16-2017; Ord. No. 39-20, § 91, 2-3-20)

Sec. 49-115. - Grade.

All sidewalks and curbstones shall be laid and set to the established grade, which shall be furnished by the city engineer.

(Code 1950, § 321.3)

Sec. 49-116. - Construction order.

- (a) The manager of transportation and infrastructure may order the construction or reconstruction of sidewalks otherwise than in local improvement districts whenever in the manager's opinion it shall be proper because sufficient sidewalks have been laid in the vicinity to make it reasonable that intervening areas should be provided with sidewalks, or existing sidewalks should be reconstructed.
- (b) In all such cases, the manager of transportation and infrastructure shall notify the owner or agent in charge of the premises to construct or reconstruct such sidewalks within thirty (30) days from the date of the service of the notice in accordance with plans and specifications to be determined upon by the manager and stated in the notice. Such notice shall be in writing and served in person upon the owner or agent in charge of the premises, if found within the city, and if not, it

may be served by registered or certified United States mail, addressed to the owner and deliverable to addressee only, with return receipt requested, or by publication for ten (10) days in some daily newspaper published in the city.

- (c) It shall be unlawful for any owner to fail, neglect or refuse to comply with the requirements of any such notice within the time therein specified.

(Code 1950, § 321.7; Ord. No. 39-20, § 92, 2-3-20)

Sec. 49-117. - Order to reconstruct due to nonconformity to grade.

- (a) If any sidewalks or curbs hereafter constructed or reconstructed are not laid upon substantially the official grades, it shall be the duty of the person laying the same upon notice from the city engineer, so to alter and reconstruct the same as to conform to the official lines and curbs.
- (b) Failure within five (5) days after such notice to comply with the notice and the requirements of this division shall be an offense, and each day's neglect and refusal to comply with the terms of such notice shall constitute a separate offense.

(Code 1950, § 321.4)

Sec. 49-118. - Change of the grade of a sidewalk.

Whenever there has been a change in the official grade of any sidewalk, the manager of transportation and infrastructure may cause to be served upon the owner or agent in charge of the premises abutting upon such sidewalk a notice as set forth in section 49-120(b) to construct or reconstruct such sidewalk upon the official grade.

(Code 1950, § 321.5; Ord. No. 450-84, § 1, 8-27-84; Ord. No. 39-20, § 93, 2-3-20)

Sec. 49-119. - Sidewalk repairs on hazardous walks.

When the manager of transportation and infrastructure determines that a sidewalk's condition is such that it presents a hazard to members of the public, then a notice to repair the sidewalk, as set forth in section 49-120(b), shall be sent to the owner or agent in charge of the abutting property.

(Code 1950, § 321.6; Ord. No. 450-84, § 2, 8-27-84; Ord. No. 39-20, § 94, 2-3-20)

Sec. 49-120. - Contents and service of notice.

- (a) Service of the notice provided for in section 49-118 and 49-119 shall be made either by serving such notice on the person or entity named in the notice, or by sending such notice by first class mail, to the residence or place of business of the person or entity named in the notice, and by

posting such notice in a conspicuous place on the property abutting the hazardous sidewalk. If the notice is served on other than the owner of the property adjacent to the sidewalk, a copy of the notice shall be mailed to the owner at the address contained in the assessor's record.

(b) Any notice issued under sections 49-118 and 49-119 shall contain:

- (1) A description of the construction, reconstruction, or repairs required;
- (2) A statement of the condition of the sidewalk that constitutes the hazard;
- (3) A statement advising of the right to an administrative hearing to appeal the notice, if requested within thirty (30) days, pursuant to section 56-106(b) of the Revised Municipal Code;
- (4) A requirement that compliance shall be made within forty-five (45) days from the date of issuance of the notice, [and such notice] shall also indicate that failure to make the repairs within forty-five (45) days shall be unlawful, and that failure to comply with the notice may result in the work being done by the city at the expenses of the party to whom the notice was issued.

(Code 1950, § 321.8; Ord. No. 450-84, § 3[1], 8-27-84; Ord. No. 811-88, § 1, 12-27-88)

Sec. 49-121. - Access and ease of movement for handicapped persons.

The manager of transportation and infrastructure shall require that all new streets and any existing streets which are reconstructed shall provide for the safe and convenient movement of handicapped persons, including those in wheelchairs, across all curbs at all crosswalks and at all intersection corners.

(Ord. No. 298-83, § 1, 5-23-83; Ord. No. 39-20, § 95, 2-3-20)

Cross reference— Rights and duties of persons with mobility handicaps who operate wheelchairs, § 54-547.

Sec. 49-122. - City may construct, reconstruct, or repair a sidewalk.

If a person or entity to whom notice is directed pursuant to section 49-118 or 49-119 fails to comply within the time specified in the notice, the manager of transportation and infrastructure or his designated representative may, in his discretion, order the construction, reconstruction, or repair of the sidewalk by or on behalf of the city, and the procedures outlined in division 3 of this article VI for collection of costs and expenses thereof shall apply in addition to the penalties provided by this Code.

(Ord. No. 811-88, § 2, 12-27-88; Ord. No. 39-20, § 96, 2-3-20)

Secs. 49-123—49-130. - Reserved.

DIVISION 3. - LIEN FOR REPAIRS

Sec. 49-131. - Recovery of cost and expenses.

- (a) When work has been performed pursuant to section 49-122, the manager of transportation and infrastructure or his designated representative shall bill any or all owners, occupants, lessees or holders of legal or equitable interest of or in the property known to the manager of transportation and infrastructure or his designated representative for the costs and expenses as determined by the manager of transportation and infrastructure or his designated representative.
- (b) If the owner, occupant, lessee or holder of legal or equitable interest of or in the property shall fail within thirty (30) days after billing to pay the costs and expenses of work by the city, a lien may be assessed against the property. The manager of transportation and infrastructure, to initiate such lien, shall certify a statement thereof to the manager of finance, who shall record a notice of such lien with the clerk and recorder. The manager of finance shall assess and charge the same against the property involved, and collect the same due, plus interest thereon, in the manner as are delinquent real property taxes. If the lien remains unsatisfied, the manager of finance shall sell the property involved in the manner prescribed for sales of property for delinquent property taxes. The lien created hereby shall be superior and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and special assessments. In addition to the remedies set forth herein, an action or other process provided by law may be maintained by the city to recover or collect any amounts, including interest, owing under this provision.
- (c) The liens created hereby shall be superior and prior to other liens, regardless of date, except liens for general and special taxes.

(Code 1950, §§ 322.1, 322.3; Ord. No. 450-84, § 3[2], 8-27-84; Ord. No. 811-88, § 3, 12-27-88; Ord. No. 464-98, § 5, 7-6-98; Ord. No. 775-07, § 79, 12-26-07; Ord. No. 39-20, § 97, 2-3-20)

Sec. 49-132. - Discharge of work certificate; sale; redemption.

- (a) The certificate issued in section 49-131 upon being sold to the manager of finance shall thereupon receipt for the same and enter upon a roll to be kept for the purpose the date of issue, name of the holder, description of the property affected thereby, and the amount of the principal sum due thereon.
- (b) Redemption of the certificate by payment to the manager of finance of the principal amount and accrued interest by any person having a legal or equitable interest in the abutting property shall, upon recordation of a release of lien given therefor by the manager of finance, effect satisfaction of the debt and release of the lien based thereon.

(Code 1950, §§ 322.2, 322.4; Ord. No. 450-84, § 4, 8-27-84; Ord. No. 775-07, § 80, 12-26-07)

Sec. 49-133. - Redemption of certificate; extinguishment of lien.

Any sidewalk certificate issued under the provisions of section 49-131 may be taken up, redeemed and paid, in the following manner:

- (1) The manager of finance is hereby authorized and directed to receive from the owner of any property, against which any such sidewalk certificate is a lien, or from the agent, assignee or attorney of any such owner, or from any person having a legal or equitable claim in or to such property, at any time before the foreclosure of the lien created by any such sidewalk certificate, the amount and interest due upon any such sidewalk certificate, and hold the amount for the owner of such certificate, and pay over the same to the owner of such certificate, upon the presentation of the same for cancellation.
- (2) The manager of finance, upon receipt of the amount, shall issue to the person making such payment, a redemption certificate, in the usual form.
- (3) Upon payment as aforesaid, and the receipt of such certificate of redemption, the interest upon the sidewalk certificate shall cease, and the lien created thereby shall be deemed cancelled, extinguished, and for naught held from the date of the recording of the certificate of redemption, in the office of the city clerk.

(Code 1950, § 322.5; Ord. No. 775-07, § 81, 12-26-07)

Sec. 49-134. - Manager of transportation and infrastructure furnishes manager of finance list of certificates.

It shall be the duty of the manager of transportation and infrastructure to furnish to the manager of finance, from time to time, a list of all outstanding sidewalk certificates, showing date of issue thereof, description of property affected thereby, to whom issued, and the amount for which the same was issued.

(Code 1950, § 322.6; Ord. No. 775-07, § 82, 12-26-07; Ord. No. 39-20, § 98, 2-3-20)

Secs. 49-135—49-140. - Reserved.

DIVISION 4. - CURB CUTS

Sec. 49-141. - Necessity.

The manager of transportation and infrastructure is hereby authorized to determine the necessity for the location and width of curb cuts, taking into consideration the location of the property affected; the extent of vehicular and pedestrian traffic along the same; the demand and the necessity for parking spaces; the means of ingress and egress to and from the property; and generally the health, safety and welfare of the public.

(Code 1950, § 325.1; Ord. No. 39-20, § 99, 2-3-20)

Sec. 49-142. - When manager may require alteration of curb.

Where the use, convenience and necessity of the public require, the manager of transportation and infrastructure is hereby authorized to order the owners or agents of the property adjacent to which curb cuts are maintained to repair, alter, construct or reconstruct, or close or replace the curb or to change the width and location thereof, and is further authorized to make such rules and regulations in respect thereof as the manager deems fit and proper under the circumstances.

(Code 1950, § 325.2; Ord. No. 39-20, § 100, 2-3-20)

Sec. 49-143. - Notification for curb alteration.

- (a) In all cases under section 49-142, the manager of transportation and infrastructure shall notify the owner or agent of the property to repair, alter, construct or reconstruct, or close or replace the curb, or to change the width or location thereof in accordance with the rules and regulations, plans and specifications of the manager within thirty (30) days from the date of the notice.
- (b) Such notice shall be in writing and served:
 - (1) By delivering the notice to the owner personally or by leaving the same at the owner's residence, office or place of business, with some member of the owner's family over fifteen (15) years of age; or
 - (2) By mailing such notices by registered mail to such owner at the last known address; or
 - (3) If the owner is unknown, by posting the notice in some conspicuous place on the premises for five (5) consecutive days.

(Code 1950, § 325.3; Ord. No. 39-20, § 101, 2-3-20)

Sec. 49-144. - Failure to comply with notice; work by city.

- (a) It shall be unlawful for any owner to fail, neglect or refuse to comply with the requirements of notice under this division within the time therein specified.
- (b) Whenever the owner shall be in default or shall fail to comply with the notice of the manager of transportation and infrastructure, the manager is hereby authorized to have the necessary work performed and to recover the cost of the same as provided in section 49-131.

(Code 1950, § 325.4; Ord. No. 464-98, § 6, 7-6-98; Ord. No. 39-20, § 102, 2-3-20)

Secs. 49-145—49-160. - Reserved.