

## RECORD OF PROCEEDINGS

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### MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE BNC METROPOLITAN DISTRICT NO. 3 HELD NOVEMBER 16, 2023

A Special Meeting of the Board of Directors of the BNC Metropolitan District No. 3 (referred to hereafter as “Board”) was convened on Thursday, November 16, 2023 at 1:00 p.m. The District Board meeting was held via Zoom video/telephone conference. The meeting was open to the public.

#### ATTENDANCE

#### Directors In Attendance Were:

Janis L. Emanuel  
Robert J. Bol

Following discussion, upon motion duly made by Director Emanuel seconded by Director Bol and, upon vote, unanimously carried, the absence of Director Theodore Antenucci was excused.

#### Also In Attendance Were:

David Solin; Special District Management Services, Inc.

Paula Williams, Esq., Kate Olson, Esq. and Craig Sorensen; McGeady Becher P.C.

Jason Carroll and Alyssa Ferreira; CliftonLarsonAllen LLP

Michael Kuykendall and Nick Montalbano; Catellus Development Corp.

#### ADMINISTRATIVE MATTERS

Disclosures of Potential Conflicts of Interest: The Board discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Board of Directors and to the Secretary of State. Mr. Solin noted that a quorum was present and requested members of the Board to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting, and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with the statute. Attorney Williams noted that all Directors’ Disclosure Statements have been filed, and that no new conflicts were disclosed at the meeting.

Agenda: Mr. Solin distributed for the Board’s review and approval a proposed Agenda for the District’s Special Meeting.

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Following discussion, upon motion duly made by Director Emanuel seconded by Director Bol and, upon vote, unanimously carried, the Agenda was approved, as amended.

**Location of Meeting and Posting of Notices:** The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District's Board meeting. The Board determined that the meeting would be held by video/telephonic means, and encouraged public participation via video or telephone. The Board further noted that notice of the time, date and location of the meeting was duly posted and that the District had not received any objections to the video/telephonic manner of the meeting, or any requests that the video/telephonic manner of the meeting be changed by taxpaying electors within the District boundaries.

**Minutes:** The Board reviewed Minutes of the October 27, 2023 Special Meeting.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Minutes of the October 27, 2023 Special Meeting were approved, as presented.

**Resolution No. 2023-11-01; Resolution Establishing Regular Meeting Dates, Time and Location, and Designating Location for Posting of 24-Hour Notices:** The Board discussed Resolution No. 2023-12-01; Resolution Establishing Regular Meeting Dates, Time and Location, and Designating Location for Posting of 24-Hour Notices.

The Board determined that Regular Meetings for 2024 will be scheduled for June 11, 2024 and October 15, 2024 at 1:00 p.m. via Zoom video/telephone conference.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board adopted Resolution No. 2023-11-01, Resolution Establishing Regular Meeting Dates, Time and Location, and Designating Location for Posting of 24-Hour Notices.

**Section 32-1-809, C.R.S., Compliance for 2024:** Mr. Solin discussed with the Board the requirements of Section 32-1-809, C.R.S.

Following discussion, the Board directed that the required Transparency Notice be posted on the District website and the Special District Association website.

**Insurance Matters:**

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Cyber Security and Increased Crime Coverage: Attorney Williams discussed cyber security issues and increased crime coverage options with the Board.

Insurance Committee: The Board discussed establishing an Insurance Committee to make final determinations regarding insurance.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board appointed Mr. Solin as the District's Insurance Committee to obtain proposals for increased crime coverage in 2024.

District's Insurance and Special District Association Membership: The Board discussed the renewal of the District's Insurance and Special District Association ("SDA") membership for 2024.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board authorized the renewal of the District's insurance and SDA membership for 2024.

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**PUBLIC COMMENT** There was no public comment.

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### **FINANCIAL MATTERS**

**Claims:** The Board considered ratifying the approval of the payment of claims as follows:

Fund	Period ending Apr. 30, 2023	Period ending May 31, 2023	Period Ending Jun. 30, 2023	Period Ending Jul. 31, 2023
General	\$ 4,054.95	\$ 6,479.88	\$ 2,021.50	\$ 15,555.02
Debt	\$ -0-	\$ -0-	\$ -0-	\$ -0-
Capital	\$ -0-	\$ -0-	\$ -0-	\$ -0-
<b>Total</b>	<b>\$ 4,054.95</b>	<b>\$ 6,479.88</b>	<b>\$ 2,021.50</b>	<b>\$ 15,555.02</b>

Fund	Period ending Aug. 31, 2023	Period ending Sep. 30, 2023	Period Ending Oct. 31, 2023
General	\$ 8,425.55	\$ 21,884.83	\$ 16,916.97
Debt	\$ -0-	\$ -0-	\$ -0-
Capital	\$ -0-	\$ -0-	\$ -0-
<b>Total</b>	<b>\$ 8,425.55</b>	<b>\$ 21,884.83</b>	<b>\$ 16,916.97</b>

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board ratified approval of the payment of the claims, as presented.

**Unaudited Financial Statements:** Ms. Ferreira reviewed with the Board the

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unaudited financial statements of the District for the period ending September 30, 2023, the updated cash position statement updated September 30, 2023, and the property tax reconciliation.

Following discussion, upon motion duly made by Director Emanuel and seconded by Director Bol and, upon vote, unanimously carried, the Board accepted the unaudited financial statements for the period ending September 30, 2023, the updated cash position statement updated September 30, 2023, and the property tax reconciliation, as presented.

**2022 Audit:** The Board reviewed the 2022 Audit.

Following discussion, upon motion duly made by Director Emanuel and seconded by Director Bol and, upon vote, unanimously carried, the Board ratified approval of the 2022 Audit and ratified the authorization to execute the Representations Letter.

**Preparation of 2023 Audit:** The Board reviewed the proposal from Haynie & Company for preparation of the 2023 Audit.

Following discussion, upon motion duly made by Director Emanuel and seconded by Director Bol and, upon vote, unanimously carried, the Board approved the proposal from Haynie & Company for preparation of the 2023 Audit, for an amount not to exceed \$6,700.00.

**2023 Budget Amendment Hearing:** The President opened the public hearing to consider amendment of the 2023 Budget and discuss related issues.

It was noted that publication of Notice stating that the Board would consider amendment of the 2023 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District.

No written objections were received prior to or at this public hearing. No public comments were received, and the public hearing was closed.

Ms. Ferreira informed the Board that an amendment to the 2023 Budget was required.

Following review and discussion, upon motion duly made by Director Emanuel and seconded by Director Bol and, upon vote, unanimously carried, the Board adopted Resolution No. 2023-11-02 to Amend the 2023 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

**2024 Budget Hearing:** The President opened the public hearing to consider the proposed 2024 Budget and discuss related issues.

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It was noted that publication of Notice stating that the Board would consider adoption of the 2024 Budget and the date, time, and place of the public hearing was made in a newspaper having general circulation within the District, and that no written objections or public comments were received prior to this hearing.

Following discussion, the Board determined to continue the 2024 Budget Hearing to Monday, December 4, 2023 at 11:00 a.m. (the “Continued Meeting”).

**Resolution Authorizing Adjustment of the District Mill Levy in Accordance with the Service Plan:** The Board deferred this matter to the Continued Meeting.

**DLG-70 Certification of Tax Levies Form:** The Board deferred this matter to the Continued Meeting.

**Master Service Agreement with CliftonLarsonAllen LLP:** Ms. Ferreira reviewed with the Board the Master Service Agreement between the District and CliftonLarsonAllen LLP, and the accompanying Statements of Work.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol, and upon vote, unanimously carried, the Board approved the Master Service Agreement between the District and CliftonLarsonAllen LLP, and the accompanying Statements of Work, subject to final legal review.

**Preparation of the 2025 Budget:** The Board discussed preparation of the 2025 Budget.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol, and upon vote, unanimously carried, the Board appointed the District Accountant to prepare the 2025 Budget, and set the date for the Budget Hearing on October 15, 2024 at 1:00 p.m.

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### **LEGAL MATTERS**

**Third Amendment to 2019-2021 Operation Funding Agreement between the District and Catellus CC Note, LLC:** The Board deferred this matter to the continued meeting.

**Adams County District Court Case No. 2023CV30630, BNC Metropolitan District No. 1 and BNC Metropolitan District No. 2 v. BNC Metropolitan District No. 3, Theodore Antenucci, Janis L. Emanuel, Robert Bol, Julianna Antenucci, and Pauline Bol:** Attorney Williams updated the Board on the status of the case. No executive session was needed.

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**Rescission of the District’s December 5, 2022 Approval of the Second Amendment to Cost Sharing Intergovernmental Agreement by and between BNC Metropolitan District Nos. 1, 2, and 3:** The Board discussed rescinding the District’s December 5, 2022 approval of the Second Amendment to Cost Sharing Intergovernmental Agreement by and between BNC Metropolitan District Nos. 1, 2, and 3 (“Second Amendment”), due to the refusal of BNC Metropolitan District Nos. 1 and 2 to approve or sign the Second Amendment.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board rescinded the District’s December 5, 2022 approval of the Second Amendment.

**Resolution No. 2023-11-03, Resolution Amending Policy on Colorado Open Records Act Requests:** The Board reviewed Resolution No. 2023-11-03, Resolution Amending Policy on Colorado Open Records Act Requests.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board adopted Resolution No. 2023-11-03, Resolution Amending Policy on Colorado Open Records Act Requests.

### **Project Fund Requisitions:**

**Project Fund Requisition No. 1 – Series 2022A Bonds:** The Board reviewed Project Fund Requisition No. 1 under the District’s General Obligation (Limited Tax Convertible to Unlimited Tax) Convertible Capital Appreciation Bonds, Series 2022A, dated October 2023, authorizing reimbursement to Catellus CC Note, LLC in the amount of \$581,263.39, for verified Public Improvement Costs (the “Series 2022A Requisition”).

Following review and discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board ratified approval of the Series 2022A Requisition.

**Project Fund Requisition No. 1 – Series 2022B(3) Bonds:** The Board reviewed Project Fund Requisition No. 1 under the District’s Subordinate General Obligation Limited Tax Bonds, Series 2022B(3), dated October 2023, authorizing reimbursement to Catellus CC Note, LLC in the amount of \$1,386,015.74, for verified Public Improvement Costs (the “Series 2022B(3) Requisition”).

Following review and discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board ratified approval of the Series 2022B(3) Requisition.

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**District Boundary Issues:** Attorney Williams informed the Board that the District has been contacted by a property owner regarding certain property that (according to the Adams County Assessor) lies within the boundaries of both BNC Metropolitan District Nos. 1 and 3, and that such property may not have been intended to be within the boundaries of BNC Metropolitan District No. 3.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board directed legal counsel to file a motion for a corrective order to exclude the property from the District's boundaries, if investigation determines that course of action is appropriate.

**Engineer's Report and Certification #09:** The Board reviewed Engineer's Report and Certification #09 – BNC Metropolitan District Nos. 1, 2, & 3, dated November 16, 2023 and prepared by Ranger Engineering, LLC, certifying eligible costs for Public Improvements in the total amount of \$4,950,285.52 ("Report No. 9").

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board approved Report No. 9, accepted verified costs for Public Improvements in the amount of \$4,568,505.61 (per the allocation to the District in Report No. 9), and authorized the reimbursement of \$4,568,505.61 to Catellus CC Note, LLC pursuant to Report No. 9.

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**CAPITAL  
MATTERS**

There were no capital matters.  
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**OPERATIONS AND  
MAINTENANCE**

**Operation and Maintenance Requirements for 2024:** It was noted that the primary need for operations and maintenance in 2024 will be landscape maintenance. No action was taken by the Board.  
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**OTHER BUSINESS**

There was other business.  
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**CONTINUATION  
OF MEETING**

Upon motion made by Director Emanuel, seconded by Director Bol, and upon vote, unanimously carried, the meeting was continued to Monday, December 4, 2023 at 11:00 a.m.

Respectfully submitted,

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By:   
Secretary for the Meeting