

**RESOLUTION OF THE  
BOARD OF DIRECTORS OF  
STC METROPOLITAN DISTRICT NO. 2**

A RESOLUTION ADOPTING AN AMENDED COVENANT ENFORCEMENT POLICY ESTABLISHING GUIDELINES FOR STC METROPOLITAN DISTRICT NO. 2 IN PROVIDING COVENANT ENFORCEMENT AND DESIGN REVIEW SERVICES

At a special meeting of the Board of Directors of the STC Metropolitan District No. 2, Town of Superior, Boulder County, Colorado, held at 9:00 A.M., on Wednesday, November 3, 2021, via online meeting at <https://us02web.zoom.us/j/89797364658?pwd=SHJkTkdyUmVxYjBYUDcvcHNmN3I0dz09> and via telephone at 1-253-215-8782, **Meeting ID:** 897 9736 4658, **Password:** 115782, at which a quorum was present, the following resolution (the "Resolution") was adopted:

**WHEREAS**, pursuant to the Special District Act, Section 32-1-101 *et seq.*, C.R.S., and the Service Plan for STC Metropolitan District No. 2 ("Service Plan"), STC Metropolitan District No. 2 ("District No. 2") has the authority to furnish covenant enforcement and design review services; and

**WHEREAS**, that certain Master Declaration of Covenants, Conditions, and Restrictions for Superior Town Center was recorded in Clerk and Recorder's Office for Boulder County on April 14, 2015, at Reception No. 03439339 and that certain Master Declaration of Covenants, Conditions, and Restrictions for Superior Town Center was recorded in Clerk and Recorder's Office for Boulder County on November 22, 2019 at Reception No. 03750773 (collectively, the "Declaration"); and

**WHEREAS**, STC Metropolitan District No. 1, District No. 2 and STC Metropolitan District No. 3 (collectively, the "Districts") entered into that certain Facilities Funding, Construction and Operation Agreement (the "FFCOA"), dated January 15, 2015 pursuant to which the Districts agreed that District No. 2 is the Operating District responsible for all operations and maintenance services for the Districts; and

**WHEREAS**, the Districts entered into that certain Intergovernmental Agreement Regarding Covenant Enforcement and Design Review Services dated June 7, 2017, as amended by that certain First Amendment to Intergovernmental Agreement Regarding Covenant Enforcement and Design Review Services dated December 9, 2019 (the "IGA"), pursuant to which the Districts authorized District No. 2 to administer and enforce the Declaration and the Guidelines for the Property; and

**WHEREAS**, pursuant to the Declaration, the FFCOA, the IGA, that certain Resolution 2015-02-02 Acknowledging and Adopting the Master Declaration of Covenants, Conditions, and Restrictions for Superior Town Center adopted by District No. 2's Board of Directors ("Board") on February 2, 2015, that certain Resolution 2017-06-01 Adopting the Superior Town Center Rules, Regulations and Design Guidelines adopted by the Board on June 7, 2017, that certain Resolution No. 2018-04-01 Adopting the First Amendment to the Superior Town Center Rules, Regulations and Design Guidelines adopted by the Board on April 4, 2018, that certain Resolution

2019-05-01 Adopting the First Amended and Restated Superior Town Center Rules, Regulations and Design Guidelines, and that certain Resolution 2019-12-02 Adopting the Second Amended and Restated Superior Town Center Rules, Regulations and Design Guidelines (collectively, the “Covenant Enforcement Policy”), District No. 2 is empowered and has agreed to provide covenant enforcement and design review services within the boundaries of the Districts; and

**WHEREAS**, any services provided by District No. 2 shall be undertaken in accordance with the procedures and conditions set forth in the Service Plan, the Special District Act, and other applicable laws; and

**WHEREAS**, the Special District Act provides at Section 32-1-1004(8)(c), C.R.S., that metropolitan districts providing covenant enforcement and design review services are not authorized to enforce any covenant that has been determined to be unenforceable as a matter of law; and

**WHEREAS**, the Special District Act also provides at Section 32-1-1001(1)(m), C.R.S., that metropolitan districts have the power to adopt, amend, and enforce bylaws and rules and regulations not in conflict with the state constitution; and

**WHEREAS**, the Board hereby desires to adopt a policy expressly stating that District No. 2 may only provide covenant enforcement and design review services to the extent that doing so does not infringe upon constitutional rights or otherwise violate the law; and

**WHEREAS**, the Board has determined that enacting such a policy is in the best interest of current and future residents and taxpayers of the Districts.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF STC METROPOLITAN DISTRICT NO. 2 HEREBY ADOPTS THE FOLLOWING AMENDED COVENANT ENFORCEMENT POLICY:**

1. The Board, in acting on behalf of District No. 2 and/or in acting as members of the Covenant Enforcement Committee or Design Review Committee pursuant to the Declaration and the Covenant Enforcement Policy, shall not enforce any bylaws, covenants, guidelines, rules, regulations, or restrictions, however denominated, contained in the Declaration and the Covenant Enforcement Policy, as currently enacted or as the same may be amended or supplemented from time to time (collectively, the “Covenants”), if the Board determines, in its reasonable discretion or upon advice from legal counsel, that: (i) such enforcement may infringe upon constitutional rights of residents of the Districts against whom the Covenants are contemplated being enforced; or (ii) that such Covenants have been determined by applicable statute or by a court of competent jurisdiction to be unenforceable as a matter of law. The Covenants shall not be construed or interpreted as a grant of authority in excess of the authority granted to District No. 2 pursuant to the Service Plan and the Special District Act, as further limited by the state constitution and other applicable laws (altogether, the “Amended Covenant Enforcement Policy”).

2. This Amended Covenant Enforcement Policy shall supersede and control anything contained in the Covenants to the contrary.

3. This Amended Covenant Enforcement Policy shall take effect on the date and time of its adoption.

ADOPTED AND APPROVED THIS 3<sup>rd</sup> DAY OF NOVEMBER 2021.

**STC METROPOLITAN DISTRICT NO. 2**

By:  \_\_\_\_\_  
James A. Brzostowicz, President

ATTEST:

By:  \_\_\_\_\_  
Terry Willis, Assistant Secretary

<b>TITLE</b>	STCMD2 Covenant Enforcement Resolution
<b>FILE NAME</b>	014 Resolution Ad...cement Policy.pdf
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## Document History



SENT

**11 / 03 / 2021**  
 18:37:02 UTC

Sent for signature to Jim Brzostowicz (jim@civilresources.com) and Terry Willis (twillis@ktgy.com) from pripko@sdmsi.com  
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VIEWED

**11 / 03 / 2021**  
 21:46:35 UTC

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**11 / 03 / 2021**  
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VIEWED

**05 / 24 / 2022**  
 16:35:07 UTC

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COMPLETED

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The document has been completed.