Coloradans for Metro District Reform
Proposed SB 21-262 Amendments

Amendment Language: (IN CAPS)

1. **Eliminate** Loophole exception for smaller counties in (e) of (1.5). Amend to delete (1.5) (e) which **says there is no need to provide transparency for smaller rural counties.**

2. **Eliminate** Section 5 - "32-1-1001 - **Common powers - definitions**."

This section **adds** a "bad" district abusive **power** to the law that was not there before. It adds a **power that was not there before**. It does not add transparency. It has nothing to do with transparency.

3. **Amend** (3)(C)(I) to state, . . . SHALL FILE AT LEAST ONCE A YEAR AND AS FREQUENTLY AS THE CITY OR COUNTY THAT CREATES THE SPECIAL DISTRICT DETERMINES IN THEIR SOLE DISCRETION . . . .

- **Delete** references to "annual" report
- **Amend** (3)(C)(II) to delete "AS APPLICABLE FOR THE REPORTING YEAR" and add "BUT MAY INCLUDE ANY INFORMATION THE CITY OR COUNTY THAT CREATES THE SPECIAL DISTRICT DEEMS NECESSARY IN THEIR SOLE DISCRETION" and delete "but shall not be limited to"

4. **Amend Sections 3, 4 and 7** to add and require the following disclosures;

    - total authority for debt (what is the credit card limit set in the first ballot issue - Solterra example - $4.9 billion)
    - total current debt (what has been spent on the credit card already)
    - total anticipated debt over next 5 years (service plan financial plan schedule)
    - total mill levy for district operations
    - total mill levy for developer debt
    - total district tax in dollars for the home
    - percentage of district tax (operations and debt) to all property taxes (60% of property taxes pay for district taxes)
    - ratio of debt to assessed value (2006 DOLA Report greater than 20% is cause for concern) (example: metro district debt of $100 million and assessed value for the entire district of $60 million equals 166% debt to assessed value ratio
    - monthly fees

5. **Delete** (3)(c)(III) of Section 4 on page 9 in all caps which refers to consolidated Service Plan for more than one district in the same community

Background on Section 5 Amendment

Eliminate Section 5

This section **adds** "bad" district abusive **power** to the law that was not there before. It adds a **power that was not there before**. It does not add transparency. It has nothing to do with transparency

In "bad" developer districts, as soon as the district is created and long before any residents arrive, the developer, enabled by his attorney, enters into an agreement with himself. He actually signs his name as both the developer and as the district. Samples are attached.

In these agreements, he agrees with himself that he will "advance" (loan) money to the future residents to build the infrastructure (roads, pipes in the ground, etc.). And, on behalf of the residents, as president of the district he has just created, he agrees to have the residents pay property taxes to the developer to repay these loans, with large amounts of interest.

He clearly has a conflict of interest and cannot agree with himself to bind future residents in a "contract". The financial audits will expressly state he has a conflict with the residents.

There is no check and balance on whether the money "advanced" (loaned) actually paid for infrastructure. The industry and supporters of the bill explain that an independent engineer "certifies" the expenses as being money spent on infrastructure.

We know from our own experiences that the "independent engineer" is on the payroll for the developer. In Solterra, after the citizens recalled the developer's employees off the board, the engineer, in a taped interview with counsel essentially explained that he simply took the numbers supplied by the developer and worked them into a "report." The residents worked on getting their own independent forensic audit and did a study on what the money they paid for developed lots paid for. They found that the residents in fact were paying twice for the same infrastructure - once in the cost of the developed lot when they paid for their home and a second time in repaying these alleged metro district "advances" by the developer.

The supporters of the bill explained that the engineer is not working for the developer and that the engineer is independent because he is working for the district. **BUT THE DISTRICT IS THE DEVELOPER** until residents take over the boards.

Why is the industry just now raising this issue?

Simple. The citizens are waking up to the fact that this is abusive and that these single party agreements written by a developer with a conflict of interest are legally unenforceable. We know of many cases where the citizens are saying these agreements aren't worth the paper they are printed on and fighting the developers. Indeed, a lawsuit was filed last month arguing these agreements violate the Colorado Racketeering laws.

So, the industry now wants the state legislature to take sides with the industry against the residents in the push back and in this litigation. Take sides against the citizens. By legalizing these "bad" agreements by "bad" developer districts.

Not a disclosure. Nothing to do with transparency.

They want you to protect them from the citizens. This section 5 (32-1001 (1)(d)(III) and (1)(d)(IV) is a Trojan horse, trying to get "bad" agreements from "bad" districts inside the safe walls of the legislation.

Here is an example, where the developer creates a "loan" to the residents. The person signing for the developer and the district (residents) is the same person:

REIMBURSEMENT OF DEVELOPER LOAN
AND
PUBLIC INFRASTRUCTURE ACQUISITION AGREEMENT

THIS REIMBURSEMENT OF DEVELOPER LOAN AND PUBLIC INFRASTRUCTURE ACQUISITION AGREEMENT ("**Agreement**") is made and entered into as of the 13th day of May, 2008 by and between **FOSSIL RIDGE METROPOLITAN DISTRICT NO. 1** (the "**District**"), a quasi-municipal corporation and political subdivision of the State of Colorado, and **CARMA LAKEWOOD, LLC** (the "**Developer**"), a Colorado limited liability company. The District and the Developer are sometimes individually referred to as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, the District has been duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado, in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes ("**Special District Act**"), and with the power to provide certain public infrastructure, improvements and services, as described in the Act, including but not limited to water, street, traffic and safety controls, transportation, parks and recreation, sanitation, and mosquito control (among other powers permitted under Title 32 and subject to the Service Plan as approved by the City of Lakewood, Colorado) within and without its boundaries (collectively, the "**Public Infrastructure**"), as authorized and in accordance with the Second Amended and Restated Service Plan for Fossil Ridge Metropolitan District No. 1, Fossil Ridge Metropolitan District No. 2 and Fossil Ridge Metropolitan District No. 3 (the "**Service Plan**"), approved by the City of Lakewood, Colorado (the "**City**") on August 27, 2007, which Service Plan may be amended from time to time as authorized under applicable law; and

WHEREAS, in accordance with Section 32-1-1001(1)(f), (h) and (i), C.R.S., the District has the power to acquire real and personal property; manage, control, supervise the affairs of the District, including construction, installation, operation and maintenance of improvements in

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first above written.

FOSSIL RIDGE METROPOLITAN DISTRICT NO. 1

By: _____
President

ATTEST:

_____
Secretary

(SEAL)

DEVELOPER:

CARMA LAKEWOOD, LLC,
A Colorado limited liability company

By: _____

Its: _____