

**AMENDED AND RESTATED RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
CLEAR CREEK STATION METROPOLITAN DISTRICTS NOS. 1-3

CONCERNING THE IMPOSITION OF DISTRICTS' FEES**

WHEREAS, the Clear Creek Station Metropolitan Districts Nos. 1-3 (the “**Districts**”) were formed pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended (the “**Special District Act**”), by order of the District Court for Adams County, Colorado, and after approval of the Districts’ eligible electors at an election; and

WHEREAS, pursuant to § 32-1-1001(1)(h), C.R.S., the Board of Directors of the Districts (the “**Board**”) shall have the management, control and supervision of all the business and affairs of the Districts; and

WHEREAS, the Board has determined it to be in the best interests of the Districts, and the property owners, taxpayers, and residents of the Districts, to acquire, construct, operate and maintain certain amenities and facilities benefitting property and inhabitants within the Districts, which amenities and facilities generally include parks and recreation, landscaping, and all other facilities, appurtenances and rights-of-way (collectively, the “**Facilities**”); and

WHEREAS, the Board has determined it to be in the best interests of the Districts, and the property owners, taxpayers, and residents of the Districts, to provide certain services to property and inhabitants within the boundaries of the Districts, including without limitation, landscape maintenance, snow removal, and covenant enforcement (collectively, the “**Services**”); and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., the Districts are authorized to fix and impose fees, rates, tolls, penalties and charges for services or facilities furnished by the Districts which, until paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, the Districts incur certain direct and indirect costs associated with the repair, replacement, improvement, reconstruction operation and maintenance of the Facilities, as necessary, inclusive of the costs of utilities and capital replacement costs (collectively, the “**Facility Costs**”) in order that the Facilities may be properly provided and maintained; and

WHEREAS, the Districts incur certain direct and indirect costs associated with the provision of the Services in order that the Services may be properly provided, the property within the Districts maintained, and that the health, safety and welfare of the Districts and its inhabitants may be safeguarded (collectively, the “**Service Costs**”); and

WHEREAS, the establishment and continuation of fair and equitable fees (the “**Districts’ Fees**”) to provide a source of funding to pay for the Facility Costs and the Service Costs, (collectively, the “**Districts’ Costs**”), which Districts’ Costs are generally attributable to the persons and/or properties subject to such Districts’ Fees, is necessary to provide for the common good and for the prosperity and general welfare of the Districts and its inhabitants and for the orderly and uniform administration of the Districts’ affairs; and

WHEREAS, the Districts find that the Districts’ Fees, as set forth in this Resolution, are reasonably related to the overall cost of providing the Facilities and Services and paying the Districts’ Costs, and that imposition thereof is necessary and appropriate; and

WHEREAS, on September 11, 2012, the Board adopted Consolidated Resolution of the Board of Directors of Clear Creek Station Metropolitan Districts Nos. 1, 2 and 3 Regarding the Imposition of District Fees, which such Memorandum Regarding a Consolidated Resolution of the Board of Directors of Clear Creek Station Metropolitan District Nos. 1-3 Concerning the imposition of a District Development Fee, General Operations Fee, Working Capital Fee and Administrative Setup Fee, was recorded in the real property records of the Adams County Clerk and Recorder’s Office on October 22, 2012, at Reception No. 2012000079298, as amended by that 2015 Schedule of Fees (collectively the “**Prior Fee Resolution**”), and the Board desires to adopt this Amended and Restated Resolution of the Board of the District Concerning the Imposition of Districts’ Fees (the “**Resolution**”) to amend and restate the Prior Fee Resolution in its entirety. Any fees, rates, tolls, penalties or charges due under the Prior Fee Resolution, to the extent outstanding and unpaid, shall remain in effect until fully paid and shall not be eliminated hereby.

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

1. **DEFINITIONS.** Except as otherwise expressly provided or where the context indicates otherwise, the following capitalized terms shall have the respective meanings set forth below:

“**Districts’ Boundaries**” means the legal boundaries of the Districts, as the same are established and amended from time to time pursuant to §§32-1-101, *et seq.*, C.R.S., as more particularly set forth in the map and legal description attached hereto as **Exhibit B** and incorporated herein by this reference.

“**Due Date**” means the date by which the Districts’ Fees are due, which such respective Due Dates are reflected on the Schedule of Fees.

“**End User**” means any third-party homeowner or tenant of any homeowner occupying or intending to occupy a Residential Unit.

“**Fee Schedule**” or “**Schedule of Fees**” means the schedule of fees set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, until and unless otherwise amended and/or repealed.

“**Lot**” means each parcel of land established by a recorded final subdivision plat and which is located within the Districts’ Boundaries.

“Residential Unit” means each residential dwelling unit (including, without limitation, condominiums, townhomes, and any other attached dwelling unit and detached single family dwelling units) located within the Districts’ Boundaries which has been Transferred to an End User.

“Transfer” or **“Transferred”** shall include a sale, conveyance or transfer by deed, instrument, writing, lease or any other documents or otherwise by which real property is sold, granted, let, assigned, transferred, exchanged or otherwise vested in a tenant, tenants, purchaser or purchasers.

2. OPERATIONS FEE.

- a. An Operations Fee is hereby established for the costs associated with the provision of construction, operations and maintenance of public improvements and facilities within the boundaries of the Districts and for other costs of the Districts, which include, but are not limited to, operations and maintenance of recreation amenities, landscaping and common areas of the Districts.
- b. The Operations Fee shall be imposed upon all Lots and Residential Units at a rate established by the Districts from time to time pursuant to an annual Schedule of Fees and shall constitute the rate in effect until such Schedule of Fees is amended.
- c. The Operations Fee shall be first due and owing at the earlier of the date upon which either (1) a Certificate of Occupancy is issued, (2) the date of Transfer of a Lot or Residential Unit from a homebuilder to a third-party buyer, or (3) when the Lot or Residential Unit is occupied for residential use, whichever occurs first. Thereafter, the Operations Fee shall be billed by the Districts to the property owner on a schedule as is determined by the Districts from time to time. The Districts may determine, in their discretion, to copy all billings to the resident if such property is being leased or rented from the underlying property owner.

3. LANDSCAPE MAINTENANCE AREA FEE

- a. A Landscape Area Maintenance Fee was established by that Joint Resolution of the Boards of Directors of Clear Creek Station Metropolitan Districts Nos. 1, 2 & 3, dated June 30, 2015, for the costs associated with constructing and maintaining landscaping improvements within certain discrete areas of the Districts.
- b. The Landscape Area Maintenance Fee shall be imposed upon certain Lots, as further described in the Schedule of Fees, at a rate established by the Districts from time to time pursuant to an annual Schedule of Fees and shall constitute the rate in effect until such Schedule of Fees is amended.
- c. The Landscape Area Maintenance Fee shall be first due and owing at the earlier of the date upon which either (1) a Certificate of Occupancy is issued, (2) the date

of Transfer of a Lot or Residential Unit from a homebuilder to a third-party buyer, or (3) when the Lot or Residential Unit is occupied for residential use, whichever occurs first. Thereafter, the Landscape Maintenance Area Fee shall be billed by the Districts to the property owner on a schedule as is determined by the Districts from time to time. The Districts may determine, in its discretion, to copy all billings to the resident if such property is being leased or rented from the underlying property owner.

4. DISTRICT NO. 1 DEVELOPMENT FEE

- a. A one-time District No. 1 Development Fee (the “Development Fee”) is hereby established and imposed upon each Lot for services provided in connection with the construction, operations and maintenance of public facilities.
- b. The Development Fee shall be imposed at a rate established by the Districts from time to time pursuant to an annual Schedule of Fees and shall constitute the rate in effect until such Schedule of Fees is amended. The Development Fee may be automatically increased by five percent (5%) rounded to the nearest twenty-five dollars (\$25.00) on January 1 of each year commencing January 1, 2017 until no dwelling units remain to be constructed within the Districts.
- c. All Development Fees established hereunder shall be due and owing to Clear Creek Station Metropolitan District No. 1 not later than ten (10) days after which a building permit is obtained by the owner of a Lot. The amount of each Development Fee due hereunder shall be at the rate in effect at the time of payment.

5. ADMINISTRATIVE SET UP FEE.

- a. An Administrative Set-Up Fee is hereby established to defray the costs associated with setting up new accounts of the Districts.
- b. The Administrative Set-Up Fee shall be imposed upon all Lots and Residential Units at a rate established by the Districts from time to time pursuant to an annual Schedule of Fees and shall constitute the rate in effect until such Schedule of Fees is amended.
- c. All Administrative Set-Up Fees established hereunder shall be due and owing not later than ten (10) days after a Transfer.

6. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., for any Operations Fee and Landscape Area Maintenance Fee, if applicable, not paid within ten (10) days after the scheduled Due Date will be assessed a late fee in the amount of Fifteen Dollars (\$15.00), not to exceed a total of twenty-five percent (25%) of such cumulative monthly District Fees. Interest will also accrue on any outstanding District Fees, exclusive of assessed late fees, penalties, interest and any other costs of collection, specifically including, but not limited, to attorney fees, at the rate of 18% per annum, pursuant to § 29-1-1102(7), C.R.S. The District

reserves the right to waive any late fee or interest in its sole discretion. The Districts may institute such remedies and collection procedures as authorized under Colorado law, including, but not limited to, foreclosure of its perpetual lien. The defaulting property owner shall pay all fees and costs, specifically including, but not limited to, attorneys' fees and costs and costs associated with the collection of delinquent fees, incurred by the District and/or its consultants in connection with the foregoing.

7. **PAYMENT.** Payment for all fees, rates, tolls, penalties, charges, interest and attorney fees shall be made by check or equivalent form acceptable to the Districts, made payable to "Clear Creek Station Metropolitan District No. 1" and sent to the address indicated on the Fee Schedule. The Districts may change the payment address from time and time and such change shall not require an amendment to this Resolution.

8. **LIEN.** The fees imposed hereunder, together with any and all late fees, interest, penalties and costs of collection, shall, until paid, constitute a statutory, perpetual lien on and against the property served, and any such lien may be foreclosed in the manner provided by the laws of the State of Colorado for the foreclosure of mechanic's liens, pursuant to § 32-1-1001(1)(j)(I), C.R.S. Said lien may be foreclosed at such time as the Districts, in their sole discretion, may determine. The lien shall be perpetual in nature (as defined by the laws of the State of Colorado) on the property and shall run with the land. This Resolution shall be recorded in the offices of the Clerk and Recorder of Adams County, Colorado.

9. **SEVERABILITY.** If any portion of this Resolution is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Resolution, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

10. **THE PROPERTY.** This Resolution shall apply to all property within the Districts' boundaries, including, but not limited to, the property set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, and any additional property included into the Districts after the date of this Resolution.

11. **EFFECTIVE DATE.** This Resolution shall become effective January 1, 2016.

[Remainder of Page Intentionally Left Blank. Signature Page to Follow].

ADOPTED this 9th day of December, 2015.

CLEAR CREEK STATION METROPOLITAN
DISTRICTS NOS. 1-3, a quasi-municipal
corporation and political subdivision of the State of
Colorado



Officer of the Districts

ATTEST:



APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys At Law



General Counsel to the Districts

Signature page to Resolution Concerning the Imposition of Districts' Fees

EXHIBIT A

CLEAR CREEK STATION METROPOLITAN DISTRICT NOS. 1-3

Schedule of Fees

Effective January 1, 2016

Schedule of Fees		
Fee Type	Classifications	Rate
Operations Fee	All Classifications	\$ 72/month
Landscape Maintenance Area Fee*	All Classifications	\$15/month*
District No. 1 Development Fee	All Classifications	\$1,000 Due Upon Issuance of Building Permit
Administrative Set-Up Fee	All Classifications	\$125.00/Unit Due Upon Transfer
The Operations Fee and Landscape Maintenance Fee, if applicable, shall be Due on the 1st of the Month, Every Month. A Late Fee of \$15 will be Applied to such Cumulative Monthly Fee 10 Days After the Due Date.		
*Landscape Maintenance Area Fee Shall Apply to Lots 10-29, Inclusive, Lots 38-46, Inclusive, Block 1, Lots 6-12, Inclusive, Block 2, Midtown at Clear Creek – Filing No. 2, County of Adams, State of Colorado.		
Note: A Facilities Fee of \$1,000 per Single Family Lot is imposed by District No. 2 under a separate resolution adopted by District No. 2 on December 18, 2014.		

PAYMENTS: Payment for each fee shall be made payable to the Clear Creek Station Metropolitan District No. 1 and sent to the following address for receipt by the Due Date:

Jennie Heinzc
Overlook Property Management
6860 S. Yosemite Court, Suite 2000
Centennial, CO 80112
Phone: (303) 991-2192
Fax: (303) 991-2199

