

**SIXTH AMENDED AND RESTATED  
RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF  
HIGH PLAINS METROPOLITAN DISTRICT**

**Concerning the Imposition of District Fees**

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WHEREAS, the High Plains Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado, organized pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended, by order of the District Court for Arapahoe County, Colorado; and

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

WHEREAS, the Board has determined it to be in the best interests of the District, and the property owners, taxpayers, and residents of the District, to acquire, construct, operate and maintain certain amenities and facilities benefitting property and inhabitants within the District, which amenities and facilities generally include storm water detention facilities, trails, parks, open space landscape tracts, and other improvements, facilities, appurtenances and rights-of-way (collectively, the “**Facilities**”); and

WHEREAS, the Board has determined it to be in the best interests of the District, and the property owners, taxpayers, and residents of the District, to provide certain services benefitting property and inhabitants within the District, which services generally include, without limitation, landscape maintenance, snow removal, trash collection, street lighting, operation and maintenance of the Facilities, and covenant enforcement (collectively, the “**Services**”); and

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

WHEREAS, the District incurs certain direct and indirect costs associated with the acquisition, 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 District incurs 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 District maintained, and that the health, safety and welfare of the District and its inhabitants may be safeguarded (collectively, the “**Service Costs**”); and

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

WHEREAS, the Board previously adopted the Second Amended and Restated Resolution Concerning the Imposition of District Fees, together with the Board of Directors of East Plains Metropolitan District dated effective August 11, 2010, and recorded in the records of the Arapahoe County Clerk & Recorder at Reception No. D0086099, as amended by the First Amendment to Second Amended and Restated Resolution Concerning the Imposition of District Fees, dated effective December 6, 2011, and recorded in the records of the Arapahoe County Clerk & Recorder at Reception No. D1120811, which authorizes the imposition of fees and charges for District costs, as amended by the Third Amended and Restated Resolution Concerning the Imposition of District Fees, dated effective May 20, 2015, and recorded in the records of the Arapahoe County Clerk and Recorder at Reception No. D5059628, as amended by the Fourth Amended and Restated Resolution Concerning the Imposition of District Fees, dated effective April 21, 2016, and recorded in the records of the Arapahoe County Clerk and Recorder at Reception No. D6044485, as amended by the Fifth Amended and Restated Resolution Concerning the Imposition of District Fees, dated June 15, 2016 and recorded in the records of the Arapahoe County Clerk and Recorder at Reception No. D6064160 (collectively, the “**Prior Fee Resolution**”); and

WHEREAS, the Prior Fee Resolution imposed monthly Operations Fees – Recurring Payment, as defined herein and within the Prior Fee Resolution, which are collected quarterly by the District; and

WHEREAS, the Board desires to amend and restate the Prior Fee Resolution in its entirety and adopt the schedule of fees and charges for Operations Costs attached hereto as **Exhibit A** and incorporated herein by reference and which may be amended from time to time (the “**Fee Schedule**”); and

WHEREAS, 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; and

WHEREAS, the District finds that the Operations Fee, as set forth in this Resolution, is reasonably related to the overall cost of providing the Facilities and Services and paying the Operations Costs, and that imposition thereof is necessary and appropriate.

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:

“**Apartment Unit**” means a unit within an apartment building which unit is held for lease or rent for residential occupancy and for which a final certificate of occupancy has been issued.

“**Due Date**” means the date by which the Operations Fee is due, which date is reflected on the Fee Schedule.

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

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

“**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 boundaries of the District 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.

“**Vacant Lot**” means each parcel of land within the District established by a recorded subdivision plat, but specifically excluding any parcel upon which one or more Residential Units or Apartment Units is situated and specifically excluding any parcel owned by the District.

## 2. Operations Fee.

a. The Board has determined, and does hereby determine, that it is in the best interests of the District and its respective residents and property owners to impose, and does hereby impose an Operations Fee to fund the Operations Costs. The Operations Fee is hereby established and imposed in an amount as set forth by the District from time to time pursuant to an annual “Fee Schedule” and shall constitute the rate in effect until such schedule is amended or repealed. The initial Fee Schedule is set forth in **Exhibit A**, attached hereto and incorporated herein by this reference. The Operations Fee shall consist of a recurring payment (the “**Recurring Payment**”) that is imposed monthly and collected quarterly and a separate payment imposed on transfers of a Residential Unit (the “**Transfer Payment**”), which together shall comprise the Operations Fee.

b. The Transfer Payment shall be imposed on all Transfers of a Residential Unit by an End User. The Transfer Payment shall not apply to any of the following,

except to the extent the District determines that such exception is being undertaken for the purpose of improperly avoiding the Operations Fee:

i. Any Transfer wherein the United States, or any agency or instrumentality thereof, the State of Colorado, any county, city and county, municipality, district or other political subdivisions of this State, is either the grantor or the grantee.

ii. Any Transfer by document, decree or agreement partitioning, terminating or evidencing termination of a joint tenancy, tenancy in common or other co-ownership; however, if additional consideration or value is paid in connection with such partition or termination the Transfer Payment shall apply and be based upon such additional consideration.

iii. Any Transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.

iv. Any Transfer made and delivered without consideration for the purpose of: confirming, correcting, modifying or supplementing a Transfer previously made; making minor boundary adjustments; removing clouds of title; or granting easements, rights-of-way or licenses.

v. Any decree or order of a court of record quieting, determining or resting title, except for a decree of foreclosure.

vi. Transfers to secure a debt or other obligation, or releases other than by foreclosure, which is security for a debt or other obligation.

vii. Transfers pursuant to a decree or separation of divorce.

c. The Board has determined, and does hereby determine, that the Operations Fee is reasonably related to the overall cost of providing the Facilities and Services, and is imposed on those who are reasonably likely to benefit from or use the Facilities and Services.

d. The Board has determined, and does hereby determine, that the Operations Fee is calculated to defray the cost of funding Operations Costs and reasonably distributes the burden of defraying the Operations Costs in a manner based on the benefits received by persons paying the fees and using the Facilities and Services.

3. Late Fees and Interest. Any Operations Fee not paid in full within fifteen (15) days after the scheduled due date will be assessed a late fee in the amount of Fifteen Dollars (\$15.00) or up to five percent (5%) per month, or fraction thereof, not to exceed a total of twenty-five percent (25%) of the amount due. Interest will also accrue on any outstanding Operations Fees, exclusive of assessed late fees, penalties, interest and any other costs of

collection, specifically including, but not limited, to attorneys' fees, at the rate of 18% per annum, pursuant to § 29-1-1102(7), C.R.S. The District 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 (collectively, the "**Collections Costs**").

4. Payment. Payment for all fees, rates, tolls, penalties, charges, interest and Collection Costs shall be made by check or equivalent form acceptable to the District, made payable to "High Plains Metropolitan District" and sent to the address indicated on the Fee Schedule. The District may change the payment address from time to time and such change shall not require an amendment to this Resolution.

5. Lien. The fees imposed hereunder, together with any and all late fees, interest, penalties and Collection Costs, 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 District, in its 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 Arapahoe County, Colorado.

6. Use of Operations Fees. The revenues generated by the Operations Fee will be accounted for separately from other revenues of the District. The Operations Fee revenue will be used solely for the purpose of paying Operations Costs, and may not be used by the District to pay for general administrative costs of the District. This restriction on the use of the Operations Fee revenue shall be absolute and without qualification.

7. 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.


8. The Property. This Resolution shall apply to all property within the District's 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 District after the date of this Resolution.

9. Effective Date. This Resolution shall become effective immediately upon its adoption.

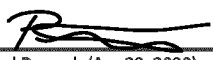
*[Remainder of page intentionally left blank. Signature page follows].*

APPROVED AND ADOPTED this 24<sup>th</sup> day of March 2020.

**HIGH PLAINS METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado


  
Andrew Messerli (Apr 22, 2020)  
\_\_\_\_\_  
Officer of the District

ATTEST:

  
Pascal Dengah (Apr 22, 2020)  
\_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys At Law

  
\_\_\_\_\_  
General Counsel to the District

*Signature page to Resolution Concerning the Imposition of an Operations Fee.*

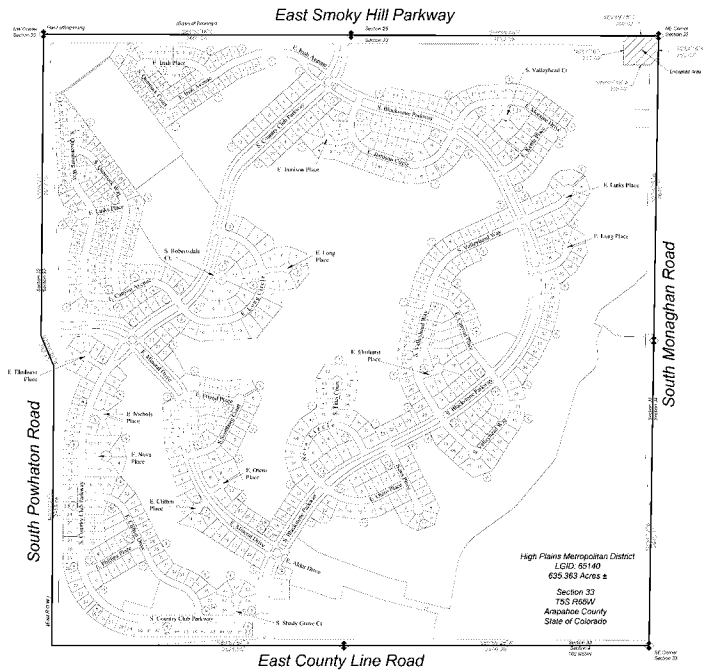
**EXHIBIT A****HIGH PLAINS METROPOLITAN DISTRICT****Schedule of Fees****Effective March 24, 2020**

<b>FEE TYPE</b>	<b>CLASSIFICATION</b>	<b>RATE</b>
<b>OPERATIONS FEE – RECURRING PAYMENT</b>	Apartment Unit	Reserved
	Residential Unit	\$55.00 per month per unit, collected quarterly
	Vacant Lot	\$31.00 per month per lot, collected quarterly
*The Due Date for each Operations fee is the 1 <sup>st</sup> day of each quarter		
<b>OPERATIONS FEE – PAYMENT DUE UPON A TRANSFER</b>	Residential Unit	\$ 500.00 per Transfer
*The Due Date for each Operations Fee—Payment Due Upon Transfer is the date upon which the Transfer occurs.		

**Payments:** Payment for each fee shall be made payable to High Plains Metropolitan District and sent to the following address for receipt by the Due Date:

High Plains Metropolitan District  
c/o Summit Management and Consulting  
4950 S. Yosemite Street, F2-506  
Greenwood Village, Colorado 80111

# EXHIBIT B HIGH PLAINS METROPOLITAN DISTRICT District Boundaries













# High Plains MD - March 24th Execution Packet

Final Audit Report

2020-04-22

Created:	2020-04-20
By:	Allison Hanson (ahanson@wbapc.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAaqF4OCqWf-NhJJ4Km7usWUwNRKk2PwE8

## "High Plains MD - March 24th Execution Packet" History

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-  Document emailed to Andrew Messerli (dmesserli@lt.life) for signature  
2020-04-20 - 11:36:48 PM GMT
  
-  Email viewed by Andrew Messerli (dmesserli@lt.life)  
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-  Document e-signed by Andrew Messerli (dmesserli@lt.life)  
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-  Document emailed to Pascal Dengah (pdengah27@yahoo.com) for signature  
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-  Document e-signed by Pascal Dengah (pdengah27@yahoo.com)  
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-  Signed document emailed to Allison Hanson (ahanson@wbapc.com), Andrew Messerli (dmesserli@lt.life) and Pascal Dengah (pdengah27@yahoo.com)  
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