

After Recording, Return to:
WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122

**RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WATERS' EDGE METROPOLITAN DISTRICT NO. 2**

CONCERNING THE IMPOSITION OF CAPITAL FACILITIES FEE

WHEREAS, the Waters' Edge Metropolitan District No. 2 (the "**District**") was formed pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended (the "**Special District Act**"), by order of the District Court for Larimer County, Colorado, and after approval of the District's eligible electors at an election; 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 streets, water, sanitation, parks and recreation, transportation, TV relay and translation, mosquito control, safety protection, limited security and limited fire protection improvements, facilities, appurtenances and rights-of-way (collectively, the "**Facilities**"); 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 such fees, rates, tolls, penalties and charges are 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, construction, installation, 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 establishment of a fair and equitable fee (the "**Capital Facilities Fee**") to provide a source of funding to pay for the initial capital direct and indirect costs associated with the construction, installation and acquisition of the Facilities (the "**Capital Facilities Costs**"), which Capital Facilities Costs are generally attributable to each Lot (defined below), is necessary to provide for the common good and for the prosperity and general welfare of the District and its inhabitants; and

WHEREAS, the District finds that the Capital Facilities Fee (as defined below), as set forth in this Resolution, is reasonably related to the overall cost of providing the Facilities and paying the Capital Facilities 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.

“**District Boundaries**” means the legal boundaries of the District, 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 Capital Facilities Fee is due, which Due Date is 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. End User specifically excludes a tenant occupying an Apartment 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 District 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 District 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.

“**Vacant Lot**” means each parcel of land within the District established by a recorded final 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. CAPITAL FACILITIES FEE.

a. A one-time Capital Facilities Fee is hereby established and imposed upon each Residential Unit and each Apartment Unit within the District Boundaries.

b. The Capital Facilities Fee shall be first due and owing as of: 1) the date of Transfer to an End User; or 2) when a Residential Unit is occupied for residential use or upon issuance of a building permit for any Residential Unit on a Lot, whichever shall first occur. The amount of each Capital Facilities Fee due hereunder shall be at the rate in effect at the time of payment.

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

d. The revenues generated by the Capital Facilities Fee will be accounted for separately from other revenues of the District. The Capital Facilities Fee revenue will be used solely for the purpose of paying Capital Facilities Costs, and may not be used by the District to pay for general administrative costs of the District.

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

3. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., any Capital Facilities 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 Capital Facilities Fee, exclusive of assessed late fees, penalties, interest and any other costs of collection, specially 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 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.

4. PAYMENT. Payment for all fees, rates, tolls, penalties, charges, interest and attorney fees shall be made by check or equivalent form acceptable to the District, made payable to "Waters' Edge Metropolitan District No. 2" and sent to the address indicated on the Fee Schedule. The District may change the payment address from time and 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 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 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 Larimer County, Colorado.

6. 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.

7. 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.

8. EFFECTIVE DATE. This Resolution shall become effective March 22, 2021.

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

ADOPTED this 22nd day of March, 2021.

WATERS' EDGE METROPOLITAN DISTRICT
NO. 2, a quasi-municipal corporation and political
subdivision of the State of Colorado



Joe Knopinski (Mar 24, 2021 15:23 MDT)

Officer of the District


ATTEST:



John Gooch (Mar 25, 2021 09:49 MDT)

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 Capital Facilities Fee

2021-03-22 Waters's Edge MD Execution Packet

Final Audit Report

2021-03-25

Created:	2021-03-24
By:	Dana Anderson (danderson@wbapc.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAgqpeTU-ixE8sm5OcANqYRL3IPjctJfPF

"2021-03-22 Waters's Edge MD Execution Packet" History









-  Document created by Dana Anderson (danderson@wbapc.com)
2021-03-24 - 8:45:43 PM GMT- IP address: 50.209.233.181
-  Document emailed to Joe Knopinski (joek@landanddistricts.com) for signature
2021-03-24 - 8:52:49 PM GMT
-  Document emailed to John Gooch (johng@aspen-engineer.com) for signature
2021-03-24 - 8:52:49 PM GMT
-  Email viewed by John Gooch (johng@aspen-engineer.com)
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-  Email viewed by Joe Knopinski (joek@landanddistricts.com)
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-  Document e-signed by Joe Knopinski (joek@landanddistricts.com)
Signature Date: 2021-03-24 - 9:23:49 PM GMT - Time Source: server- IP address: 73.203.43.20
-  Document e-signed by John Gooch (johng@aspen-engineer.com)
Signature Date: 2021-03-25 - 3:49:51 PM GMT - Time Source: server- IP address: 96.69.169.67
-  Agreement completed.
2021-03-25 - 3:49:51 PM GMT

EXHIBIT A

WATERS' EDGE METROPOLITAN DISTRICT NO. 2
Schedule of Fees
Effective March 22, 2021

Schedule of Fees		
Fee Type	Classifications	Rate
Capital Facilities Fee*	Single Family Detached Residential Unit	\$2,500 / Residential Unit
	Attached Residential Unit (including Townhomes and Condominiums)	\$1,500 / Residential Unit
	Apartment Unit	\$1,500 / Apartment Unit
*As of March 22, 2021.		
The Due Date for each Capital Facilities Fee is: 1) the date of Transfer to an End User; or 2) at the time of issuance of a building permit for any Residential Unit or Apartment Unit, whichever shall first occur.		

PAYMENTS: Payment for each fee shall be made payable to the Waters' Edge Metropolitan District No. 2 and sent to the following address for receipt by the Due Date:

c/o Simmons & Wheeler, P.C.
304 Inverness Way South Suite 490
Englewood, CO 80112

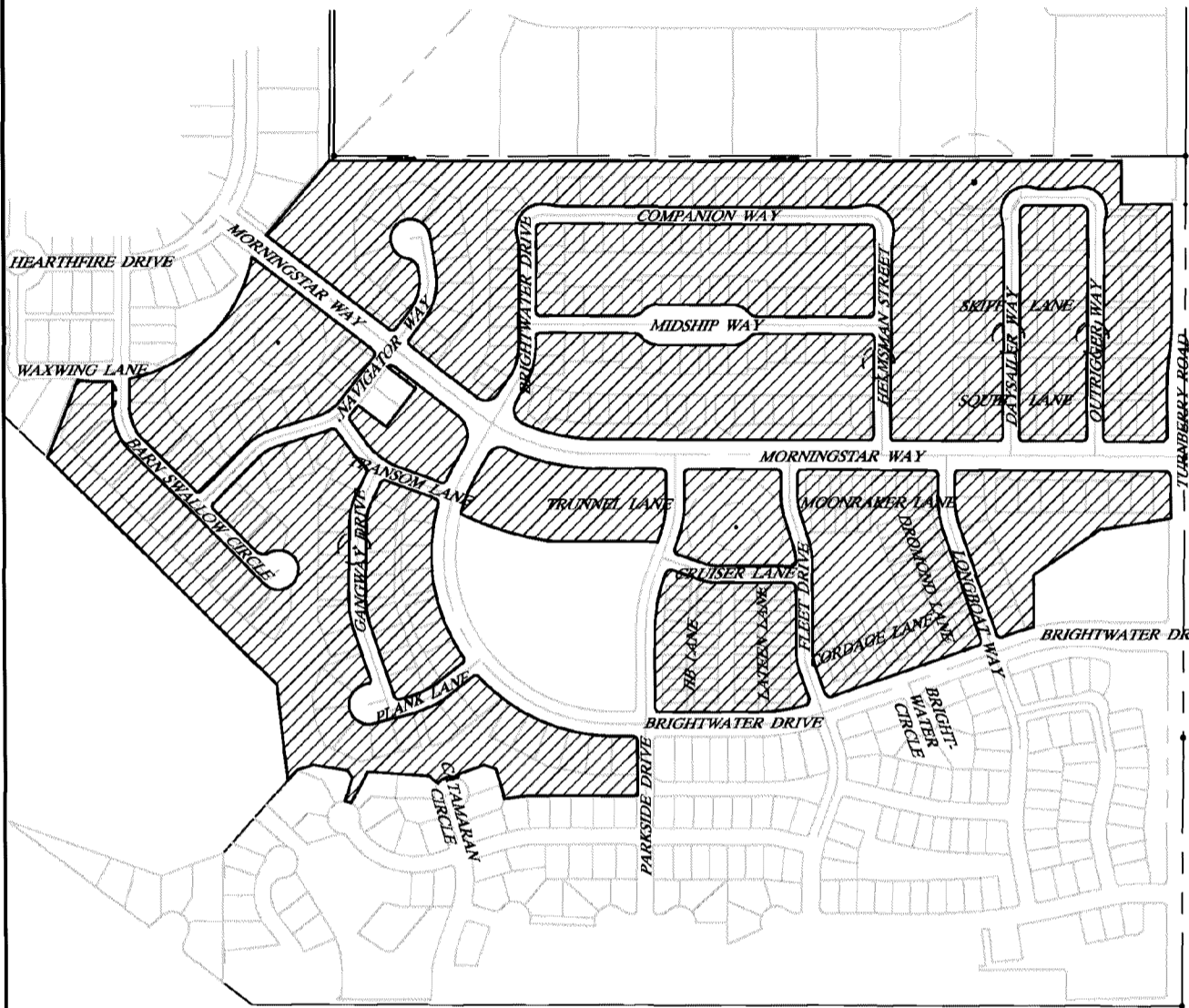
EXHIBIT B

WATERS' EDGE METROPOLITAN DISTRICT NO. 2

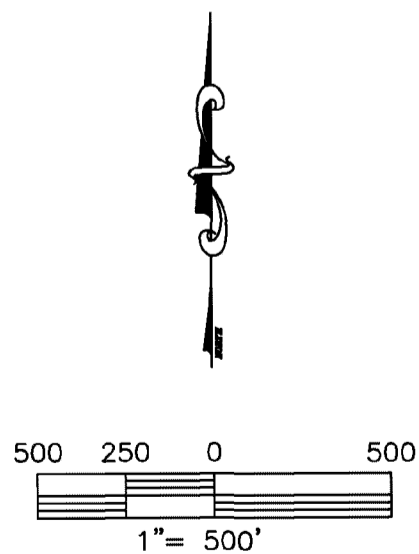
District Boundaries

WATERS' EDGE METROPOLITAN
DISTRICT NO. 2

WATERS EDGE, S 1/2,
SEC. 30, T8N, R68W, 6TH P.M.



NOTE: This exhibit drawing is not intended to be a
monumented land survey.



KING SURVEYORS

650 E. Garden Drive | Windsor, Colorado 80550
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email: contact@KingSurveyors.com

PROJECT NO: 2015374-B
DATE: 7/20/2017
CLIENT: WATERS EDGE EAST, LLC
DWG: 2015374-B-EXH-D2-OVERALL BD
DRAWN: MM **CHECKED:** SP