

RESOLUTION OF THE BOARD OF DIRECTORS OF THE CONSOLIDATED  
METROPOLITAN DISTRICT CONCERNING SYSTEM DEVELOPMENT FEES

WHEREAS, the Consolidated Metropolitan District, County of Garfield, is a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"); and

WHEREAS, the District was organized to provide, and is providing public services, facilities and programs within its boundaries pursuant to its Service Plan; and

WHEREAS, the District, pursuant to Section 32-1-1001(1)(j), C.R.S., as amended, may fix and from time to time increase or decrease fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the District; and

WHEREAS, the District has previously adopted separate water and sewer tap fees in the amount of \$5000 and a recreation center impact fee of \$1000 to be collected from owners of property desiring to construct residential and commercial, improvements within the District ("Builders"); and

WHEREAS, the Board of Directors of the District has previously determined and declared that it is in the best interests of the District to plan for the accumulation and recoupment of the costs to develop and to repair and replace all categories of District facilities, including without limitation streets, water, sewer, storm and surface drainage, and park and recreation improvements ("System Improvements") and thus adopted a System Development Fee ("SDF") to be collected from Builders, to be paid at the time a building permit is obtained and as a condition of access to the District's water and sewer systems; and

WHEREAS, the Board has been informed that the timing in which the SDF is collected may conflict with certain contractual obligations and rights of a specific developer; and

WHEREAS, without admitting or denying that such a conflict exists, the Board of Directors of the District now wish to rectify this potential conflict and to acknowledge, ratify but recalculate, reallocate and rename the SDF as having two distinct components to be due and collected from Builders as described herein; and

WHEREAS, the Board hereby finds and determines that, as in past practice there should be charged a Tap Fee to be accumulated and allocated to the repayment of prior infrastructure costs and the development, repair and replacement of water and sewer improvements within and without the District, and a new "Capital Reserve Fee" to be accumulated and allocated to the development, repair and replacement of all categories of System Improvements within and without the District, generally; and

WHEREAS, the Board hereby finds and declares that, for purposes of determining the relative impact of development within the District on all System Improvements, the use of calculations to determine the equivalent residential units of various development categories ("EQR") is the most fair, efficient and equitable manner of allocating the cost of such impacts; and

WHEREAS, the Board hereby finds and declares that the EQR schedule attached hereto as Exhibit A and incorporated herein by this reference constitutes a fair allocation of the impacts of development within the District upon all System Improvements;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the District, that:

1. Commencing on and after July 1, 2008, and until amended, the Tap Fee and Capital Reserve Fee (together the "Fees") shall be assessed and paid as follows:

A. For each EQR of development, calculated as described on Exhibit A, a Tap Fee of \$5000 to be accumulated and allocated to repayment of prior infrastructure costs and the development, repair and replacement of water and sewer improvements within and without the District.

B. For each EQR of development, calculated as described on Exhibit A, a Capital Reserve Fee of \$4000 to be accumulated and allocated to the development, repair and replacement of all categories of System Improvements within and without the District, generally.

C. Development within the Town of Parachute shall be assessed a System Development Fee calculated pursuant to intergovernmental agreement.

D. The Tap Fee payable by Battlement Mesa Partners ("BMP") or its successors in interest shall be governed by that certain Water and Sewer Tap Purchase Agreement dated as June 1, 2006, and by and between the District, the Battlement Mesa Metropolitan District, and BMP.

2. Notice of this Resolution shall be provided to the County as soon as is practicable after the adoption hereof.

A. The Tap Fee shall be assessed, due and payable at the time that a connection permit is issued, or should have been issued by the District, pursuant to its rules, regulations, policies and procedures.

B. The Capital Reserve Fee shall be assessed, due and payable at the time of the issuance by the County of a building permit.

3. Until paid, pursuant to Section 32-1-1001(1)(j), C.R.S., as amended, all rates, tolls, fees and charges of the District, including the Fees, shall constitute a first and perpetual lien on or against the property served and any such lien may be foreclosed in the manner provided by law. If the District determines that a foreclosure is necessary to obtain payment of such rates, tolls, fees and charges, including the Fees, a foreclosure fee equal to the costs of collection, including legal fees and costs, shall be assessed against the property to offset the costs of prosecuting such foreclosure and such foreclosure fee shall constitute a perpetual lien on the property.

The Fees, and the obligation for its payment, follows the property in question and the purchaser from any Builder, and the owner and the occupant of any property are hereby deemed equally liable for the Fees and for charges of the District. The District assumes no responsibility hereby for any agreement made between Builders, owners and occupants regardless of how made or the District having been notified of such agreement.

The District shall have the right to assess any Builder, or subsequent owner or occupant who is tardy in payment of its account all legal, court and other costs necessary to or incidental to the collection of said account.

4. The Fees are in addition to any and all other service or other charges, rates, fees, tolls, and penalties as may be imposed for service by the District or the County.

5. The Fees may be amended by action of the Board of Directors of the District, without notice, at any time, and any change in use of any property shall be subject to the rules and regulations of the District which may result in the imposition of additional or different Fees.

RESOLVED this 17 day of OCTOBER, 2008.

(SEAL)

ATTEST:

  
Secretary

CONSOLIDATED METROPOLITAN DISTRICT

  
President