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2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122

Resolution No. 2016-02-03

AMENDED AND RESTATED RESOLUTION OF THE BOARD OF DIRECTORS OF THE PAINT BRUSH HILLS METROPOLITAN DISTRICT

CONCERNING THE IMPOSITION OF VARIOUS FEES, RATES, PENALTIES AND CHARGES FOR WATER AND SANITARY SEWER SERVICES AND FACILITIES

WHEREAS, the Paint Brush Hills Metropolitan District (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 El Paso 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 water and sanitary sewer 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 water and sanitary sewer services to property and inhabitants within and without the boundaries of the District (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 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 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

and without the District maintained, and that the health, safety and welfare of the District, its users and its inhabitants may be safeguarded (collectively, the "**Service Costs**"); and

WHEREAS, the establishment and continuation of fair and equitable fees and charges (collectively, the "**Fees and Charges**") to provide a source of funding to pay for the Facility Costs and the Service Costs, (collectively, the "**Costs**"), which Costs are generally attributable to the persons and/or properties subject to such Fees and Charges, 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, pursuant to § 32-1-1006(1)(g), C.R.S., the District is empowered to fix and from time to time increase or decrease tap fees; and

WHEREAS, the establishment of a fair and equitable fee (the "**Tap 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, which such costs are generally attributable to each Lot and Commercial Lot (defined below), is necessary to provide for the common good and for the prosperity and general welfare of the District, its users and its inhabitants; and

WHEREAS, pursuant to §32-1-1001(2), C.R.S., the Board, as a governing body furnishing domestic water or sanitary sewer services directly to residents and property owners within or outside of the District, may fix or increase fees, rates, tolls, penalties or charges for domestic water or sanitary sewer services only after consideration of the action at a public meeting held at least thirty (30) days after providing notice stating that the action is being considered and stating the date, time and place of the meeting at which the action is being considered; and

WHEREAS, pursuant to § 32-1-1001(2)(a)(IV), C.R.S., on December 31, 2015, the Board provided the required (30) days' notice by posting the notice on the official website of the Colorado Special District Association, the statewide association of special districts forms pursuant to § 29-1-401, C.R.S., which association posted the notice of a publicly accessible section of its website; and

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

WHEREAS, on November 19, 2015, the Board adopted Resolution Number 2015-11-06 Resolution of the Board of Directors of Paint Brush Hills Metropolitan District Concerning the Imposition of Various Fees, Rates, Penalties and Charges for Water and Sanitary Sewer Services and Facilities, which was recorded in the real property records of the El Paso County Clerk and Recorder's Office on December 3, 2015, at Reception No. 215130544 (the "Prior Fee Resolution"), and the Board desires to adopt this 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:

"**Commercial Lot**" means each Lot, regardless of the number of Commercial Units thereon, within the District Boundaries that is used and/or zoned for general commercial, industrial, office, retail or other non-residential uses.

"**Commercial Unit**" means each office space, unit, building or other structure within the District Boundaries that is used and/or zoned for general commercial, industrial, office, retail, or other non-residential uses.

"**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 well as properties outside of the District's legal boundaries which receive service from the District, all 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 Fees and Charges are 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 or a Commercial Unit.

"**Fee Schedule**" or "**Schedule of Fees and Charges**" 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.

"**Property Owner**" shall include all owners of real property, customers, users, residents, leaseholders and other recipients of District services.

"**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.

2. THE FEES AND CHARGES.

a. Service Fees and Charges. The Board has determined, and does hereby determine, that it is in the best interests of the District and its respective residents, users and property owners to impose, and does hereby impose the Fees and Charges set forth in the Schedule of Fees and Charges to fund the Costs. The Fees and Charges are 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.

b. Transfer Payment. The Fees shall include a separate payment imposed on transfers of a Residential Unit (the "**Transfer Payment**"). The Transfer Payment shall be imposed on all Transfers of a Residential Unit and Commercial 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 Fees and Charges:

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 Fees and Charges are 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 revenues generated by the Fees and Charges will be accounted for separately from other revenues of the District, specifically *ad valorem* property tax revenues, if applicable. The revenue from Fees and Charges will be used solely for the purpose of paying Costs, and, if *ad valorem* property tax revenues are available, may not be used by the District to pay for general administrative costs of the District. This restriction on the use of the Fees and Charges revenue shall be absolute and without qualification.

e. The Board has determined, and does hereby determine, that the Fees and Charges are calculated to defray the cost of funding the Costs and reasonably distribute the burden of defraying the Costs in a manner based on the benefits received by persons paying the fees and using the Facilities and Services.

3. WATER TAP FEE & SEWER TAP FEE. A Water Tap Fee and a Sewer Tap Fee are hereby established and imposed upon each Residential Unit and each Commercial Unit within the District Boundaries in the amounts set forth in the Schedule of Fees and Charges.

4. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., any Fees and Charges 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 Fees and Charges, 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.

5. 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 "Paint Brush Hills Metropolitan District" 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.

6. 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 El Paso County, Colorado.

7. CERTIFICATION OF ACCOUNT TO COUNTY TREASURER. Pursuant to §32-1-1101(1)(e), C.R.S., the Board may elect to certify any delinquent account and late fees satisfying the criteria established therein to the El Paso County Treasurer for collection with the District's *ad valorem* property taxes. The certification process may be in addition to or in lieu of any procedures set forth in this Resolution in the Board's sole discretion. The fees for the certification process shall be in accordance with Colorado law and El Paso County policy.

8. SHUT OFF OR DISCONTINUATION OF SERVICE. Pursuant to § 32-1-1006(1)(d), C.R.S., the Board may elect to shut off or discontinue water and/or sewer service for delinquencies. The shut off or discontinuation of service may be in addition to or in lieu of any procedures set forth in this Resolution in the Board's sole discretion. The fees associated with the shut off or discontinuation of service as set forth in the Schedule of Fees and Charges.

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 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.

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

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

ADOPTED this 18th day of February, 2016.

PAINT BRUSH HILLS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado

Officer of the District

ATTEST:

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 Various Fees and Charges for Water and Sanitary Sewer Services and Facilities

1316.0007; 713574

EXHIBIT A
SCHEDULE OF FEES AND CHARGES
Adopted and Approved
February 18, 2016 to become effective March 1, 2016

WATER & SEWER TAP FEE

This fee is a one-time contribution per lot required of new Customers (or existing Customers having change of use) to be used for capital investment in regional facilities and District operations. This fee shall be due at the time of application for service. The Water & Sewer Tap Fee is subject to change at the discretion of the Board. The EQR determination and tap fee for both the water and sewer tap are based on the size of the water tap as set forth below.

Water Tap Size	EQR	Water and Sewer Tap Fee
¾"	1	$18,856.75*

*As of January 1, 2016. The Water and Sewer Tap Fee shall automatically increase on January 1 of each succeeding year by 5%.

Due Date: At time of application for service

WATER METER SETTING FEE

This fee is intended to cover the cost of the District's inspection of the physical tap and of the Customer's Service Line, entering the tap location on the District's as-built drawing set, time and materials associated with the tapping, a builder's use of water and other ancillary services needed in connection with the provision of a new tap by the District.

The actual cost of a water meter is included in the water tapping fees. If repeat inspection services are required due to unacceptable installation or improper scheduling, then the District will charge additional re-inspection fees as stated herein per occurrence.

WATER METER SETTING FEE SCHEDULE

Water Line/Meter Size	Fee
¾"	$500 (includes labor and materials, and builder water use during the course of construction)

All other sizes billed on a time and materials basis at a cost of $40 per hour for labor and materials billed at cost.

MONTHLY WATER SERVICE CHARGES

Tap Size	Water Base Fee
¾" tap	$30.00

WATER USAGE FEES:

RESIDENTIAL

USAGE (monthly billing basis)		COST (per gallon)	-OR-	COST (per 1,000 gallons)
Tier 1	0 to 15,000 gallons	$0.0050		$5.00
Tier 2	15,001 to 25,000 gallons	$0.0075		$7.50
Tier 3	25,001 to 35,000 gallons	$0.0125		$12.50
Tier 4	35,001 to 40,000 gallons	$0.0150		$15.00
Tier 5	40,001 to 45,000 gallons	$0.0200		$20.00
Tier 6	Over 45,000 gallons	$0.0250		$25.00

COMMERCIAL

WATER	USAGE	COST (per gallon)	-OR-	COST (per 1,000 gallons)
Tier 1	0 to 1,000,000 gallons	$0.01		$10.00
Tier 2	1,000,001 to 1,500,000 gallons	$0.015		$15.00
Tier 3	1,500,001 gallons and up	$0.02		$20.00

LATE CHARGE $10.00
Plus 12% annual interest rate

MONTHLY SEWER SERVICE CHARGES

Tap Size	Sewer Fee
¾" tap	$17.00

COMMERCIAL USAGE FEES

SEWER	USAGE	COST (per month)
	Small	$33.85
	Large	$450.00

UNDERDRAIN FEE $3.00/per month
(per property)

LATE CHARGE $10.00
12% annual interest rate

COLLECTION FEE $25.00
Collection of total past due amount at the property to avoid shut-off

STREET LIGHTING FEE

Scenic View at Paint Brush Hills (per property)	$1.60/month

INSPECTION FEES

Service Line / Meter Pit Inspection	$150.00*
Meter Inspection	$150.00*
Other Inspection	$150.00

*If inspection takes place as part of the meter setting process, the inspection fees are not in addition to but included in the Water Meter Setting Fee.

REINSPECTION FEE OR RETURN VISIT FEE	$150.00 / hr (2 hour minimum)
METER MAINTENANCE SERVICE FEE	$40.00 / hr (1 hour minimum)
METER COST (replacement)	Current cost to District
WATER TURN ON/TURN OFF	$25.00 each on/off (Customer Requested) $50.00 each on/off (for non-payment)
SEWER SERVICE	$40.00 / hr (1 hour minimum)

MISCELLANEOUS FEES:

FIRE HYDRANT METER FEES

Meter Assembly Rental Deposit	$ 2,000 per meter
Meter Rental Fee	$ 20.00/day
Monthly Fee	$10.00 / 1,000 gallons

FORMAL INCLUSION HEARING FEE — $ 1,000.00 / application fee

Plus all costs of publication of notices and engineering and attorneys' fees incurred by District in processing the inclusion

FORECLOSURE FEE — Actual cost

Plus all costs of engineering and attorneys' fees

INCLUSION FEE

Initial Deposit — $10,000.00 (non-refundable)

Incremental Refundable Deposits of $5,000.00 for actual time and expenses incurred over the $10,000 initial deposit, including but not limited to costs of publication of notices and engineering and attorneys' fees.

PERMIT FEES:

Water Stub-In Permit	$100.00
Line Extension Permit	$250.00
Disconnection or Reconnection Permit	$600.00

PLAN REVIEW FEES

Actual Time and expenses incurred by District, and/or $40/hour for District staff

TRANSFER AND CONSOLIDATION FEES

For transfer or consolidation of ownership of property: per lot	$125.00

TESTING FEES

Any property owner or customer requesting a contaminant testing shall pay the following applicable fee(s) for each of the requested tests, all of which include applicable pick-up and delivery and administrate fees and costs:

Domestic Water Test:	$165.00
Standard Nutrient Test:	$168.00
HPC Test:	$175.00
Total Coliform Test:	$174.00
Additional Tests:	Based on actual costs

PENALTY FEES / FINES:

Excavation During Non-Excavation Period — $5,000.00 (bond)

December 1 through March 31 of each year. The District may adjust the no-excavation period based on actual weather conditions. The bond is security for repairs which may be required due to damage to the District's existing facilities.

Installation of any non-metered device — $1,000.00 / occurrence

Installation of any device (i.e., "jumper") to allow for circumvention of the District's monitoring or delivery systems shall constitute unauthorized tampering and the use of the District water system shall be subject to a penalty fee. Such fines shall, until paid, constitute a lien upon the subject property, pursuant to § 32-1-1001, C.R.S.

Repair of Broken or Damaged Water Meters, Meter Pits and Curb Stop Boxes — 100%[1]

[1] A) If a Customer damages or breaks their water meter, the Customer shall pay 100% of the associated costs for the repair and/or replacement of the water meters, meter pits and curb stop boxes, plus any attorneys' fees incurred to collect associated costs.

B) The District will notify the Customer of the broken or damaged water meters, meter pits and curb stop boxes and the costs of repair and/or replacement. A copy of the invoice for the work will be included with the notice. The Customer will reimburse the costs to the District within thirty (30) days of receipt of the notice.

Unauthorized Tampering with District systems or meters:	$2,000.00 / incident

Plus actual cost of damage, expense, and loss.

Unauthorized Connection Fee	$ 2 x the then-current tap fee

Plus actual cost of damage, expense, and loss, legal fees, and any other costs incurred in the filing of criminal charges.

Due Date for all Fees and Charges is the __ of the month unless otherwise indicated herein or on an invoice received from the District.

PAYMENTS: Payment for each fee shall be made payable to the Paint Brush Hills Metropolitan District and sent to the following address for receipt by the Due Date:

Paint Brush Hills Metropolitan District
9830 Liberty Grove Drive
Falcon, Colorado 80831
Attn: Leon Gomes

C) If reimbursement is not received by the District within thirty (30) days of the notice, the costs will be added as a charge to the Customer's water bill for the next billing cycle.

EXHIBIT B

PAINT BRUSH HILLS METROPOLITAN DISTRICT

District Boundaries

EXHIBIT B

SECTION 25 AND THE EAST ½ OF SECTION 26, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH P.M. IN EL PASO COUNTY, COLORADO, EXCEPT THE EASTERLY 30 FEET AND THE SOUTHERLY 60 FEET OF THE EASTERLY 3,222.73 FEET OF SAID SECTION 25, AND EXCEPT THAT PARCEL DESCRIBED IN BOOK 2732 AT PAGE 860 OF THE RECORDS OF SAID EL PASO COUNTY, CONTAINING 944.89 ACRES, MORE OR LESS,

TOGETHER WITH

THE NORTHEAST 1/4 SECTION 36, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6TH PRINCIPAL MERIDIAN IN EL PASO COUNTY, CONSISTING OF 160 ACRES, MORE OR LESS.

FOR A TOTAL OF 1,104.89 ACRES, MORE OR LESS.