

**COLLECTIONS RESOLUTION OF  
SOUTHLANDS METROPOLITAN DISTRICT NO. 1**

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WHEREAS, pursuant to an order and decree of the District Court of Arapahoe County, Colorado, the Southlands Metropolitan District No. 1 (the "District") was duly and validly organized as a special district in accordance with all applicable laws of the State of Colorado; and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., the Board of Directors (the "Board") of the District is authorized to fix and from time to time increase or decrease, fees, rates, tolls, penalties, or charges for services, programs, or facilities furnished by the District to properties within the District's boundaries (individually a "Property"); and

WHEREAS, such fees, when unpaid, shall constitute a perpetual lien on and against the Property; and

WHEREAS, by this Resolution (the "Resolution"), the District desires to set forth policies and procedures for the collection of fees imposed by the District related to operations and maintenance as implemented and authorized pursuant to that certain Resolution Concerning the Imposition of a General Operations Fee, adopted by the Board on May 4, 2011 (the "Fees and Charges"); and

WHEREAS, this resolution shall not control the collection of fees, rates, tolls, penalties, or charges related to costs for capital improvements.

NOW, THEREFORE, it is hereby resolved by the Board as follows:

**1. LIEN FILING POLICIES AND PROCEDURES:**

a. *Perpetual Lien.* Pursuant to § 32-1-1001(1)(j)(I), C.R.S., all Fees and Charges, until paid, shall constitute a perpetual lien on and against the Property to be served by the District. All such liens shall to the fullest extent permitted by law, have priority over all other liens of record affecting the Property and shall run with the Property and remain in effect until paid in full. All liens contemplated herein may be foreclosed as authorized by law at such time as the District in its sole discretion may determine. Notwithstanding the foregoing, the lien policies and procedures set forth in this Resolution shall be implemented in order to ensure an orderly and fair execution of the lien filing and collections process.

b. *District's Accountant Procedures.* The District's Accountant (the "Accountant") shall be responsible for collecting Fees and Charges imposed by the District against the Property. In the event payment of Fees and Charges is delinquent, the Accountant, with the assistance of the District's Property Manager (the "Property Manager"), shall perform the procedures listed below. The Fees and Charges are considered delinquent when they have not been paid by their corresponding due date (the "Delinquent Account"):

i. *Twenty (20) Days Past Due:* A delinquent payment "Reminder

Letter” shall be sent to the address of the last known owner of the Property according to the Accountant’s records. In the event the above mailing is returned as undeliverable, the Accountant shall send a second copy of the Reminder Letter to: (1) the Property; and (2) the address of the last known owner of the Property as found in the real property records of the Arapahoe County Clerk and Recorder (collectively the “Property Address”). Said Reminder Letter shall request prompt payment and notify the Property owner that a Late Fee and a Reminder Letter Fee in the amounts set forth in Section 2 and Section 4 of this Resolution respectively will be assessed.

ii. *Forty-Five (45) Days Past Due:* A “Warning Letter” shall be sent to the Property Address via certified mail requesting prompt payment and warning of further legal action should the Property owner fail to pay the total amount owing.

iii. *Fifteen (15) Days Following the Postmark Date of the Warning Letter:* Once the Accountant has performed its duties outlined in Section 1(b) of this Resolution, the Accountant shall refer the Delinquent Account to the District’s General Counsel (the “General Counsel”). At the time of such referral, the Accountant shall provide General Counsel with copies of all notices and letters sent pursuant to Section 1(b) and a copy of the most recent ledger for the Delinquent Account.

c. *General Counsel Procedures.* Upon referral of a Delinquent Account from the Accountant, General Counsel shall perform the following:

i. *Upon Referral of the Delinquent Account From the Accountant:* A “Demand Letter” shall be sent to the Property Address, notifying the Property owner that his/her Property has been referred to General Counsel for further collections enforcement, including the filing of a lien against the Property. A copy of the most recent account ledger reflecting the total amount due and owing the District according to the records of the Accountant shall be available to the Property owner upon request.

ii. *No Earlier Than Thirty (30) Calendar Days from the Date of the Demand Letter:* A Notice of Intent to File Lien Statement, along with a copy of the lien to be filed, shall be sent to the Property Address of the Delinquent Account notifying the Property owner that a lien will be filed within Ten (10) days of the Notice of Intent to File Lien Statement postmark date.

iii. *No Earlier Than Ten (10) Calendar Days from the Postmark Date of the Notice of Intent to File Lien Statement:* A lien for the total amount owing as of the date of the lien shall be recorded against the Property with the County Clerk and Recorder’s Office; all Fees and Charges, Late Fees, Interest, and Costs of Collection (as defined below) will continue to accrue on the Delinquent Account and will run with the Property until the total amount due and owing the District is paid in full.

**2. LATE FEES:**

a. "Late Fees" are assessed on the Property for failure to make timely payments of Fees and Charges. The following policies apply consistently and uniformly, regardless of whether the Fees and Charges are assessed on a one-time, monthly, quarterly, semi-annual, annual, or any other basis.

b. The Accountant shall assess the Late Fee on the Property **Fifteen (15) calendar days from the payment due date**. Pursuant to § 29-1-1102, C.R.S., such Late Fee shall be charged by either of the following two methods, whichever is greater:

i. One Late Fee of Fifteen Dollars (\$15.00) will be assessed on the Property per each assessment of Fees and Charges not fully paid prior to or on the Fifteenth (15) calendar day of the month in which the payment is due; or

ii. In lieu of Section 2(b)(i) above, a Late Fee of Five Percent (5%) per month, commencing on the Fifteenth (15) calendar day of the month the payment is due, and each month thereafter, will be charged on unpaid Fees and Charges until the Late Fee equals Twenty Five Percent (25%) of all outstanding Fees and Charges.

*Example:*

January 1 Fee (unpaid) . . . . .	\$100
5% Late Fee (January 15) . . . . .	\$5
February 1 Fee (unpaid) . . . . .	\$100
5% Late Fee (February 15) . . . . .	\$10
(Net Balance . . . . .)	\$215

Such charges shall continue each month until such time as the total amount of Late Fees equals 25% of the total unpaid Fees and Charges

c. Partial payment of any outstanding Fees and Charges will not prevent the imposition of Late Fees pursuant to this Section 2.

*Example:*

January 1 Fee . . . . .	\$100
Partial Payment on January 5 . . . . .	\$90
<u>Late Fee (January 15) . . . . .</u>	<u>\$15</u>
(Net Balance . . . . .)	\$25

d. Payments received shall be applied to the balance due in the following order of priority: (1) Late Fees; (2) Interest; (3) Costs of Collections; (4) the earliest imposed and unpaid Fees and Charges; (5) any successive unpaid Fees and Charges in chronological order from the earliest unpaid Fees and Charges to the most recently imposed Fees and Charges.

*Example A:*

January 1 Fee (unpaid) . . . . .	\$100
Jan. Pmt. Late Fee (January 15) . . . . .	\$15
February 1 Fee (unpaid) . . . . .	\$100
Feb. Pmt. Late Fee (February 15) . . . . .	\$15
March 1 Fee (unpaid) . . . . .	\$100
<u>Payment on March 10 . . . . .</u>	<u>\$280</u>
(Net Balance . . . . .)	\$50
- Late Fees Balance =	\$0
- Fees and Charges Balance =	-\$50

*Example B:*

January 1 Fee (unpaid) . . . . .	- \$100
Jan. Pmt. Late Fee (January 15) . . .	- \$15
February 1 Fee . . . . .	- \$100
Payment on February 10 . . . . .	\$150
<u>Feb. Pmt. Late Fee (February 15) . .</u>	<u>- \$15</u>
(Net Balance . . . . .)	- \$80)
- Late Fees Balance = -	\$15
- Fees and Charges Balance = -	\$65

Feb. 10 Pmt is applied in the following order: (1) Feb. 1 Late Fee; (2) Jan. 1 Fee; and (3) to the February Fee

e. No penalty shall be assessed on the Property for a credit balance resulting from the prepayment and/or overpayment of Fees and Charges. Such credit balances shall be carried forward on the account with all subsequent Fees and Charges being deducted until such time as the credit balance is depleted. A Property carrying a credit balance shall be assessed Late Fees as provided herein at such time as the credit balance is insufficient to pay the entire amount of Fees and Charges due and owing the District.

*Example:*

January 1 Fee . . . . .	- \$100
Payment on January 2 . . . . .	\$350
February 1 Fee . . . . .	- \$100
March 1 Fee . . . . .	- \$100 (balance = \$50)
April 1 Fee . . . . .	- \$100
<u>Late Fee (April 15) . . . . .</u>	<u>- \$15</u>
(Net Balance . . . . .)	- \$65)

**3. INTEREST:** “Interest” charges accrue and shall be charged on all delinquent Fees and Charges, but shall not accrue and be charged on penalties (i.e. Late Fees, Interest, and Costs of Collections), at the maximum statutory rate of Eighteen Percent (18%) per annum.

**4. COSTS OF COLLECTIONS:**

a. “Costs of Collections” are generated by the Accountant’s and General Counsel’s collection efforts. They consist of the following fixed rates and hourly fees and costs:

i. *Action Fees.* The following fixed rate fees shall be charged to a Delinquent Account once the corresponding action has been taken by either the Accountant or General Counsel:

- *Reminder Letter Fee:* No charge (\$0.00) for the Reminder Letter. This action is performed by the Accountant.
- *Warning Letter Fee:* Ten Dollars (\$10.00) per Warning Letter sent. This action is performed by the Accountant.
- *Attorney Transfer Fee:* Thirty Dollars (\$30.00) per Delinquent Account transferred from the Accountant to General Counsel. This action is performed by the Accountant.

- *Demand Letter Fee:* Sixty Dollars (\$60.00) per Demand Letter sent. This action is performed by General Counsel.

- *Notice of Intent to File Lien Fee:* One Hundred Twenty Dollars (\$120.00) per Notice of Intent to File Lien Statement sent. This action is performed by General Counsel.

- *Lien Recording Fee:* One Hundred Fifty Dollars (\$150.00) per each lien recorded on the Property. This action is performed by General Counsel.

- *Lien Release Fee:* One Hundred Fifty Dollars (\$150.00) per lien that is released. This action is performed by General Counsel.

ii. *Attorney Hourly Fees and Costs.* After a lien has been filed, all hourly fees and costs generated by General Counsel to collect unpaid Fees and Charges shall also be assessed to the Delinquent Account.

iii. *Recovery of Costs of Collections.* In accordance with § 29-1-1102(8), C.R.S., nothing in this Resolution shall be construed to prohibit the District from recovering all the Costs of Collections whether or not outlined above.

## **5. WAIVER OF LATE FEES, INTEREST, AND COSTS OF COLLECTIONS:**

a. The Accountant, Property Manager, and General Counsel shall have authority and discretion to waive or reduce portions of the Delinquent Account attributable to Late Fees, Interest and Costs of Collection up to a maximum of Three (3) months of Late Fees Interest, and Costs of Collection. Such action shall be permitted if the Accountant, Property Manager and General Counsel, in their discretion, determine that such waiver or reduction will facilitate payment of the Delinquent Account. Should the Property owner seek waiver or reduction of an amount exceeding this limit, the person or entity shall first submit a request, in writing, to the Board, and the Board shall make the determination in its discretion.

b. The Accountant, Property Manager and General Counsel shall not have the authority to waive any portion of delinquent Fees and Charges. Should a Property owner desire a waiver of such Fees and Charges, s/he shall submit a written request to the Board and the Board shall make the determination in its sole discretion.

c. Notwithstanding the above, the Accountant shall be permitted to correct any account statement and waive any associated Late Fees, Interest or Costs of Collections if it determines that said charges were incurred due to an error or omission for which the District or its agents are responsible. In such a circumstance, the Accountant shall promptly bring the matter to the attention of the Board.

d. Any waiver or reduction of Late Fees, Costs of Collection or Interest granted pursuant to Sections 5(a-c) hereof shall not be construed as a waiver or reduction of

future Late Fees, Costs of Collection or Interest, nor as the promise to waive or reduce such future charges. Nor shall any such waiver or reduction be deemed to bind, limit, or direct the future decision making power of the District and its consultants, whether related to the Property in question or other properties within the District.

**6. PAYMENT PLANS:** The Accountant, Property Manager and General Counsel shall have the authority to enter into or establish payment plans for the repayment of a Delinquent Account. Should the Property owner desire to enter into a payment plan with the District different from that established by the Accountant, Property Manager and General Counsel, s/he shall first submit a written request to the Board and the Board shall make the determination in its sole discretion.

**7. RATIFICATION OF PAST ACTIONS:** All waivers and payment plans heretofore entered into that would otherwise have been authorized by this Resolution are hereby affirmed, ratified, and made effective as of the date said actions occurred.

**8. ADDITIONAL ACTIONS:** The Board directs its officers, staff and consultants to take such additional actions and execute such additional documents as are necessary to give full effect to the intention of the orders of this Resolution.

**9. COLORADO AND FEDERAL FAIR DEBT COLLECTIONS ACTS:** To the extent required by law, the District and its consultants shall comply with both the Colorado Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act.

**10. SUPERSEDES PRIOR RESOLUTIONS:** To the extent that any term or provision in this Resolution conflicts with any term or provision in a previously enacted and valid resolution of the District, the term or provision in this Resolution shall prevail.

**11. SEVERABILITY:** If any term or provision of this Resolution is found to be invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, such invalid or unenforceable term or provision shall not affect the validity of the Resolution as a whole but shall be severed herefrom, leaving the remaining terms or provisions in full force and effect.

**12. SAVINGS PROVISION:** The failure to comply with the procedures set forth herein shall not affect the status of the Fees and Charges as a perpetual lien subject to foreclosure in accordance with law. Failure by District and its consultants or authorized representative to take any action in accordance with the requirements as specifically provided herein shall not invalidate subsequent efforts to collect the Fees and Charges.

*Signature page follows*

ADOPTED AND APPROVED this 4<sup>th</sup> day of May, 2011.

**SOUTHLANDS METROPOLITAN DISTRICT  
NO. 1**, a quasi-municipal corporation and political  
subdivision of the State of Colorado



\_\_\_\_\_  
Officer of the District

ATTEST:



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*[Handwritten signature]*

*Signature page to Collections Resolution of Southlands Metropolitan District No. 1*