

# RECORD OF PROCEEDINGS

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## MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE PAINT BRUSH HILLS METROPOLITAN DISTRICT HELD FEBRUARY 20, 2014

A regular meeting of the Board of Directors (referred to hereafter as "Board") of the Paint Brush Hills Metropolitan District (referred to hereafter as "District") was held on Thursday, the 20<sup>th</sup> day of February, 2014, at 7:00 p.m. at the Paint Brush Hills Metropolitan District Office, 9830 Liberty Grove Drive, Falcon, Colorado 80831. The meeting was open to the public.

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### ATTENDANCE

#### Directors In Attendance Were:

Kim Griffin, President  
Calvin Pollard  
Doug Burrer  
Floyd Roberts  
John Bruszenski

#### Also In Attendance Were:

Leon Gomes; Special District Management Services, Inc.

Jennifer Gruber Tanaka, Esq.; White Bear & Ankele, P.C. (via speakerphone)

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### DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Disclosure of Potential Conflicts of Interest: The Board discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Board of Directors and to the Secretary of State. Attorney Tanaka noted that disclosure statements were filed for applicable Directors at least 72 hours prior to the meeting. Mr. Gomes also noted that a quorum was present and requested members of the Board to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting, and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with statute.

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### ADMINISTRATIVE MATTERS

Agenda: Mr. Gomes reviewed with the Board a proposed Agenda for the District's regular meeting.

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Following discussion, upon motion duly made by Director Bruszenski, seconded by Director Pollard and, upon vote, unanimously carried, the Agenda was approved, as amended.

**Public Comments:** Resident Bruce Bausch commented on the poor quality of the water and Becky Bonilla noted that the approved minutes for the October 2013 through December 2013 and the agenda for this meeting had not been posted on the District's website.

**Request for Bill Adjustment:** Mr. Gomes informed the Board that the resident at 9508 Waterbury Drive that had requested an adjustment to her water bill advised him that her insurance company will be issuing a check for the cost of the excess water that was used when a pipe burst in her home.

### **CONSENT AGENDA**

**Consent Agenda:** The Board considered the following actions:

- Acknowledge Manager's Report
- Acknowledge Staff Report
- Acknowledge Operations Report
- Approve Minutes from the October 10, 2013 special meeting and January 16, 2014 regular meeting.
- Ratified employment of Kelcey Riggs as an Office Assistant and Bill Rider, Jr. as a Field Technician.

Following discussion, upon motion duly made by Director Burrer, seconded by Director Pollard and, upon vote, unanimously carried, the Board approved the consent agenda.

### **FINANCIAL MATTERS**

**Claims:** The Board considered approval of the payment of claims for the period ending February 20, 2014, as follows:

General Fund	\$ 43,127.83
Debt Service Fund	\$ -0-
Enterprise Fund	<u>\$ 20,169.60</u>
<b>Total Claims:</b>	<b><u>\$ 63,297.43</u></b>

Following review and discussion, upon motion duly made by Director Pollard, seconded by Director Bruszenski and, upon vote, unanimously carried, the Board approved the payment of claims for the period ending February 20, 2014, as presented.

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**Financial Statements:** Mr. Gomes reviewed with the Board the unaudited financial statements for the periods ending December 31, 2013 (revised) and January 31, 2014.

Following review and discussion, upon motion duly made by Director Burrer, seconded by Director Pollard and, upon vote, unanimously carried, the Board accepted the unaudited financial statements for the periods ending December 31, 2013 (revised) and January 31, 2014, as presented.

**Fixed or Increased Fees, Rates, Tolls, Penalties or Charges for Water and Sewer Services and Facilities:** The Board entered into discussion regarding fixing or increasing fees, rates, tolls, penalties or charges for water and sewer services and facilities.

**Resolution No. 2014-02-01, Amended and Restated Resolution concerning the Imposition of Various Fees, Rates, Penalties and Charges for water and Sewer Service and Facilities:** The Board reviewed and considered adoption of Resolution No. 2014-02-01, Amended and Restated Resolution concerning the Imposition of Various Fees, Rates, Tolls, Penalties and Charges for water and Sewer Service and Facilities.

Following review and discussion, upon motion duly made by Director Bruszenski, seconded by Director Pollard and, upon vote, unanimously carried, the Board adopted Resolution No. 2014-02-01, Amended and Restated Resolution concerning the Imposition of Various Fees, Rates, Tolls, Penalties and Charges for Water and Sewer Service and Facilities.

**Requirements and Ability to Establish Availability of Service Charges:** Attorney Tanaka addressed the Board regarding the requirements and ability to establish an Availability of Service Charge and discussed with the Board the provision of a notice regarding the same.

Following discussion, the Board directed the District Manager and legal counsel to pursue establishing an Availability of Service Charge and to determine whether the District's current financial obligations qualify for the pledge of these charges.

### **LEGAL MATTERS**

**Enterprise Resolution:** The Board discussed and considered authorizing legal counsel to draft an Enterprise Resolution.

Following discussion, the Board directed legal counsel to draft and Enterprise Resolution.

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**Rules and Regulations:** The Board entered into discussion regarding the need for a new set of Rules and Regulations for the District and considered the engagement of the District's legal counsel and engineer to develop the new Rules and Regulations.

Following discussion, the Board directed the District Manager to work with legal counsel and the District Engineer to develop new Rules and Regulations.

**Independent Contractor Agreement for Engineering Services between the District and JDS-Hydro Consulting, Inc. ("JDS"):** The Board entered into discussion regarding an Independent Contractor Agreement for Engineering Services between the District and JDS.

Following review and discussion, upon motion duly made by Director Burrer, seconded by Director Roberts and, upon vote, unanimously carried, the Board approved the Independent Contractor Agreement for Engineering Services between the District and JDS.

**May 6, 2014 Directors' Election:** Mr. Gomes reported to the Board on the status of the May 6, 2014 Directors' Election. He noted that the Call for Nominations Notice was published on February 13, 2014 and that Self-Nomination and Acceptance forms must be received by the Designated Election Official by February 28, 2014.

**Resolution No. 2014-02-02, FACT Act Resolution for the Prevention of Identify Theft:** Attorney Tanaka reviewed with the Board Resolution No. 2014-02-02, FACT Act Resolution for the Prevention of Identity Theft.

Following review and discussion, upon motion duly made by Director Bruszenski, seconded by Director Roberts and, upon vote, unanimously carried, the Board adopted Resolution No. 2014-02-02, FACT Act Resolution for the Prevention of Identity Theft.

**Employee Handbook and Job Descriptions:** The Board entered into discussion regarding the Employee Handbook and Job Descriptions.

Following discussion, upon motion duly made by Director Pollard, seconded by Director Burrer and, upon vote, unanimously carried, the Board approved the Employee Handbook and Job Descriptions.

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### OPERATIONS AND MAINTENANCE

**Request for Proposal ("RFP") for Development of Site Plan for the District's Office, Shop and Water Treatment Facility:** Mr. Gomes discussed with the Board his request that the District's engineer create an RFP for the development of a site plan for the District's office, shop and water treatment facility.

Following discussion, upon motion duly made by Director Bruszenski, seconded by Director Pollard and, upon vote, unanimously carried, the Board approved a First Addendum to the Independent Contractor Agreement with JDS-Hydro Consultants, Inc. for the creation of an RFP for the development of a site plan for the District's office, shop and water treatment facility.

**Additional District Vehicle:** The Board entered into discussion regarding the need for an additional District vehicle. The Board directed the District Manager to begin researching the purchase of another pickup truck for purchase in April or May of 2014.

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### OTHER BUSINESS

**Development Updates:** Mr. Gomes reported to the Board on the development updates, noting the following:

- Filing 13A – Three tap fees have been paid.
- Filing 13B – The developers proposed plat is under review by El Paso County.
- Scenic View at Paint Brush Hills – The developer is in the process of a zoning change for 91 platted lots.

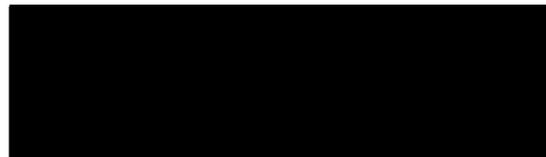
**2014/2015 Budget Priorities:** Director Pollard reviewed the 2014/2015 Budget Priorities with the Board.

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### ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made, seconded and upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,



Secretary for the Meeting

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THESE MINUTES ARE APPROVED AS THE OFFICIAL FEBRUARY 20,  
2014 MINUTES OF THE PAINT BRUSH HILLS METROPOLITAN DISTRICT  
BY THE BOARD OF DIRECTORS SIGNING BELOW:

[REDACTED]  
Kim Griffin

[REDACTED]  
Calvin Pollard

[REDACTED]  
Doug Burren

[REDACTED]  
Floyd Roberts

[REDACTED]  
John Bruszenski

# PAINT BRUSH HILLS METROPOLITAN DISTRICT

## Administrative Offices

141 Union Boulevard, Suite 150  
Lakewood, Colorado 80228-1898  
Tel: 303-987-0835 • 800-741-3254  
Fax: 303-987-2032

## MANAGER'S REPORT

February 20, 2014 Regular Meeting

### Agenda Matters Background & Recommendations

*Note: The District's Legal Counsel, Jennifer Gruber Tanaka of White, Bear & Ankele, P.C., will attend this meeting by speakerphone.*

## II. ADMINISTRATIVE MATTERS

- D. Discuss request from resident regarding her water bill.

The property owner of 9508 Waterbury Drive informed me that her insurance company will be issuing a check for the cost of the excess water use caused by the burst pipe in her home.

## III. FINANCIAL MATTERS

- A. Review and approve the payment of claims for the period ending February 20, 2014, as follows (enclosure):

General Fund:	\$	12,812.84
Debt Service Fund:	\$	-0-
Enterprise Fund:	\$	4,375.48
<b>Total:</b>	<b>\$</b>	<b><u>17,188.32</u></b>

**Recommended Board Action:** Approve February 20, 2013 claims in the amount of \$17,188.32.

- B. Review and accept unaudited financial statements for the periods ending December 31, 2013 and January 31, 2014.

**Background:** The unaudited financial statements for December 31, 2013 and January 31, 2014 were included in your meeting packet.

**Recommended Board Action:** Accept the December 31, 2013 and January 31, 2014 unaudited financial statements.

- C. Review and consider fixing or increasing fees, rates, tolls, penalties or charges for water and sewer services and facilities.

**Background:** The January 2014 Customer Letter included a Notice of Proposed Water Rate Tier Structure Change. The Notice included the proposed rate structure along with the date, time, and location of this meeting. The Board may open public comment limited to this matter with a three-minute time limit per person. There may also be a total time limit for comments.

- a. Consider adoption of Resolution No. 2014-02-01, Amended and Restated Resolution concerning the Imposition of Various Fees, Rates, Penalties and Charges for Water and Sewer Service and Facilities.
- D. Discuss requirements and ability to establish Availability of Service Charges and consider provision of notice regarding same.

Ms. Tanaka will address this matter.

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### III. LEGAL MATTERS

- A. Discuss and consider authorizing Legal Counsel to draft an Enterprise Resolution.

Ms. Tanaka will address this matter.

- B. Discuss and consider the development of Rules and Regulations and engagement of the District's Legal Counsel and District Engineer regarding the same.

**Background:** We have not been able to determine if the Rules & Regulation found in the District Office have been adopted by the Board. In addition, these Rules & Regulations will require some significant updates. I am asking the Board to consider the development of a new set of Rules & Regulations that will meet the needs of the District. We would engage both the District Legal Counsel and the District Engineer to develop the Rules & Regulations. The District Engineer's cost estimate is approximately \$1,100.

**Recommended Board Action:** Direct the District Manager to work with District Legal Counsel and the District Engineer on the development of District Rules & Regulations.

- C. Discuss and consider approval of an Independent Contractor Agreement for Engineering Services between the District and JDS-Hydro Consulting, Inc.

**Background:** JDS-Hydro Consulting, Inc. was engaged as the District Engineer in 2013. We are requiring the execution of an Independent Contractor Agreement with JDS-Hydro.

**Recommended Board Action:** Approve the Independent Contractor Agreement between the District and JDS-Hydro Consulting, Inc., and authorize the Board President to execute the agreement on behalf of the District.

- D. Update on the May 6, 2014 Directors' Election.

The Call for Nominations was published on February 13, 2014. Self-Nomination forms are due to the Designated Election Official by February 28, 2014 at 5:00 PM.

- E. Discuss and consider adoption of Resolution No. 2014-02-02, FACT Act Resolution for the Prevention of Identify Theft (enclosure).

Ms. Tanaka will address this matter.

- F. Discuss and consider adoption of Employee Handbook and consider approval of Job Descriptions (to be distributed under separate cover). Enter into Executive Session, if necessary pursuant to §24-6-402(4)(f) and (b), C.R.S.

**Background:** The District engaged the services of Michelle Ferguson of Ireland-Stapleton to develop an employee handbook and employee job descriptions. These documents were sent to you for your review and comment.

**Recommended Board Action:** Adopt Employee Handbook and Job Descriptions.

#### IV. OPERATIONS AND MAINTENANCE

- A. Discuss and consider Request for Proposal for development of site plan for the District's office, shop and water treatment facility.

**Background:** I have requested a proposal from the District Engineer to prepare site plans for the District Office, shop, and water treatment facility as follows:

Option 1: Combination office/shop/water treatment facility at the tank site while allowing space for an additional water tank.

Option 2: Combination office/shop on the southeast corner of Towner & Londonderry, and water treatment facility at the tank site while allowing space for an additional tank.

Option 3: Combination office/shop/water treatment facility at the southeast corner of Towner & Londonderry.

**Recommended Board Action:** Direct the District Manager to work with the District Engineer to develop site plans for a planned District Office, shop, and water treatment facility.

**Non-Agenda Matters**

**Well #6** – We are awaiting the return of the executed Independent Contractor Agreement from Layne Christensen.

**District Vehicle Repair** – The District's 2000 Ford Ranger will require major repairs due to overheating. The worst-case repair estimate is \$2,580 and the best case would reduce this cost by \$550.

As always, please let me know if you have any questions.

Respectfully submitted,



Leon Gomes  
District Manager for the Paint Brush Hills Metropolitan District

## **PBHMD Staff Update:**

1. Staff met with Ross Electric a few times to go over the new SCADA System proposal more in depth.
2. The Ford work truck broke down Wednesday February 5<sup>th</sup> and is now in the shop due to a blown head gasket.
3. Bill Rider started Monday February 3<sup>rd</sup> and is being trained by Lindt and Knepper.
4. Knepper met with the Browns Hill Engineering and Controls Representative for another possible bid towards the new SCADA System.
5. Knepper met with JDS Hydro to discuss in more detail pumphouse 5 and 6 permanent chlorine shed structure issues and overall distribution system clarification.
6. Lindt and Knepper performed pressure and flow tests while flushing several district hydrants.
7. Staff received an insurance check for a damaged interconnect flow meter which now can be replaced.
8. Lindt continues to occasionally hand water the entryway and parks during which he found an inoperable hydrant along the Londonderry entryway.
9. Lindt and Knepper inspected new service connections at 11406 Palmers Green, the first home in Filing 13A.
10. Lindt, Knepper, and Rider attended the Colorado Rural Water Conference most of the first week of February.

# PBHMD 3 Year Sewage Meter Flow Data Summary

Month/Year	Total Flow (gal)	# days/month	Average MGD/Day	Monthly Water Distribution	Base Water Usage
FEB '11	2,349,000	28	0.084	3,104,340	3,378,345
MAR '11	2,344,000	31	0.076	3,288,115	3,378,345
APRIL '11	2,321,000	30	0.077	4,341,041	3,378,345
MAY '11	2,228,000	31	0.083	6,507,255	3,378,345
JUNE '11	2,635,157	30	0.088	11,930,894	3,378,345
JULY '11	2,113,044	31	0.068	9,892,038	3,378,345
AUG '11	2,805,000	31	0.090	10,200,310	3,378,345
SEPT '11	2,931,000	30	0.098	6,479,865	3,378,345
OCT '11	2,920,000	31	0.094	5,031,435	3,378,345
NOV '11	2,799,000	30	0.093	3,290,252	3,378,345
DEC '11	2,881,000	31	0.093	3,752,396	3,378,345
JAN '12	2,722,000	31	0.088	3,958,477	3,277,989
FEB '12	2,600,000	29	0.090	3,413,525	3,277,989
MAR '12	2,500,178	31	0.081	4,296,923	3,277,989
APRIL '12	2,552,000	30	0.085	6,503,553	3,277,989
MAY '12	2,588,000	31	0.083	8,628,004	3,277,989
JUNE '12	2,401,000	30	0.080	13,133,858	3,277,989
JULY '12	2,595,000	31	0.084	13,453,776	3,277,989
AUG '12	2,672,000	31	0.086	13,614,907	3,277,989
SEPT '12	2,562,000	30	0.085	9,867,368	3,277,989
OCT '12	2,588,000	31	0.083	5,570,803	3,277,989
NOV '12	2,492,000	30	0.083	4,112,477	3,277,989
DEC '12	2,650,000	30	0.088	3,879,285	3,277,989
JAN '13	2,824,000	31	0.091	3,985,980	3,855,330
FEB '13	2,370,000	28	0.085	2,852,674	3,855,330
MAR '13	2,557,000	31	0.082	3,913,010	3,855,330
APRIL '13	2,506,000	30	0.084	3,471,780	3,855,330
MAY '13	2,575,000	31	0.083	7,985,090	3,855,330
JUNE '13	2,216,000	30	0.074	12,811,130	3,855,330
JULY '13	2,457,000	31	0.079	9,623,130	3,855,330
AUG '13	2,881,000	31	0.093	7,462,390	3,855,330
SEPT '13	3,192,000	30	0.106	8,074,420	3,855,330
OCT '13	2,980,000	31	0.096	5,153,400	3,855,330
NOV '13	2,657,000	30	0.089	3,985,600	3,855,330
DEC '13	2,764,000	30	0.092	3,745,750	3,855,330
JAN '14	2,774,000	31	0.089	3,753,420	3,657,737

NOTE: totalizer non-op for 4 days, normalized data for program self shut-down

NOTE: meter operation sporadic -- see 6.11 calculation sheet

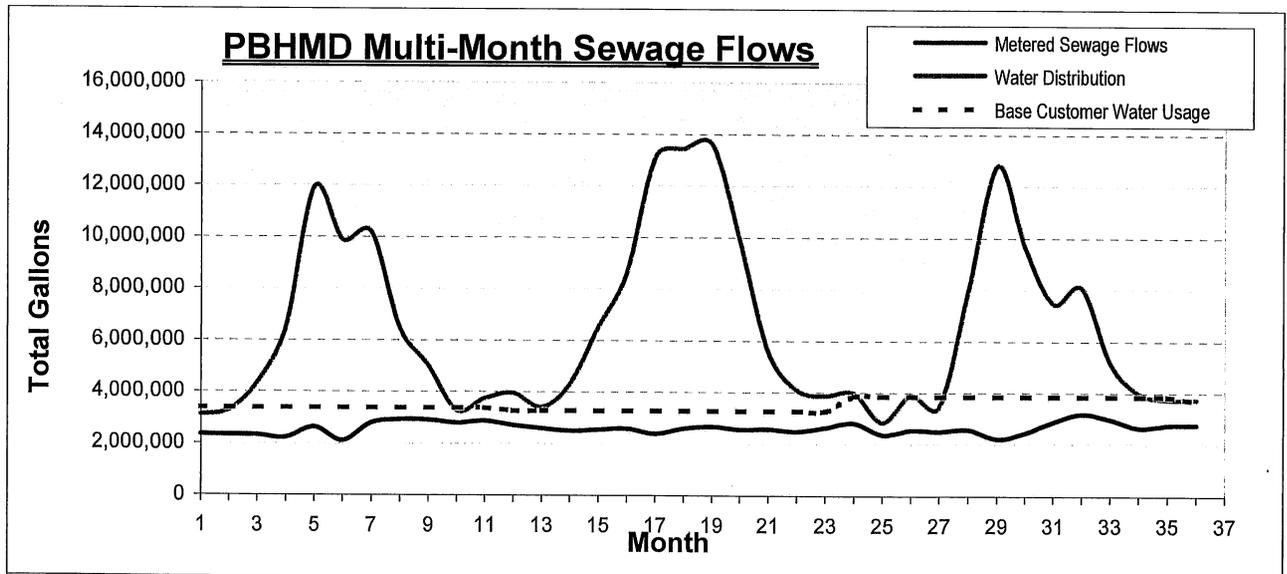
NOTE: meter operation sporadic -- see 7.11 calculation sheet

NOTE: totalizer non-op for 14 hrs on 3/5, so additional 46,178 gal added

NOTE: totalizer non-op for 4 days added 360000 to account

Avg./Month: 2,741,699 gal/month      30.4      0.090 (includes 2009/10 data)

Avg/Day: 90,158 gal/day



## PBHMD Well Status Report - September 2013

<u>WELL</u>	<u>APPROX. FLOW</u>	<u>OPERATIONAL</u>	<u>COMMENTS</u>	<u>Well Levels</u>
Well #1 (A-1)	60 gpm	Yes	Well working fine	Month/year April '10 282 Aug '10 175 July '13 140 on 340 off
Well #2 (A-2)	70 gpm	Yes	Well working fine	July '13 150 on 275 off
Well #3 (A-3)	55 gpm	No	Not equipped -- needs to be upsized	
Well #4 (LFH-1)	30-40 gpm	No	Equipment not set for pumping with low water level -- could fail at any time Probably will suck too much air after a few days Well has not been used since September 2007 -- power turned off at PH #3	
Well #5 (LFH-2)	45 gpm	No	Well not approved for public water system use at this time Sucks air after several hours of pumping	
Well #6 (A-4)	75 gpm	Not Yet	Samples reveal methane gas in water, Engineer requested resampling which occurred 11/6/13	
Well #7 (LFH-3)	60 gpm	No	Well #7 no longer connected to power or VFD (which is being used for Well #6) Water has some 'fine air' which dissipates within 30 seconds	
Well #8 (A-5)	75 gpm	Yes	Well working fine	April '10 450 July '12 178 on 425 off July '13 185 on 420 off
Well #9 (LFH-4)	125 gpm	Yes	Well working fine	April '10 450 April '12 580 July '12 178 on 425 off July '13 185 on 420 off
Well #10 (A-6)	55 gpm	Yes	Well working fine	April '10 687 April '12 356 July '12 224 on 380 off July '13 230 on 325 off
Well #11 (LFH-5)	100 gpm	Yes	Well working fine	April '10 757 April '12 640 July '12 278 on 380 off July '13 335 on 600 off
Interconnect	90-200 gpm	Yes	Interconnect pumps are working fine	

# MONTHLY DISTRIBUTION REPORT

Paint Brush Hills Metropolitan District -- PWSID #CO0221690

January 2014	Meter Read 12/31/2013 (gal)	Meter Read 1/31/2014 (gal)	# Days Well 'ON' January	January Distribution (gal)	January Distribution (ac-ft)	YTD TOTAL Distribution (gal)	YTD TOTAL Distribution (ac-ft)
Well #1 (A-1)	95,643,800	96,419,300	10	775,500	2.38	775,500	2.38
Well #2 (A-2)	167,490,800	168,497,800	10	1,007,000	3.09	1,007,000	3.09
Well #3 (A-3)	99,976,880	99,976,880	n/a	0	0.00	0	0.00
Well #4 (LFH-1)	29,891,300	29,891,300	n/a	0	0.00	0	0.00
Well #5 (LFH-2)	11,664,500	11,664,500	n/a	0	0.00	0	0.00
Well #6 (A-4)	24,026,191	24,026,191	n/a	0	0.00	0	0.00
Well #7 (LFH-3)	1,319,390	1,319,390	n/a	0	0.00	0	0.00
Well #8 (A-5)	13,485,000	13,737,300	3	252,300	0.77	252,300	0.77
Well #9 (LFH-4)	55,676,700	55,942,100	2	265,400	0.81	265,400	0.81
Well #10 (A-6)	27,160,300	27,405,000	3	244,700	0.75	244,700	0.75
Well #11 (LFH-5)	89,336,400	90,251,100	7	914,700	2.81	914,700	2.81
MR Interconnect	81,890,900	82,094,900	0	204,000	0.63	204,000	0.63
Storage Tank Levels (ft)	20.0	18.0	n/a	89,820	0.28	89,820	0.28
<b>TOTAL PUMPING:</b>		(Well & Interconnect Usage)		<b>3,663,600</b>	<b>11.24</b>	<b>3,663,600</b>	<b>11.24</b>
<b>TOTAL DISTRIBUTION:</b>		(Distribution = Pumping +/- Storage)		<b>3,753,420</b>	<b>11.52</b>	<b>3,753,420</b>	<b>11.52</b>

<b>PUMPING TOTALS:</b>	
January Well Pumping:	3,663,600 gal
January Well Pumping:	11.24 ac/ft
YTD TOTAL Well Pumping:	3,663,600 gal
YTD TOTAL Well Pumping:	11.24 ac/ft
<b>YTD TOTAL USAGE vs. APPROPRIATIONS TALLIES:</b>	
Annual Arapahoe (unappropriated):	2.38 ac/ft of 90.6 ac/ft
Annual Arapahoe (appropriated):	4.62 ac/ft of 182.0 ac/ft
Annual Laramie-Fox Hills (appropriated):	3.62 ac/ft of 388.0 ac/ft
Annual MR Interconnect Water:	0.63 ac/ft of 85.0 ac/ft
<i>(Guthrie alluvial water via Meridian Ranch Water Service Agreement)</i>	
<b>Total Annual Available Water:</b>	<b>745.6 ac/ft</b>

Storage capacity approx. 44,910 gal/ft (with both tanks in operation).  
 large tank approx. 29,910 gal/ft -- small tank approx. 15,000 gal/ft

# YTD DISTRIBUTION REPORT

Paint Brush Hills Metropolitan District -- PWSID #CO0221690

2014	JANUARY Pumping (gal)	FEBRUARY Pumping (gal)	MARCH Pumping (gal)	APRIL Pumping (gal)	MAY Pumping (gal)	JUNE Pumping (gal)	JULY Pumping (gal)	AUGUST Pumping (gal)	SEPTEMBER Pumping (gal)	OCTOBER Pumping (gal)	NOVEMBER Pumping (gal)	DECEMBER Pumping (gal)	YTD TOTAL Pumping (gal)
Well #1 (A-1)	775,500												775,500
Well #2 (A-2)	1,007,000												1,007,000
Well #3 (A-3)	0												0
Well #4 (LFH-1)	0												0
Well #5 (LFH-2)	0												0
Well #6 (A-4)	0												0
Well #7 (LFH-3)	0												0
Well #8 (A-5)	252,300												252,300
Well #9 (LFH-4)	265,400												265,400
Well #10 (A-6)	244,700												244,700
Well #11 (LFH-5)	914,700												914,700
MR Interconnect	204,000												204,000
Storage Tanks (ft)	89,820												89,820
<b>Total Distribution:</b>	3,753,420	0	0	0	0	0	0	0	0	0	0	0	3,753,420

\* Added 500,000gal to well 10 due to non-op flow meter in June

NOTE: Gray shading indicates that well is off-line.

## General Information for PBHMD's Wells:

PBHMD Well #	Well #1	Well #2	Well #3	Well #4	Well #5	Well #6	Well #7	Well #8	Well #9	Well #10	Well #11
Aquifer	Araphoe	Araphoe	Araphoe	Laramie-Fox	Laramie-Fox	Araphoe	Laramie-Fox	Araphoe	Laramie-Fox	Araphoe	Laramie-Fox
PBHMD's ID	A-1	A-2	A-3	LFH-1	LFH-2	A-4	LFH-3	A-5	LFH-4	A-6	LFH-5
Well Permit #	17048-F	30593-F	46553-F	47813-F	50877-F	55193-F	55192-F	60862-F	63429-F	64086-F	64084-F





After Recordation Please Return To:  
White, Bear & Ankele Professional Corporation  
2154 East Commons Avenue, Suite 2000  
Centennial, Colorado 80122

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PGS 9 \$51.00 DF \$ 0

Electronically Recorded Official Records El Paso County CO  
Wayne W. Williams Clerk and Recorder  
TD1000 N

Resolution No. 2014-02-01

AMENDED AND RESTATED 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 SEWER SERVICES AND FACILITIES

WHEREAS, pursuant to an Order of the District Court in and for El Paso County, Colorado, the Paint Brush Hills Metropolitan District (the "District") was duly and validly organized and exists as a metropolitan district in accordance with Colorado law; and

WHEREAS, the District owns, operates and maintains various water and sanitary sewer facilities and improvements (the "Improvements") and provides associated services to its residents, taxpayers and property owners; and

WHEREAS, pursuant to § 32-1-1001(1)(j), C.R.S., the District is authorized to fix and impose fees, rates, tolls, charges and penalties for services or facilities provided by the District which, until paid, shall constitute a perpetual lien on and against the property served, the revenues from which fees, rates, tolls and charges may be pledged to the payment of any indebtedness of the District; and

WHEREAS, the District desires to establish the water and sewer charges, usage fees and equivalency rates in order to finance the costs associated with the District's general operations and the District's operation and maintenance of the Improvements; and

WHEREAS, pursuant to § 32-1-1006(1)(h), C.R.S., the District is empowered to assess availability of service or facilities charges for the purpose of paying principal of an interest on any outstanding indebtedness or bonds of the District; 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 District desires to impose a tap fee as a one-time contribution required of new customers to be used for capital investment in regional facilities and District operations, as well as a related tapping fee to cover the District's actual costs associated with the new tap and the incorporation of the new service to the District's systems; and

WHEREAS, the water and sewer charges, usage fees, equivalency rates, availability of service charges and tap fees are referred to herein as the "Fees" or a "Fee"; and

WHEREAS, the District finds that the Fees set forth herein are reasonably related to the Improvements and services provided by the District and that imposition thereof is necessary to provide the services and facilities serving the property subject to such Fees.

214020993

NOW, THEREFORE, be it resolved by the Board of Directors of the District as follows:

1. Fees. The District hereby establishes the Fees set forth in Exhibit A, attached hereto and incorporated herein by this reference. All prior resolutions adopted by the Board which impose fees, rates, tolls, penalties or charges, are hereby replaced and superseded in their entirety with this Resolution. Any fees, rates, tolls, penalties or charges due under such prior resolutions, to the extent outstanding and unpaid, shall remain in effect until fully paid and shall not be eliminated hereby.

2. Late Fees and Penalty Interest. Any Fee that is not paid in full within Fifteen (15) days after the scheduled due date shall be assessed a late fee in the amount of Ten Dollars (\$10.00) pursuant to § 29-1-1102(3), C.R.S. Interest will also accrue on any outstanding Fee, exclusive of assessed late fees and interest, at the rate of 12% per annum, pursuant to § 29-1-1102(7), C.R.S., and § 32-1-1006(1)(d), C.R.S.

3. Payment. Payment for each Fee shall be made payable to "Paint Brush Hills Metropolitan District" and sent to the following address, on or before the due date: Paint Brush Hills Metropolitan District, 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228.

4. Fees Constitute Lien. The Fees imposed hereunder each shall, until paid, constitute a perpetual lien on and against the property served, and any such lien may be foreclosed in the manner as provided by the laws of the State of Colorado for the foreclosure of mechanic's liens, pursuant to § 32-1-1001(1)(f), C.R.S.

5. Collection Procedures. The District shall undertake collection efforts for any amounts outstanding, including late fees, interest and attorneys' fees, in accordance with Federal and Colorado law.

6. 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 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 County policy.

7. Severability. If any clause or provision of this Resolution is adjudged invalid and/or unenforceable by a court of competent jurisdiction or by operation of any law, such adjudgement shall not affect the validity of this Resolution as a whole, but shall be severed herefrom, leaving the remaining provisions intact and enforceable.

8. The Property. This Resolution shall apply to all property within the District's boundaries, as 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 as of March 1, 2014.

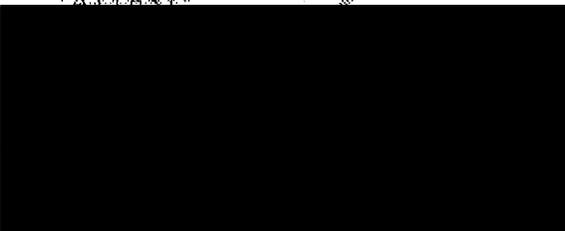
APPROVED and ADOPTED this 20<sup>th</sup> day of February 2014.

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  
Professional Corporation



General Counsel to the District

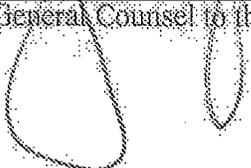


EXHIBIT A

SCHEDULE OF FEES AND CHARGES

Adopted and Approved  
February 20, 2014 to become effective March 1, 2014

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
3/4"	1	\$16,288.37

WATER METER 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, 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 improperly scheduling, then the District will charge additional re-inspection fees as stated herein, per occurrence.

WATER METER FEE SCHEDULE

<u>Water Line/Meter Size</u>	<u>Fee</u>
3/4"	\$400 (includes labor and materials)

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

<u>Tap Size</u>	<u>Water Base Fee</u>
3/4" tap	\$30.00

WATER USAGE FEES:

RESIDENTIAL

<u>USAGE</u> (monthly billing basis)	<u>COST</u> (per gallon)	<u>-OR-</u>	<u>COST</u> (per 1,000 gallons)
0 to 20,000 gallons	\$0.005		\$5.00
20,000 to 30,000 gallons	\$0.0075		\$7.50
30,000 to 40,000 gallons	\$0.0125		\$12.50
Over 40,000 gallons	\$0.0150		\$15.00

COMMERCIAL

<u>WATER</u>	<u>USAGE</u>	<u>COST</u> (per gallon)	<u>-OR-</u>	<u>COST</u> (per 1,000 gallons)
TIER 1	0 - 1.5 million gallons	\$0.0095		\$9.50
TIER 2	1.5 million gallons and up	\$0.0011		\$11.00

LATE CHARGE

\$10.00

12% annual interest rate

MONTHLY SEWER SERVICE CHARGES:

<u>Tap Size</u>	<u>Sewer Fee</u>
¾" tap	\$17.00

COMMERCIAL USAGE FEES

<u>SEWER</u>	<u>USAGE</u>	<u>COST</u> (per month)
	Small	\$33.85
	Large	\$450.00

UNDER DRAIN FEE

\$3.00/per month  
(per property)

LATE CHARGE

\$10.00

12% annual interest rate

INSPECTION FEES

Service Line / Meter Pit Inspection	\$150.00 (included in Water Meter Fee)
Meter Installation	\$150.00 (included in Water Meter Fee)
Other Inspection	\$150.00

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 \$ 2,000.00  
Monthly Fee \$10.00 / 1,000 gallons

**BULK WATER RATES:**

TIER 1	Cost (per thousand gallons)	TIER 2	Cost (per thousand gallons)
Up to 150,000 gallons	\$8.50	150,001 and up	\$10.00

**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.

**LIEN FEES**

Lien Certification Fee \$200.00  
Intent to Lien Notice \$25.00

**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

AVAILABILITY OF SERVICE FEES

Annual Fee per lot within 100 feet of District water and/or sewer lines 50% of Monthly Water and Sewer Fees

BUILDER'S FEE

\$22.50 / month.

TRANSFER AND CONSOLIDATION FEES

For transfer or consolidation of ownership of property; per lot. \$250.00

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 pickup and delivery and administrative 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 Section 32-1-1001, C.R.S.

Repair of Broken or Damaged Water Meters, Meter Pits and  
Curb Stop Boxes 100%<sup>1</sup>

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 current 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.

<sup>1</sup> 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.

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

SECTION 25 AND THE EAST ½ OF SECTION 26, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE 6<sup>TH</sup> 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 6<sup>TH</sup> PRINCIPAL MERIDIAN IN EL PASO COUNTY, CONSISTING OF 160 ACRES, MORE OR LESS.

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

**Resolution No. 2014-02-02**

RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
PAINT BRUSH HILLS METROPOLITAN DISTRICT

Adopting an Identify Theft Prevention Program

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WHEREAS, the Paint Brush Hills Metropolitan District (the "District") is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Title 32, Colorado Revised Statutes; and

WHEREAS, pursuant to federal law, the Federal Trade Commission adopted regulations requiring the creation of certain policies relating to the detection, prevention and mitigation of identity theft ("Identity Theft Rules"); and

WHEREAS, the Identity Theft Rules, adopted as 16 CFR § 681.1, require creditors, as defined by 15 U.S.C. § 1681a(r)(5), to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts; and

WHEREAS, 15 U.S.C. § 1691a defines a 'Creditor' as a person who regularly extends, renews or continues credit, and defines 'Credit' in part as the right granted by a Creditor to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor; and

WHEREAS, the District is a creditor under the Identity Theft Rules by virtue of providing utility services or by otherwise accepting payment for services in arrears; and

WHEREAS, the Identity Theft Rules define "Covered Account" in part as an account that a creditor offers or maintains for personal, family or household purposes that involves or is designed to permit multiple payments or transactions, and specify that a utility account is a covered account; and

WHEREAS, the District provides water and wastewater services for which payment is made after the product is consumed or the service has otherwise been provided and, therefore, is subject to the Identity Theft Rules.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DISTRICT AS FOLLOWS:

Section 1. Adoption of Identity Theft Prevention Program. The District hereby adopts the Identity Theft Prevention Program set forth in **Exhibit A**, attached hereto and incorporated herein.

Section 2. Preambles Incorporated. The preambles to this Resolution are hereby incorporated into this Resolution as if set out fully herein.

Section 3. Severability. If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

Section 4. Effective Date. This Resolution shall become effective as of February 20, 2014, shall be enforced immediately thereafter and shall supersede any previous policy related to identity theft. This Resolution shall be implemented and administered by the District to conform with all requirements of the Identity Theft Rules, as modified from time to time.

*[Remainder of Page Intentionally Left Blank].*

RESOLVED AND ADOPTED this 20<sup>th</sup> day of February 2014.

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

By

  
\_\_\_\_\_  
Officer of the District 1

ATTEST:

  
  
APPROVED AS TO FORM:  
WHITE, BEAR & ANKELE,  
Professional Corporation

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

*[Signature Page to Identity Theft Prevention Program Resolution]*

## EXHIBIT A

### IDENTITY THEFT PREVENTION PROGRAM

The purpose of the Identity Theft Prevention Program is to comply with 16 CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and responding to such red flags in a manner that will prevent identity theft.

Section 1. Definitions. For purposes of this Program, the following definitions apply to the following terms, whether or not capitalized herein:

- (1) "Covered account" means:
  - (a) an account that the District offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a utility account; and
  - (b) any other account that the District offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the District from identity theft including financial, operational, compliance, reputation, or litigation risks.
- (2) "Credit" means the right granted by the District to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefor.
- (3) "Creditor" means the District.
- (4) "Customer" means a person that has a covered account with the District.
- (5) "District" means the Paint Brush Hills Metropolitan District.
- (6) "Identity theft" means a fraud committed or attempted using identifying information of another person without authority.
- (7) "Person" means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.
- (8) "Personal Identifying Information" means a person's credit card account information, debit card information, bank account information and drivers' license information and for a natural person includes their social security number, mother's birth. name, and date of birth.
- (9) "Red flag" means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

(10) “Service provider” means a person that provides a service directly to the District.

## Section 2. Findings

(1) The District is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.

(2) Covered accounts offered to customers for the provision of District services include water and wastewater services.

(3) The District’s previous experience with identity theft related to covered accounts is as follows:

(a) None.

(4) The processes of opening a new covered account, restoring an existing covered account and making payments on such accounts have been identified as potential processes in which identity theft could occur.

(5) The District limits access to personal identifying information of its customers to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the District’s computer system and is not otherwise recorded.

(6) The District determines that there is a low risk of identity theft to its customers occurring in the following ways (if any):

(a) Use by an applicant of another person’s personal identifying information to establish a new covered account.

(b) Use of a previous customer’s personal identifying information by another person in an effort to have service restored in the previous customer’s name.

(c) Use of another person’s credit card, bank account, or other method of payment by a customer to pay such customer’s covered account or accounts.

(d) Use by a customer desiring to restore such customer’s covered account of another person’s credit card, bank account, or other method of payment.

## Section 3. Process of Establishing a Covered Account

(1) Accounts are opened by the District after notification provided by a title company and/or customer. Account balances follow the property not the customer, and no additional identifying information for the customer is requested by the District.

(2) Each account shall be assigned a customer account number which shall be unique to that account. The District may utilize computer software to encrypt account numbers and PINs.

#### Section 4. Access to Covered Account Information

(1) Access to customer accounts shall be password protected and shall be limited to authorized personnel of the District.

(2) Such password(s) shall be changed by the manager of the department providing the service for which the covered account is created on a regular basis. Passwords shall be at least 8 characters in length and shall contain letters, numbers and symbols.

(3) Any unauthorized access to or other breach of customer accounts is to be reported immediately to the District Manager and the password changed immediately.

(4) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the District Manager.

#### Section 5. Credit Card Payments

(1) In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.

(2) All credit card payments made over the telephone or the District's website shall be entered directly into the customer's account information in the computer data base. Immediately upon processing of the credit card, any information referencing the credit card is immediately shredded by the District.

(3) Customer account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

#### Section 6. Sources and Types of Red Flags

All employees responsible for or involved in the process of opening a covered account, restoring a covered account, or accepting payment for a covered account, shall check for red flags as indicators of possible identity theft. Such red flags include:

(1) Suspicious documents. Examples of suspicious documents include, but are not limited to:

(a) Documents provided for identification that appears to be altered or forged;

(b) Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer;

(c) Identification on which the information is inconsistent with information provided by the applicant or customer;

(d) Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or

(e) An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.

(3) Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:

(a) ~~Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer;~~

(b) Personal identifying information or a phone number or address is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the District;

(c) Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity;

(d) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers;

(e) The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete;

(f) Personal identifying information is not consistent with personal identifying information that is on file with the District; or

(g) The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(4) Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:

- (a) Shortly following the notice of a change of address for an account, District receives a request for the addition of authorized users on the account;
  - (b) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:
    - (i) The customer fails to make the first payment or makes an initial payment but no subsequent payments.
  - (c) An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:
    - (i) Nonpayment when there is no history of late or missed payments; or
    - (ii) A material change in purchasing or spending patterns.
  - (d) An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors);
  - (e) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account;
  - (f) The District is notified that the customer is not receiving paper account statements;
  - (g) The District is notified of unauthorized charges or transactions in connection with a customer's account; or
  - (h) The District is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.
- (5) Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

Section 7. Prevention and Mitigation of Identity Theft.

(1) In the event that any employee responsible for or involved in restoring an *existing* covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the District Manager. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the District Manager, who may in his or her discretion determine that

no further action is necessary. If the District Manager in his or her discretion determines that further action is necessary, an employee of the District shall perform one or more of the following responses, as determined to be appropriate by the District Manager:

(a) Contact the customer;

(b) Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:

(i) Change any account numbers, passwords, security codes, or other security devices that permit access to an account; or

(ii) Close the account.

(c) Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;

(d) Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or

(e) Take other appropriate action to prevent or mitigate identity theft.

(2) In the event that any employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the District Manager. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the District Manager, who may in his or her discretion determine that no further action is necessary. If the District Manager in his or her discretion determines that further action is necessary, an employee of the District shall perform one or more of the following responses, as determined to be appropriate by the District Manager:

(a) Request additional identifying information from the applicant;

(b) Deny the application for the new account;

(c) Notify law enforcement of possible identity theft; or

(d) Take other appropriate action to prevent or mitigate identity theft.

Section 8. Updating the Program

The Board of Directors shall annually review and, based upon recommendations of District Counsel and the District Manager, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the District and its covered accounts from identity theft. In so doing, the Board shall consider the following factors and exercise its discretion in amending the program:

- (a) The District's experiences with identity theft;
- (b) Updates in methods of identity theft;
- (c) Updates in customary methods used to detect, prevent, and mitigate identity theft;
- (d) Updates in the types of accounts that the District offers or maintains; and
- (e) Updates in service provider arrangements.

Section 9. Program Administration

The District's Senior Level Staff in charge of billing is responsible for oversight of the program and for program implementation. The District Manager is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the District Manager, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the Board of Directors for consideration by the Board.

- (a) The Senior Level Staff will report to the District Manager at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:
  - (i) The effectiveness of the policies and procedures of the District in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
  - (ii) Service provider arrangements;
  - (iii) Significant incidents involving identity theft and management's response; and
  - (iv) Recommendations for material changes to the Program.

(2) The Senior Level Staff is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the identity Theft Prevention Program. The Senior Level Staff shall exercise his or her discretion in determining the amount and substance of training necessary.

Section 10. Outside Service Providers

In the event that the District engages a service provider to perform an activity in connection with one or more covered accounts, the Senior Level Staff shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.