Resolution No. 2014-01-02

CASCADE METROPOLITAN DISTRICT NO. 1

COLLECTIONS RESOLUTION

WHEREAS, pursuant to an order and decree of the District Court of El Paso County, Colorado, the Cascade 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 the "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 (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 Manager Procedures***. The District's Manager (the "Manager") 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 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. *Bills, Due Date and Late Fees:* On the twelfth (12th) day of each month, the Manager shall send a bill for Fees and Charges to the last known account holder of a Property according to the Manager's records. Payment for the Fees and Charges shall be due and owing on the fifth (5th) calendar day of the following month (the "Due Date"). In the event the Fees and Charges are not paid on or before the Due Date, on the twelfth (12th) calendar day of the month in which the Fees and Charges are due, the Manager shall assess Late Fees on the Property in the amounts set forth in Section 2 of this Resolution.

ii. Fifteenth (15) Day of Month in Which Fees and Charges are Due: A "Disconnect Notice" shall be sent to the address of the last known account holder of the Property according to the Manager's records. In the event the above mailing is returned as undeliverable, the Manager shall send a second copy of the Disconnect Notice 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 El Paso County Clerk and Recorder (collectively the "Property Address"). Said Disconnect Notice shall advise the owner of the Property of the District's intent to disconnect water service from the Property in the event the Delinquent Account and a Late Fee in the amounts set forth in Sections 2 and 4 of this Resolution are not paid in full within ten (10) days of the date of the Disconnect Notice.

ii. *Tenth (10th) Calendar Day After the Disconnect Notice*: On or after the tenth (10th) calendar day after the Disconnect Notice, if the Delinquent Account, including any applicable Late Fee, is not paid in full, the District's Manager shall post on the Property a "Shut Off Notice" advising the owner of the Property that if the Delinquent Account and any applicable Late Fee is not paid within five (5) days of the Shut Off Notice, water service to the Property will be shut off. Upon shut off of the water service, the applicable Turn Off Fee will be assessed to the Property. Should the owner of the Property request that the water service be turned on (after all outstanding Fees and Charges, including applicable Late Fees are paid in full), the Property will be assessed the applicable Turn On Fee.

c. ***General Counsel Procedures***. In the event the Board elects to impose a lien on a Property, General Counsel shall perform the following:

i. *Upon Referral of the Delinquent Account From the Board:* 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. Along with the Demand Letter, a copy of the most recent account ledger reflecting the total amount due and owing the District according to the records of the Manager shall also be sent.

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 Thirty (30) 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 Fee(s)" 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 Manager shall assess the Late Fee on the Property seven (7) calendar days from the 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 Twelfth (12th) 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 Twelfth (12th) calendar [illegible] payment is due, and each month thereafter, will be cl[illegible] and Charges until the Late Fee equals Twenty Five [illegible] outstanding Fees and Charges.

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

Example:

January 5 Fee (unpaid) . . . . . - $100
5% Late Fee (January 12) . . . . . - $5
February 5 Fee (unpaid) . . . . . - $100
5% Late Fee (February 12) . . . . . - $10
(Net Balance . . . . . - $215)

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

Example:

January 5 Fee . . . . . - $100
Partial Payment on January 7 . . . . . $90
Late Fee (January 12) . . . . . - $15
(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 5 Fee (unpaid) . . . . . - $100
Jan. Pmt. Late Fee (January 12) . . . - $15
February 5 Fee (unpaid) . . . . . - $100
Feb. Pmt. Late Fee (February 12) . . -$15
March 5 Fee (unpaid) . . . . . - $100
Payment on March 10 . . . . . $280
(Net Balance . . . . . - $50)
- Late Fees Balance = $0
- Fees and Charges Balance = - $50

Example B:

January 5 Fee (unpaid) . . . . . - $100
Jan. Pmt. Late Fee (January 12) . . . - $15
February 2 Fee . . . . . - $100
Payment on February 10 . . . . . $150
Feb. Pmt. Late Fee (February 12) . . - $15
(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 5 Fee . . . . . - $100
Payment on January 6 . . . . . $350
February 5 Fee . . . . . - $100
March 5 Fee . . . . . - $100 (balance = $50)
April 5 Fee . . . . . - $100
Late Fee (April 12) . . . . . - $15
(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:

"Costs of Collections" are generated by the Manager 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 Manager or General Counsel:

- *Disconnect Notice Fee:* No Charge for the Disconnect Notice. This action is performed by the Manager.

- *Shut Off Notice Fee:* No Charge for the Shut Off Notice. This action is performed by the Manager.

- *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 Manager and General Counsel shall each have authority and discretion to waive or reduce portions of the Delinquent Account attributable to Late Fees and Interest, up to a maximum of Three (3) months of Late Fees and Interest. Such action shall be permitted if either the Manager or General Counsel, in its discretion, determines 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. Prior to the Board's determination, the Manager and/or General Counsel shall make a recommendation as to whether or not such waiver or reduction will facilitate the payment of the Delinquent Account and is in the interest of the District.

b. Neither the Manager nor General Counsel shall have the authority to waive any portion of delinquent Fees and Charges or Costs of Collections. Should a Property owner desire a waiver of such Fees and Charges or Costs of Collections s/he shall submit a written request to the Board and the Board shall make the determination in its sole discretion. Prior to the Board's determination, the Manager and/or General Counsel shall make a recommendation as to whether or not such waiver or reduction will facilitate the payment of the Delinquent Account and is in the interest of the District.

c. Notwithstanding the above, the Manager or General Counsel 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 Manager or General Counsel shall promptly bring the matter to the attention of the Board. The Board shall then determine who shall be responsible for any additional costs incurred by the District due to the error or omission.

d. Any waiver or reduction of Late Fees or Interest granted pursuant to Sections 5(a-c) hereof shall not be construed as a waiver or reduction of future Late Fees and Interest, nor as the promise to waive or reduce future Late Fees or Interest. Nor shall any such waiver or reduction be deemed to bind, limit, or direct the future decision making power of the Board, Manager, or General Counsel, whether related to the Property in question or other properties within the District.

6. Payment Plans:

The Manager or 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 Manager or General Counsel, s/he shall first submit a written request to the Board and the Board shall make the determination in its sole discretion. Prior to the Board's determination, the Manager and/or General Counsel shall make a recommendation as to whether or not such payment plan will facilitate the payment of the Delinquent Account and is in the interest of the District.

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 Accounts 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.

8. Ratification of Past Actions:

All waivers and payment plans heretofor undertaken by the Manager or General Counsel that would otherwise have been authorized by this Resolution are hereby affirmed, ratified, and made effective as of the date said actions occurred.

9. 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.

10. Colorado and Federal Fair Debt Collections Acts:

To the extent required by law, the Manager, General Counsel, and the Board shall comply with both the Colorado Fair Debt Collection Practices Act and the Federal Fair Debt Collection Practices Act.

11. Supersedes Prior Resolutions:

This Resolution hereby replaces and supersedes the provisions of any other collections policies adopted by the Board prior to the date hereof. 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 imposing Fees and Charges, the term or provision in this Resolution shall prevail.

12. 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.

13. 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 the Manager, General Counsel, or other 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.

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ADOPTED AND APPROVED this 28th day of January 2014.

CASCADE METROPOLITAN DISTRICT NO. 1

Officer of the District

ATTEST:

APPROVED AS TO FORM:
White, Bear & Ankele
Professional Corporation

General Counsel to the District

1316.0007; 546366-1