

**RESOLUTION OF
EAGLE BEND METROPOLITAN DISTRICT NO. 2
CONCERNING THE IMPOSITION OF 2016 WATER RATES**

WHEREAS, pursuant to order of the District Court for Arapahoe County, Colorado, Eagle Bend Metropolitan District No. 2 (the “**District**”) was duly and validly created as a metropolitan district in accordance with all applicable laws; and

WHEREAS, the District is empowered un a Consolidated Service Plan for Eagle Bend Metropolitan District Nos. 1 and 2 (the “**Service Plan**”), approved by the City of Aurora, Colorado (the “**City**”) on June 20, 2001, as amended; and

WHEREAS, the District operates, and maintains two (2) wells which provided irrigation water to various property within the boundaries of the District (the “**North and South Wells**”) and all necessary appurtenant facilities and equipment; and

WHEREAS, as a supplemental water source, the District has also installed a three inch (3”) meter and service line at 8009 South Buchanan Way in order to allow for the transfer of potable water from the City to the Eagle Bend irrigation pond (the “**Buchanan Tap**”); and

WHEREAS, the City establishes the rate for the Buchanan Tap on an annual basis and bills the District accordingly; and

WHEREAS, in 2008, the District entered into an agreement with the City for the construction of an interconnection with East Cherry Creek Valley Water & Wastewater District (“**ECCV Line**”); and

WHEREAS, the Service Plan and §32-1-1001(1)(j)(I), C.R.S., authorize the District to impose fees and rates for services provided by the District related to the North and South Wells and for other sources of water provided by the District; 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 authorize the establishment of a Well Water Use Fee for water provided from the North and South Wells, ECCV Fee for water provided from the ECCV Line and a Potable Water Fee for water provided through the Buchanan Tap to be charged during fiscal year 2016.

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

1. Water Operation Fee. The District hereby resolves that a monthly Water

Operation Fee will be charged Heritage Eagle Bend Master Association at the rate of \$25,000.00 for eight (8) months from March through October 2016.

2. Buchanan Tap Water Fee. The District hereby resolves that the Potable Water Fee to be charged for use of all water provided through the Buchanan Tap shall be set equal to the rate billed by the City to the District from time to time, subject to the Non-Season Charge set forth in Section 4.

3. Well and ECCV Line Consumption Rate. The District hereby resolves that the rate charged for water provided through the ECCV line and/or the North and South Wells shall be Two Dollars and 75 cents (\$2.75) per One Thousand Gallons of water during the 2016 fiscal year, subject to the Non-Season Charge set forth in Section 4.

4. Non-Season Service Charge. Water services will be provided by the District during the year from April 15 through October 15 pursuant to Sections 1, 2 and 3 herein. Both the Buchanan Tap and the ECCV water will be turned off on October 15. If emergency water services are required by any User after October 15, it will be provided from the North or South Wells at the rates established herein plus a \$400.00 service charge, with a minimum required use for the emergency period of one million (1,000,000) gallons per week.

5. Tree Trimming and Maintenance. The District further recognizes herein that its provision of water to all entities and individuals within the District is expressly subject to viability of the microwave path signals that run from the North Well to the South Well and from the South Well to the pond on the golf course. The District shall condition the provision of water hereunder to all Users based upon cooperative efforts to ensure trees are trimmed sufficiently to allow the microwave path signals to be clear and uninterrupted by landscaping that currently or hereafter may be in such pathways. The District shall provide notice to all Users regarding any trees or landscaping that requires trimming and shall coordinate with such User to ensure that the scope of trimming necessary is completed to the District's satisfaction and at such User's sole cost.

6. Billing and Payment of Fees. The District shall invoice all entities or individuals provided water by the District (the "User") from the sources identified in this Resolution based upon their monthly consumption of the respective water sources at the then current Well Water Use Fee, Potable Water Fee or ECCV Fee (collectively, the "Fee(s)") established hereunder. The District reserves the right to bill User a monthly administrative fee in connection with billing and account administration. Payment of any invoice is due twenty-one (21) calendar days after issuance and any invoice not paid by its due date may accrue interest and/or late fees as follows and all such Users shall be expressly responsible for the costs of collection incurred and/or the termination of the services by the District as follows:

A. Any Fee that is not paid in full at the office of the District's Accountant by the scheduled due date shall be assessed a late fee of Five Percent (5%) of the amount due on that date, and an additional Five Percent (5%) on each monthly anniversary of that

date thereafter until the Fee is paid in full including all late fees relating thereto, not to exceed Twenty-Five Percent (25%) of the amount due, pursuant to §29-1-1102(3), C.R.S., and,

B. Interest shall also accrue on any outstanding past due Fee, exclusive of assessed late fees, attorneys' fees, interest or other costs of collections, at a rate of Eighteen Percent (18%) per annum pursuant to §29-1-1102(7), C.R.S., and

C. The District, at its sole discretion and without any liability to any User, may terminate service to any User which has outstanding amounts owed to the District which at the time of termination are more than thirty (30) days in arrears. The District may, at its sole discretion, assess such additional fees as it deems appropriate to any user for the re-establishment of services.

7. Perpetual Lien. Pursuant to §32-1-1001(j)(I), C.R.S., all Fees contemplated herein shall, until paid, constitute a perpetual lien on and against the property served or to be served by the District or Improvements provided by or owned by the District or to be provided by the District within a reasonable time. All such liens shall be in a senior position as against all other liens of record affecting the property served or benefited, or to be served or benefited by the Improvements and shall run with the property and remain in effect as to any portion of such property as to which the appropriate Fee has not been paid. All Liens arising from Fees remaining unpaid to the District maybe foreclosed in any manner authorized by law and at the sole discretion of the District.


8. Cumulative Fees. The Fees set forth in this resolution shall be cumulative and in addition to other fees and charges established by the District from time to time.

9. Severability. Invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstance, shall not affect the validity of any other provision of this Resolution.

ADOPTED AND APPROVED THIS 18th day of February, 2016.

ATTEST:

**EAGLE BEND METROPOLITAN
DISTRICT NO. 2**


Rex Rexroat, Vice President


Tom Coker, President