

**AMENDED AND RESTATED JOINT RESOLUTION
OF THE BOARDS OF DIRECTORS OF
WINTER FARM METROPOLITAN DISTRICT NO. 1 AND
WINTER FARM METROPOLITAN DISTRICT NO. 2
CONCERNING THE IMPOSITION OF TAP FEES AND WATER USAGE FEES**

WHEREAS, Winter Farm Metropolitan Districts Nos. 1 and 2, together with Winter Farm Metropolitan District No. 3 (collectively, the "Districts"), was formed pursuant to § 32-1-101 *et seq.*, C.R.S., as amended, after approval on August 28, 2000 of the Town Board of the Town of Windsor, Colorado, of the Consolidated Service Plan for the Districts (the "Service Plan"), order of the District Court in and for Weld County, Colorado, and after approval of the eligible electors of the Districts at a regular election held on November 7, 2000, for the purpose of assisting in the financing and development of the area generally in the southeast corner of Weld County Road 19 and Weld County Road 70 in the Town of Windsor (the "Service Area"); and

WHEREAS, the Districts have previously approved, executed and implemented a tap fee for costs associated with District No. 1's construction, installation, connection and provision of the non-potable irrigation water system to residential dwelling units by Resolution recorded in the Weld County Clerk and Recorder's Office at Reception No. 3283669 on May 5, 2005, (the "Resolution") as amended by the Amended and Restated Joint Resolution of District Nos. 1 & 2 Concerning the Imposition of Tap Fees and Water Usage Fees recorded at Reception No. 3552963 on May 9, 2008 (the "Amended Resolution") which Resolution and Amended Resolution needs to be updated to reflect current information and timing of the imposition of the tap fee; and

WHEREAS, residential dwelling units consist of all single-family residences; and

WHEREAS, the Districts are authorized pursuant to Section 32-1-1001(1)(j)(I) of the Colorado Revised Statutes ("C.R.S."), and the Districts' Service Plan, to fix and impose fees, rates, tolls, charges and penalties for services, programs or facilities provided by the Districts 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 of the Districts' debt; and

WHEREAS, the Districts' Service Plan assumes the receipt of various sources of revenue including tap fees and user charges; and

WHEREAS, pursuant to the Districts' Service Plan and the District Facilities Construction and Service Agreement among the Districts, District No. 1 has constructed an irrigation water system to provide non-potable water service to owners and residents of District No. 2; and

WHEREAS, the Boards desire to amend and restate the Resolution herein regarding the imposition of a Tap Fee and the establishment of a Water Charge for use of District No. 1's non-potable water irrigation system on residential dwelling units located within the boundaries of

District No. 2; and

WHEREAS, the Boards of Directors of the Districts desire to update, clarify and consolidate the prior resolutions and the corrections into this Amended and Restated Resolution.


NOW THEREFORE, the Districts' Boards of Directors hereby RESOLVE as follows:

1. Effective June 1, 2008, the one-time residential Tap Fee of \$3,900.00 shall be charged against those owners of lots located within the boundaries of District No. 2, as more particularly described in Exhibit A attached hereto. Exempted from the payment of the Tap Fee are owners of lots that have already paid the Tap Fee.
2. The Tap Fee shall be assessed against all permit ready lots that are able to be developed within the District. The Tap Fee will be due and owing from the owner of a permit ready residential lot upon the issuance of a permit from the Town of Windsor. The Fee will be assessed from the date of that permit.
3. Until such time that District No. 1 begins to meter for actual water usage, the \$10.00 Base Rate and corresponding additional water usage charges set forth in Appendix B of the Winter Farm Metropolitan District No. 1's Water Rules and Regulations, dated July 2006 ("Water Rules and Regulations"), is suspended and shall no longer be charged.
4. Until such time that District No. 1 begins to meter for actual water usage, an annual "Water Charge" for use of District No. 1's non-potable water irrigation system was established June 1, 2008 and amended March 26, 2013, for all residential dwelling units located within the boundaries of District No. 2, as described in Exhibit A attached hereto, in the amount of \$305.00 per year per residential dwelling unit, as may be further adjusted via Resolution by the Districts. The Water Charge shall be become due, owing and payable upon the date of written notification by District No. 1 that said Water Charge is due.
5. If the owner of a lot fails to pay the applicable Tap Fee within fifteen (15) days after the issuance of a building permit and/or fails to pay the annual Water Charge within fifteen (15) days after the date of written notification by District No. 1 that said Water Charge is due, an interest charge of one percent (1%) per month shall be charged against the unpaid balance. Owners in default shall be charged for any and all legal fees and expenses incurred for District No. 1's or its designee's efforts to collect any fees, charges or interest past due.
6. All fees and charges, including interest charges, contemplated herein shall, until paid, constitute a perpetual lien on and against the property of the lots by District No. 1 pursuant to §32-1-1001(1)(j)(I), C.R.S. All such liens shall be in a senior position as against all other liens of record affecting the property and shall run with the property within District No. 2 and remain in effect as to any portion of such property as to which the appropriate fees and/or charges have not been paid. All liens contemplated herein may be foreclosed in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens.

7. The Water Rules and Regulations currently reflect, as of the date of this Amended and Restated Resolution the following:
 - a. Appendix B of the Water Rules and Regulations includes a one-time residential Tap Fee of \$3,900.00, effective as of June 1, 2008. Exempted from the payment of the Tap Fee are owners of lots that have already paid the Tap Fee.
 - b. Appendix B of the Water Rules and Regulations excludes the \$10.00 Base Rate and corresponding additional water usage charges until such time that the District begins to meter actual water usage.
 - c. Section 8.9 of the Water Rules and Regulations provides that payment of the annual Water Charge shall become due, owing and payable upon the date of the issuance of a building permit by the Town of Windsor said Water Charge is due. Any and all references to monthly service charges in this Section 8.9 are hereby deleted and replaced with reference to the District's billing practices for its annual Water Charges.
 - d. Appendix B of the Water Rules and Regulations includes an annual "Water Charge" in the amount of \$305.00 per year per residential dwelling unit, to be charged annually until such time that the District begins to meter actual water usage. The annual water charge shall be assessed as of June 1, 2008, and as of each ~~February~~ April 1 in the years thereafter, if the property currently receives irrigation water service from the District. The annual water charge shall apply for the Irrigation Season for irrigation water service that is turned on to the property or after the start of the Irrigation Season in any year thereafter. Unless otherwise determined by the District, the Irrigation Season shall be the period of April 15 through October 15. The Water Charge shall become due, owing and payable upon the date of written notification by the District that said Water Charge is due.
8. 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 invalid or unenforceable clause or provision shall not affect the validity of this Resolution as a whole, but shall be severed here from, leaving the remaining terms intact and enforceable.
9. This Resolution shall be recorded in the Weld County Clerk and Recorder's Office against the real property located within the boundaries of Winter Farm Metropolitan District No. 2 and shall supersede and replace in its entirety that certain Resolution recorded in the Weld County Clerk and Recorder's Office at Reception No. 3283669 on May 5, 2005 and that certain Reception No. 3552963 on May 9, 2008


ADOPTED AND APPROVED this 8th day of December, 2015.

**WINTER FARM METROPOLITAN DISTRICT
NO. 1**



By: Jeff Mark
Its: ~~President~~ Vice President

ATTEST:



By: S. Alan Vance
Its: Secretary/Treasurer

**WINTER FARM METROPOLITAN DISTRICT
NO. 2**

By: _____
Its: President

ATTEST:

By: _____
Its: _____

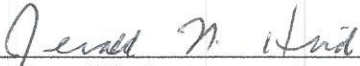
**WINTER FARM METROPOLITAN DISTRICT
NO. 1**

By: _____
Its: President

ATTEST:

By: _____
Its: _____

**WINTER FARM METROPOLITAN DISTRICT
NO. 2**


By: Jerry Hinde
Its: President

ATTEST:


By: David Olson
Its: Secretary

EXHIBIT A

**Legal Description
Winter Farm Metropolitan District No. 2**

