

After Recording, Return to:
WHITE BEAR ANKELE TANAKA & WALDRON
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122

**AMENDED AND RESTATED
RESOLUTION
OF THE BOARD OF DIRECTORS
OF THE
CENTRAL MARKSHEFFEL METROPOLITAN DISTRICT
CONCERNING THE IMPOSITION OF CAPITAL FACILITIES FEE**

WHEREAS, the Central Marksheffel Metropolitan District (the “**District**”) was formed pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended (the “**Special District Act**”), by order of the District Court for El Paso County, Colorado, and after approval of the District’s eligible electors at an election; and

WHEREAS, pursuant to § 32-1-1001(1)(h), C.R.S., the Board of Directors of the District (the “**Board**”) shall have the management, control and supervision of all the business and affairs of the District; and

WHEREAS, the Board has determined it to be in the best interests of the District, and the property owners, taxpayers, and residents of the District, to acquire, construct, operate and maintain certain amenities and facilities benefitting property and inhabitants within the District, which amenities and facilities generally include improvements, facilities, appurtenances and rights-of-way (collectively, the “**Facilities**”); and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., the District is authorized to fix and impose fees, rates, tolls, penalties and charges for services or facilities furnished by the District which, until such fees, rates, tolls, penalties and charges are paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, the District incurs and has incurred certain direct and indirect costs associated with the acquisition, construction, installation, repair, replacement, improvement, reconstruction operation and maintenance of the Facilities, as necessary, inclusive of the costs of utilities and capital replacement costs (collectively, the “**Facility Costs**”) in order that the Facilities may be properly provided and maintained; and

WHEREAS, the establishment of a fair and equitable fee (the “**Capital Facilities Fee**”) to provide a source of funding to pay for the initial capital direct and indirect costs associated with the construction, installation and acquisition of the Facilities (the “**Capital Facilities Costs**”), which Capital Facilities Costs are generally attributable to each Lot and Commercial

Lot (defined below), is necessary to provide for the common good and for the prosperity and general welfare of the District and its inhabitants; and

WHEREAS, the District finds that the Capital Facilities Fee (as defined below), as set forth in this Resolution, is reasonably related to the overall cost of providing the Facilities and paying the Capital Facilities Costs, and that imposition thereof is necessary and appropriate; and

WHEREAS, on May 4, 2004, the Board adopted a Resolution Concerning the Imposition of District Facility Fees (the "Prior Fee Resolution"), and the Board desires to adopt this Resolution to amend and restate the Prior Fee Resolution in its entirety with any fees, rates, tolls, penalties or charges due under the Prior Fee Resolution, to the extent outstanding and unpaid, shall remain in effect until fully paid and shall not be eliminated hereby.

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

1. **DEFINITIONS.** Except as otherwise expressly provided or where the context indicates otherwise, the following capitalized terms shall have the respective meanings set forth below:

"Apartment Unit" means a unit within an apartment building which unit is held for lease or rent for residential occupancy and for which a final certificate of occupancy has been issued.

"Commercial Lot" means each Lot, regardless of the number of Commercial Units thereon, within the District Boundaries that is used and/or zoned for general commercial, industrial, office, retail or other non-residential uses.

"Commercial Unit" means each office space, unit, building or other structure within the District Boundaries that is used and/or zoned for general commercial, industrial, office, retail, or other non-residential uses.

"District Boundaries" means the legal boundaries of the District, as the same are established and amended from time to time pursuant to §§32-1-101, *et seq.*, C.R.S., as more particularly set forth in the map and legal description attached hereto as **Exhibit B** and incorporated herein by this reference.

"Due Date" means the date by which the Capital Facilities Fee is due, which Due Date is reflected in section 2(b) below and on the Schedule of Fees.

"End User" means any third-party homeowner or tenant of any homeowner occupying or intending to occupy a Residential Unit and any third party owner or tenant occupying or intending to occupy a Commercial Unit. End User specifically excludes a tenant occupying an Apartment Unit.

“Fee Schedule” or “Schedule of Fees” means the schedule of fees set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, until and unless otherwise amended and/or repealed.

“Lot” means each parcel of land established by a recorded final subdivision plat and which is located within the District Boundaries.

“Residential Unit” means each residential dwelling unit (including, without limitation, condominiums, townhomes, and any other attached dwelling unit and detached single family dwelling units) located within the District Boundaries which has been Transferred to an End User.

“Transfer” or “Transferred” shall include a sale, conveyance or transfer by deed, instrument, writing, lease or any other documents or otherwise by which real property is sold, granted, let, assigned, transferred, exchanged or otherwise vested in a tenant, tenants, purchaser or purchasers.

“Vacant Lot” means each parcel of land within the District established by a recorded final subdivision plat, but specifically excluding any parcel upon which one or more Residential Units, Commercial Units or Apartment Units is situated and specifically excluding any parcel owned by the District.

2. CAPITAL FACILITIES FEE.

a. A one-time Capital Facilities Fee is hereby established and imposed upon each Residential Unit and each Commercial Unit within the District Boundaries. Exempted from the Capital Facilities Fee are the single-family residential units within Claremont Ranch Filings Nos. 3 and 4, and those in-District residential units which are subject to or have already paid a substantially similar impact fee imposed by the County, as may be determined by the District in its sole discretion.

b. The Capital Facilities Fee shall be due and payable at or prior to, and as a condition of the County issuing a building permit(s).

c. The Board has determined, and does hereby determine, that the Capital Facilities Fee is reasonably related to the overall cost of providing the Facilities, and is imposed on those who are reasonably likely to benefit from or use the Facilities.

d. The revenues generated by the Capital Facilities Fee will be accounted for separately from other revenues of the District. The Capital Facilities Fee revenue will be used solely for the purpose of paying Capital Facilities Costs, and may not be used by the District to pay for general administrative costs of the District. This restriction on the use of the Capital Facilities Fee revenue shall be absolute and without qualification.

e. The Board has determined, and does hereby determine, that the Capital Facilities Fee is calculated to defray the cost of funding construction of the Facilities and reasonably distributes the burden of defraying the Capital Facilities Costs in a manner based on the benefits received by persons paying the fees and using the Facilities.

3. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., any Capital Facilities Fee not paid in full within fifteen (15) days after the scheduled due date will be assessed a late fee in the amount of Fifteen Dollars (\$15.00) or up to five percent (5%) per month, or fraction thereof, not to exceed a total of twenty-five percent (25%) of the amount due. Interest will also accrue on any outstanding Capital Facilities Fee, exclusive of assessed late fees, penalties, interest and any other costs of collection, specially including, but not limited, to attorney fees, at the rate of 18% per annum, pursuant to § 29-1-1102(7), C.R.S. The District may institute such remedies and collection procedures as authorized under Colorado law, including, but not limited to, foreclosure of its perpetual lien. The defaulting property owner shall pay all fees and costs, specifically including, but not limited to, attorneys' fees and costs and costs associated with the collection of delinquent fees, incurred by the District and/or its consultants in connection with the foregoing.

4. PAYMENT. Payment for all fees, rates, tolls, penalties, charges, interest and attorney fees shall be made by check or equivalent form acceptable to the District, made payable to "Central Marksheffel Metropolitan District" and sent to the address indicated on the Fee Schedule. The District may change the payment address from time and time and such change shall not require an amendment to this Resolution.

5. LIEN. The fees imposed hereunder, together with any and all late fees, interest, penalties and costs of collection, shall, until paid, constitute a statutory, perpetual lien on and against the property served, and any such lien may be foreclosed in the manner provided by the laws of the State of Colorado for the foreclosure of mechanic's liens, pursuant to § 32-1-1001(1)(j)(I), C.R.S. Said lien may be foreclosed at such time as the District, in its sole discretion, may determine. The lien shall be perpetual in nature (as defined by the laws of the State of Colorado) on the property and shall run with the land. This Resolution shall be recorded in the offices of the Clerk and Recorder of El Paso County, Colorado.

6. SEVERABILITY. If any portion of this Resolution is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Resolution, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

7. THE PROPERTY. This Resolution shall apply to all property within the District's boundaries, including, but not limited to, the property 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.

8. EFFECTIVE DATE. This Resolution shall become effective November 1, 2016.

[Remainder of Page Intentionally Left Blank. Signature Page to Follow.]

ADOPTED this 1st day of November, 2016.

CENTRAL MARKSHEFFEL METROPOLITAN
DISTRICT, a quasi-municipal corporation and
political subdivision of the State of Colorado



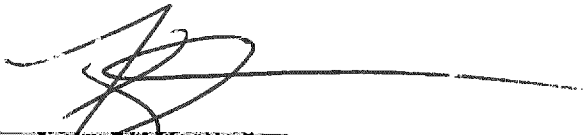
Officer of the District

ATTEST:



APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys At Law



General Counsel to the District

Signature page to Resolution Concerning the Imposition of Capital Facilities Fee

EXHIBIT A

CENTRAL MARKSHEFFEL METROPOLITAN DISTRICT

Schedule of Fees

Effective November 1, 2016

Schedule of Fees		
Fee Type	Classifications/Land Use	Rate
Capital Facilities Fee	Single Family Residence	\$1,914 / Residential Unit
	Apartment or Other Multi-Family Residential Dwelling Unit Not Otherwise Enumerated	\$1,172 / Residential Unit
	Industrial/Agricultural (ITE* Land Uses 100-199)	\$1.50 / Gross Building Square Footage
	Lodging (ITE* Land Uses 300-399)	\$200 / Room
	Recreational (ITE* Land Uses 400-499)	\$2 / Gross Building Square Footage
	Institutional (ITE* Land Uses 500-599)	\$2 / Gross Building Square Footage
	Medical (ITE* Land Uses 600-699)	\$2 / Gross Building Square Footage
	Office (ITE* Land Uses 700-799)	\$2 / Gross Building Square Footage
	Retail (ITE* Land Uses 800-899)	\$2 / Gross Building Square Footage
	Services (ITE* Land Uses 900-999)	\$2 / Gross Building Square Footage
* Institute of Transportation Engineers Trip Generation Manual, 6th Edition		
Each Capital Facilities Fee is due and payable at or prior to, and as a condition of the County issuing a building permit.		

PAYMENTS: Payment for each fee shall be made payable to the Central Marksheffel Metropolitan District and sent to the following address for receipt by the Due Date:

c/o Schooler and Associates, Inc.
 20 Boulder Crescent Street Suite 200
 Colorado Springs, CO 80903

EXHIBIT B

CENTRAL MARKSHEFFEL METROPOLITAN DISTRICT

District Boundaries



**LEGAL DESCRIPTION
CENTRAL MARKSHEFFEL METROPOLITAN DISTRICT**

That certain parcel of land situated in Section 4, a portion of the Southeast Quarter of Section 5, a portion of the Northeast Quarter of Section 8 and a portion of the Northwest Quarter of Section 9, all of Township 14 South, Range 65 West of the 6th P.M., County of El Paso, State of Colorado, being a portion of Parcel F as described in the Special Warranty Deed recorded in Book 6797 Page 35, all of Parcels A, B and C as described in the Warranty Deed recorded September 25, 2001 at Reception No. 201139338, all of the parcel of land as described in the Warranty Deed recorded June 8, 2001 at Reception No. 201078385, a portion of the tract of land described in the Special Warranty Deed recorded August 2, 2000 at Reception No. 200090762, all of that tract of land described in the Warranty Deed recorded January 15, 2002 at Reception No. 202007663, and a portion of the Parcels of land described in the Quitclaim Deed recorded July 1, 1999 at Reception No. 99105361, all of the records in the Clerk & Recorder's Office of said El Paso County, described as follows:

Commencing at the Northwest Corner of said Section 4, from which the North One-Quarter Corner bears North 89°46'01" East, 2645.97 feet; thence along the West line of Northwest One-Quarter of said Section 4, South 00°08'32" East, 60.00 feet to a point on the Southerly right-of-way line of Constitution Avenue as shown on CONSTITUTION AVENUE/PETERSON ROAD RIGHT-OF-WAY, a Subdivision recorded in Plat Book V-3 at Page 169 of the records in the Clerk & Recorder's Office of said El Paso County and the TRUE POINT OF BEGINNING;

Thence along the Southerly right-of-way line of Constitution Avenue, North 89°46'01" East, 3195.57 feet to the Northeast Corner of the parcel of land described in said Reception No. 201078385, said corner being coincident with the Northwest Corner of CLAREMONT RANCH FILING NO. 1, a Subdivision recorded at Reception No. 201024309 of the records in the Office of the Clerk & Recorder of said El Paso County;

Thence along the Easterly lines of the parcel of land described in said Reception No. 201078385 and the Westerly lines of said CLAREMONT RANCH FILING NO. 1, the following three (3) courses and distances:

Thence South 09°20'43" West, 209.05 feet;

Thence South 33°10'49" West, 363.74 feet;

Thence South 47°00'54" West, 312.00 feet;

Thence along the West line of said CLAREMONT RANCH FILING NO. 1, South 00°07'55" West, 308.48 feet to the Northwest Corner of CLAREMONT RANCH FILING NO. 2, a Subdivision recorded at Reception No. 202103983 of the records in the Office of the Clerk & Recorder of said El Paso County;

Thence along the Westerly, Southerly and Southeasterly lines of said CLAREMONT RANCH FILING NO. 2, the following seventeen (17) courses and distances:

Thence South 00°07'29" West, 243.54 feet;

Thence South 36°08'33" West, 238.82 feet;

Thence South 57°34'44" West, 152.54 feet;

Thence South 50°00'07" West, 217.22 feet;

Thence South 00°59'38" East, 460.39 feet;

Thence South 09°08'45" West, 20.96 feet;

Thence South 87°08'43" East, 102.01 feet to a point on a non-tangent curve concave Southeasterly and having a radius of 530.00 feet, a radial line from said curve from said point bears South 77°17'57" East;

Thence along said curve Southwesterly, 16.03 feet through a central angle of 01°43'59";

Thence radially from said curve South 79°01'56" East, 174.64 feet;

Thence North 18°42'38" East, 47.87 feet;

Thence North 26°27'42" East, 47.44 feet;

Thence North 34°11'46" East, 47.01 feet;

Thence North 41°56'19" East, 69.79 feet;

Thence North 00°07'55" East, 158.51 feet to the beginning of a non-tangent curve concave Southeasterly and having a radius of 470.00 feet, a radial line from said curve bears South 30°33'24" East;

Thence along said curve Northeasterly and Easterly, 251.74 feet through a central angle of 30°41'19";

Thence tangent from said curve, South 89°52'05" East, 666.14 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 730.00 feet;

Thence along said curve Northeasterly, 470.28 feet through a central angle of 36°54'39";

Thence North 53°13'16" East, 566.98 feet to the most Easterly Corner of said CLAREMONT RANCH FILING NO. 2, said point being on the Southerly line of said CLAREMONT RANCH FILING NO. 1'

Thence along the Southerly line of said CLAREMONT RANCH FILING NO. 1 the following two (2) courses and distances:

Thence North 53°13'16" East, 158.09 feet;

Thence South 36°11'16" East, 394.25 feet to the Easterly line of the parcel of land described in said Special Warranty Deed recorded at said Reception No. 200090762, said line being a non-tangent curve concave Northwesterly and having a radius of 1900.00 feet, a radial line from said point from said curve bears North 59°10'21" West;

Thence along the Southeasterly and Southwesterly line of the parcel of land described in said Reception No. 200090762 the following six (5) courses and distances:

Thence along said curve Southwesterly, 629.70 feet through a central angle of 18°59'21";

Thence tangent from said curve, South 49°49'00" West, 73.16 feet;

Thence South 46°54'52" West, 295.54 feet;

Thence South 36°11'00" East, 75.04 feet (75.00 feet - record);

Thence South 53°49'00" West, 2794.75 feet;

Thence North 36°11'00" West, 29.45 feet to the most Easterly Corner of the parcel of land described in said Reception No. 202007663, said point being on a non-tangent curve concave Southeasterly and having a radius of 11,334.00 feet, a radial line from said point from said curve bears South 36°44'50" East;

Thence along the Southeasterly, Southwesterly and Westerly lines of said Reception No. 202007663, the following six (6) courses and distances:

Thence along said curve Southwesterly, 713.35 feet through a central angle of 03°36'22";

Thence non-tangent from said curve, South 53°49'00" West, 588.76 feet;

Thence South 52°58'47" West, 252.16 feet to a point on a non-tangent curve concave Southeasterly and having a radius of 2914.79 feet, a radial line from said curve from said point bears South 38°41'00" East;

Thence along said curve Southwesterly, 769.83 feet through a central angle of 15°07'57";

Thence non-tangent from said North 55°10'21" West, 160.18 feet;

Thence North 00°57'45" East, 193.69 feet to the South line of the Southeast One-Quarter of said Section 4;

Thence along the South line of the Southeast One-Quarter of said Section 4, North 88°14'37" West, 50.02 feet to the Southwest Corner of said Section 4;

Thence along the South line of the Southwest One-Quarter of said Section 5, North 89°52'15" West, 30.00 feet to the Easterly line of the parcels of land described in said Reception No. 99105361 of the records in the Office of the Clerk & Recorder of said El Paso County;

Thence along the Easterly, Southeasterly, Southerly and Northwesterly lines of the parcels of land described in said Reception No. 99105361 the following seventeen (17) courses and distances:

Thence South 00°00'24" East, 491.90 feet;

Thence South 14°53'40" West, 172.76 feet;

Thence South 33°32'48" West, 1366.75 feet;

Thence North 56°23'34" West, 30.02 feet;

Thence South 33°38'37" West, 1091.56 feet;

Thence South 89°46'50" West, 1402.55 feet to a point on a non-tangent curve concave Northwesterly and having a radius of 1032.00 feet, a radial line from said curve from said point bears North 60°11'26" West;

Thence North 15°26'53" East, 208.19 feet to the beginning of a tangent curve concave Southeasterly and having a radius of 808.00 feet;

Thence along said curve Northeasterly, 138.35 feet through a central angle of 09°48'39";

Thence tangent from said curve North 25°14'57" East, 248.36 feet to the beginning of a tangent curve concave Southeasterly and having a radius of 1018.00 feet;

Thence along said curve Northeasterly, 725.32 feet through a central angle of 40°49'22";

Thence tangent from said curve North 66°04'03" East, 119.23 feet to the beginning of a tangent curve concave Northwesterly and having a radius of 1015.00 feet;

Thence along said curve Northeasterly, 569.45 feet through a central angle of 32°08'41";

Thence tangent from said curve North 33°55'22" East, 1195.90 feet;

Thence South 89°42'05" West, 38.90 feet to the Southeasterly line of the parcel of land described in the Warranty Deed recorded September 10, 2001 at Reception No. 201132016 of the records in the Office of the Clerk & Recorder of said El Paso County;

Thence along the Southeasterly, Easterly and Northerly lines of the parcel of land described in said Reception No. 201132016;

Thence North 33°55'24" East, 920.63 feet to the beginning of a tangent curve concave Southeasterly and a radius of 1132.18 feet;

Thence along said curve Northeasterly, 471.74 feet through a central angle of 23°52'24";

Thence North 00°07'45" East, 290.42 feet;

Thence South 89°39'42" West, 80.00 feet to the Southeast Corner of the parcel of land described in the Warranty Deed recorded on January 7, 2002 at Reception No. 202003365 of the records in the Office of the Clerk & Recorder of said El Paso County;

Thence along the East line of the parcel of land described in said Reception No. 202003365, North 00°07'45" East, 441.91 feet to the South line of the of the parcel of land described in the Warranty Deed recorded on January 11, 2002 at Reception No. 202006608 of the records in the Office of the Clerk & Recorder of said El Paso County;

Thence along the Southerly and Easterly lines of the parcel of land, described in said Reception No. 202006608 the following two (2) courses and distances:

Thence North 89°39'42" East, 5.00 feet;

Thence North 00°07'45" East, 800.00 feet to the South line of the parcel of land described in the Warranty Deed recorded on July 3, 1995 at Reception No. 95066134 of the records in the Office of the Clerk & Recorder of said El Paso County;

Thence along the South line of the parcel of land described in said Reception No. 95066134, North 89°39'42" East, 75.00 feet to the Southeast Corner thereof;
Thence along the East line of the parcel of land described in said Reception No. 95066134 and the parcel of land described in the Trustee's Deed recorded on January 11, 2002 at Reception No. 202006611 and the parcel of land described in the Trustee's Deed recorded on January 11, 2002 at Reception No. 202006607 and the parcel of land described in the Warranty Deed recorded on August 18, 2000 at Reception No. 200098567 and the parcel of land described in the Warranty Deed recorded on June 27, 1997 at Reception No. 97073824 and the deed recorded in Book 6082 at Page 792, all of the records in the Office of the Clerk & Recorder of said El Paso County, North 00°08'32" East, 2556.67 feet to the Southerly right-of-way line of Constitution Avenue as shown on said CONSTITUTION AVENUE/PETERSON ROAD RIGHT-OF-WAY;

Thence along the Southerly right-of-way line of Constitution Avenue, North 89°41'40" East, 30.00 feet to the TRUE POINT OF BEGINNING.

Area = 422.752 Acres, More or Less.

SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of Record.

Legal Description Prepared By:
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