

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

RESOLUTION 2022-02-01
AMENDED AND RESTATED RESOLUTION
OF THE BOARD OF DIRECTORS
OF THE BEACON POINT METROPOLITAN DISTRICT
CONCERNING THE IMPOSITION OF A DEVELOPMENT FEE
(Tract C, Block 1, Beacon Point Subdivision Filing No. 4)

WHEREAS, the Beacon Point Metropolitan District (the “**District**”) was formed pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended, by order of the District Court for Arapahoe County (“**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, 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, programs 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, on April 20, 2005, the District, along with East Plains Metropolitan District and High Plains Metropolitan District, adopted and approved a Joint Resolution Concerning the Imposition of a Development Fee which imposed certain development fees and charges against properties within the boundaries of the District (the “**Development Fee**”), as recorded in the Arapahoe County Clerk and Recorders records on April 26, 2005 at Reception No. B5059246 (the “**Original Development Fee Resolution**”); and

WHEREAS, the Original Development Fee Resolution provided that the Development Fee was not due from any real property located within the boundaries of the District for: (a) any school site dedicated to the Cherry Creek School District #5, provided that the acreage of said site did not exceed eleven (11) acres in size; and (b) any property that the City of Aurora requires to be dedicated either thereto, to the public or to another governmental entity for public rights-of-way, or that is required to be conveyed to the District for operation of public facilities, including but not limited to streets, trails, sidewalks, parks, landscape areas and similar facilities; and

WHEREAS, the property located at Tract C, Block 1, Filing No. 4 (the “**Property**”), as more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, was originally intended to be utilized as a school site by the Cherry Creek School District #5 and, as such, Development Fees were not collected in relation to the Property; and

WHEREAS, the Property is within the boundaries of the District; and

WHEREAS, the Cherry Creek School District #5 did not utilize the Property as a school site; and

WHEREAS, the Cherry Creek School District #5 conveyed the Property to AMH Development, LLC, a Delaware limited liability company (“AMH”) by Special Warranty Deed on September 18, 2020 as recorded in the Arapahoe County Clerk and Recorder on October 1, 2020 at Reception No. E0132217; and

WHEREAS, it is the Board’s understanding that the Property will be developed and will consist of single-family residences; and

WHEREAS, the Board, with this Resolution, wishes to reiterate that since the Property will not be utilized as a school site, the Development Fees from the Original Development Fee Resolution have been triggered; 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 impose the Development Fee on the Property since it was not utilized as a school site in order to finance, acquire, construct, install, repair, replace, improve, reconstruct, operate and maintain certain public improvements, amenities and facilities within or otherwise serving and benefitting the property owners, taxpayers and residents of the District, which public improvements, amenities and facilities generally include, but are not limited to, parks and recreation, landscaping, the Clubhouse, improvements, facilities, appurtenances and rights-of-way (collectively, the “**Facilities**”); and

WHEREAS, the District incurs or will incur certain direct and indirect costs associated with the financing, 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 “**Capital Facility Costs**”) in order that the Facilities may be properly provided and maintained; and

WHEREAS, the Development Fee, as set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, as may be amended from time to time by the Board, 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, all other Lots (except for those in the Property) within the District’s boundaries previously paid the Development Fee imposed by the Original Fee Resolution; and

WHEREAS, the Board desires to adopt this Resolution to amend and restate the Original Development Fee Resolution in its entirety since the Property is not being utilized as a school site which has thus triggered the imposition of the Development fee on the Lots within the Property.

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:

“**Due Date**” means the date by which each Development Fee is due, which Due Date is reflected on the Fee Schedule.

“**Fee Schedule**” means the schedule of fees set forth in **Exhibit B** until and unless otherwise amended and/or repealed.

“**Lot**” means each lot established, or to be established, by a recorded final subdivision plat and which is located within the Property.

“**Residential Unit**” means each single family attached and single family detached residential dwelling unit (including, without limitation, condominiums, townhomes, paired homes, rowhouses, duplexes and any other attached and detached single family dwelling units) located within the Property.

“**Responsible Party**” means the owner or owners of a Lot. If the Responsible Party consists of more than one party, then the obligation to pay the Development Fee is the joint and several obligation of all of the parties constituting the Responsible Party.

2. DEVELOPMENT FEE.

a. A one-time Development Fee is hereby imposed upon each Lot within the Property since the Property was not utilized as a school site.

b. The Development Fee shall be in the amount, and due and owing as outlined in **Exhibit B**. The amount of each Development Fee due under this Resolution may be adjusted from time to time in the Board’s discretion and shall be at the rate in effect at the time of payment.

c. The Board does hereby determine that the Development 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 Development Fee will be accounted for separately from other revenues of the District. The Development 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 Development Fee revenue shall be absolute and without qualification.

3. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., any Development 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 Development 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 Responsible Party 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 imposed pursuant to this Resolution shall be made by check or equivalent form acceptable to the District, made payable to the "Beacon Point Metropolitan District" and sent to the address indicated on the Fee Schedule. The District may change the payment address from time to time and such change shall not require an amendment to this Resolution.

5. LIEN. The Development Fee imposed pursuant to this Resolution, 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 the County.

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. PREPAYMENT OF FEES. The District may enter into agreements for the prepayment of Development Fees, in its sole and absolute discretion.

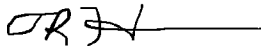
8. THE PROPERTY. This Resolution shall apply only to the Property described in **Exhibit A**, as all other Development Fees were paid in full under the Original Development Fee Resolution.

9. EFFECTIVE DATE. This Resolution shall become effective February 7, 2022.

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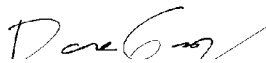
ADOPTED this 7th day of February, 2022.

BEACON POINT 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 a Development Fee]

EXHIBIT A**The Property**

Tract C, Block 1, Beacon Point Subdivision Filing No. 4,

Except that part described as:

Beginning at the Southwest corner of said Tract C, Beacon Point Subdivision Filing No. 4, said point also being the Southeast corner of Lot 25, Block 2, Beacon Point Subdivision Filing No. 6, per the plat recorded February 3, 2014 at Reception No. D4008394 in said office of the Clerk and Recorder; thence along the Westerly line of said Tract C, and the Easterly line of said Lot 25, Block 2, Beacon Point Subdivision Filing NO. 6 the following three (3) courses: (1) North 00 12'58" East, 178.69 feet to the centerline of South Newbern street, said point being 16.69 feet North, along the centerline, of the end of a curve concave Northwesterly between East Calhoun Place and South Newbern Street; (2) Departing said centerline, South 89 45'00" East, 32.00 feet to the East right-of-way of South Newbern Street (64.00 foot R.O.W.); (3) Along said Easterly right-of-way, North 00 13' 00" East 17.94 feet to the beginning of a non-tangent curve concave Easterly, having a radius of 35.00 feet, from which a radial line bears South 89 42' 42", an arc length of 11.43 feet to the beginning of a reverse curve concave Westerly, having a radius of 70.70 feet; thence Southerly along said reverse curve through a central of 60 00'40", an arc length of 74.05 feet to a line parallel with and distant 20.00 feet Easterly from the Westerly line of said Tract C, Beacon Point Subdivision Filing No. 6; thence along said parallel line, South 00 12'58" West, 116.06 feet to the Southerly line of said Tract C; thence along said Southerly line, North 89 47;00" West, 20.00 feet to the Point of beginning, County of Arapahoe, State of Colorado.

EXHIBIT B**BEACON POINT METROPOLITAN DISTRICT****Development Fee Schedule****Effective February 7, 2022_____**

Development Fee Schedule
<p>A one-time Development Fee is imposed upon each Lot that is currently platted on the Property and each Lot that is to be platted on the Property at the rate of \$3,000* per Lot.</p> <p>The Due Date for each Development Fee is the earlier of the following to occur: (1) the issuance of a building permit for each Lot or (2) the issuance of a certificate of occupancy for each Lot.</p> <p>The Development Fee shall be due and payable by the Responsible Party, in full, to the District on the Due Date.</p> <p>*As of February 7, 2022. Amount to increase by 5% on January 1, 2023, rounded to the nearest twenty-five dollars (\$25.00), and increased by 5%, compounded, on each January 1 thereafter.</p>

PAYMENTS: Payment for each Development Fee shall be made payable to the Beacon Point Metropolitan District and sent to the following address for receipt by the Due Date:

Beacon Point Metropolitan District
c/o Special District Management Services, Inc.
141 Union Boulevard, Suite 150
Lakewood, Colorado 80228