

RESOLUTION NO. 2020-11-04
RESOLUTION OF
EAGLE BEND METROPOLITAN DISTRICT
CONCERNING THE IMPOSITION OF 2021 WATER RATES

WHEREAS, pursuant to an order of the District Court for Arapahoe County, Colorado, Eagle Bend Metropolitan District (the "**District**") was duly and validly created as a metropolitan district in accordance with all applicable laws; and

WHEREAS, the District is empowered under a Consolidated Service Plan for the 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, pursuant to §32-1-1001(1), C.R.S. and the Service Plan, the District is authorized to construct, own, operate, and maintain a water and irrigation water system and all necessary facilities appurtenant thereto; and

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

WHEREAS, in 2008, the District entered into an agreement with the City for the construction of an interconnection with the "**Western Pipeline**" then owned by East Cherry Creek Valley Water & Wastewater District ("**ECCV Line**"); and

WHEREAS, in 2014 the Western Pipeline was purchased by Water Infrastructure and Supply Efficiency South Metropolitan Regional Partnership ("**Wise**"); and

WHEREAS, depending on the entity providing water to the District through the ECCV Line and related agreements, the rates charged to the District for water used through the ECCV Line may vary; and

WHEREAS, as a supplemental water source, the District has also installed a three inch (3") service line and meter 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 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, the ECCV Line and the Buchanan Tap; 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, in order to properly impose fees and rates for services provided by the District related to the North and South Wells and the ECCV Line, the District contracted with TZA Water Engineers to perform an irrigation water rate study, such study is attached hereto as **Exhibit A** an incorporated herein by this reference ("**TZA Report**"); and

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

WHEREAS, in accordance with the TZA Report, and the City's established rate for the Buchanan Tap, the District desires to establish a fixed rate for costs related to operations and maintenance, engineering, administration and capital outlays ("**Water Operation Fee**"), a variable rate related to water usage and electric power usage from the North and South Wells ("**Well Water Use Fee**"), a variable rate related to water usage from the ECCV Line ("**ECCV Fee**"), and a variable rate related to water usage from the Buchanan Tap ("**Potable Water Fee**"); and

WHEREAS, the District has entered into an Intergovernmental Agreement with the City of Aurora to provide a Raw Water source through the Rampart Line; and

WHEREAS, the District, subject to annual appropriation, will make a Capital Surcharge Payment to the City of Aurora to access water from the Rampart Line.

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 to Heritage Eagle Bend Master Association at the rate of \$ 19,375 per month for eight (8) months from March 1 through October 31, 2021, for an aggregate 2021 annual fee of \$ 155,000

2. Well Water Use Fee. The District hereby resolves that the rate charged for water provided through the North and South Wells shall be \$2.19 per one-thousand gallons, subject to the Non-Season Charge set forth in Section 5.

3. ECCV Fee. The District hereby resolves that the rate charged for water provided through the ECCV Line, whether by WISE, the City or any other entity, shall be \$7.21 per one-thousand gallons.

4. Potable 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.

5. Rampart Line Water Fee. The District hereby resolves that the rate charged for water provided through the Rampart Line, once it is operational, shall be \$2.19 per one thousand gallons.

6. Non-Season Service Charge. Water services will be provided by the District during the year from March 1 through the earlier of (i) November 30, 2021, or (ii) such time as the District winterizes its irrigation system, subject to timely payment of fees as set forth in Sections 1, 2, 3 and 4 herein. Both the Buchanan Tap and the ECCV Line water will be turned off on November 1, 2021. If emergency water services are required by any User after the earlier of November 30, 2021 or such time as the District winterizes its irrigation system, such water will be provided from the North or South Wells at the rates established herein plus a service charge equal to all actual costs expended by the District in turning the water system on and off.

7. Water Conservation. All Users shall be required to exercise appropriate water conservation practices as may be required by the City of Aurora.

8. 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 any outstanding Water Operation Fee, as applicable, as well as the respective User's monthly consumption of the respective water sources at the Well Water Use Fee, ECCV Fee or the then current Potable Water Fee (collectively, the "Fee(s)") established hereunder. 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 termination of service 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.;

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 the 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.

9. Perpetual Lien. Pursuant to §32-1-1001(j)(I), C.R.S., all Fees as 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 may be foreclosed in any manner authorized by law and at the sole discretion of the District.

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

11. 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.

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ADOPTED AND APPROVED this 19th day of November 2020.

EAGLEBEND METROPOLITAN DISTRICT

DocuSigned by:
Larry Moore
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Larry Moore, President

ATTEST:

DocuSigned by:
Ed Malone
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Ed Malone, Secretary

ADOPTED AND APPROVED this 19th of November 2020.

**HERITAGE EAGLE BEND
MASTER ASSOCIATION**

[Handwritten Signature]

President