

EAGLE BEND METROPOLITAN DISTRICT
BY-LAWS

Section 1. **Authority**. Eagle Bend Metropolitan District (the “District”) is a governmental subdivision of the State of Colorado and a body corporate with those powers of a public or quasi-municipal corporation which are specifically authorized by, and in compliance with, Section 32-1-101 et seq., C.R.S., and its Service Plan dated as of September 2, 1998, as amended from time to time.

Section 2. **Purpose**. It is hereby declared that the By-Laws hereinafter set forth will serve a public purpose.

Section 3. **Policies of the Board**. It shall be the policy of the Board of Directors (“Board”) of the District, consistent with the availability of revenues, personnel and equipment, to use its best efforts to provide the services as authorized under the District Service Plan or by law. The Board shall abide by the provisions of these Bylaws as supplemented or amended from time to time, in providing authorized services.

Section 4. **Board of Directors**. All powers, privileges and duties vested in, or imposed upon, the District by law shall be exercised and performed by and through the Board, whether set forth specifically or impliedly in these By-Laws. The Board may delegate to officers, employees, and agents of the District any or all administrative and ministerial powers.

Without restricting the general powers conferred by these By-Laws, it is hereby expressly declared that the Board shall have the following powers and duties:

- a. To determine and designate, except as otherwise provided by law or these By-Laws, who shall be authorized to make purchases, negotiate leases for office space, and sign receipts, endorsements, checks, releases and other documents.
- b. To create standing or special committees and to delegate such power and authority thereto as the Board deems necessary and proper for the performance of such committee’s functions and obligations.
- c. To prepare financial reports, other than the statutory audit, covering each year’s fiscal activities, and such reports, if requested, shall be submitted to the Board and made available for inspection by the public.

Section 5. **Office**.

- a. **Business Office**. The principal business office of the District shall be at CliftonLarsonAllen, 8390 East Crescent Parkway, Suite 500, Greenwood Village, Colorado 80111, until otherwise designated by the Board.

- b. **Establishing Other Offices and Relocation.** The Board, by resolution, may from time to time, designate, locate and relocate its executive and business office and such other offices as, in its judgment, are necessary to conduct the business of the District.

Section 6. **Meetings.**

- a. **Regular Meetings.** Regular meetings of the Board shall be conducted on the third Thursday of every month and held at 23155 East Heritage Parkway, in Aurora, Colorado 80016, unless otherwise noticed and posted. The Board, on an annual basis, shall consider and determine whether regular meetings may be held on a less or more frequent basis, as set forth in a Resolution stating the same.
- b. **Meeting Public.** All meetings of the Board, other than executive sessions, shall be open to the public.
- c. **Notice of Meetings.** Section 6.a shall constitute formal notice of regular meetings to Board members, and no other notice shall be required to be given to the Board, other than the permanent posting. Written waivers of notice by Board members are not necessary.
- d. **Special Meetings.** Special meetings of the Board may be called upon seventy-two (72) hours written notice, which shall be posted in three places within the District and at the Arapahoe County Clerk and Recorder's office.
- e. **Attendance.** Board absences shall be excused if the absence is reported directly to the District Manager, not less than seventy-two (72) hours prior to the scheduled meeting, unless such absence is the result of an emergency or an emergency otherwise arises which makes reporting the absence not practicable. Board members may not participate in meetings by telephone under any circumstances. Board members must notify District Manager more than 72 hours in advance of the intent to attend meetings outside of regular or special District board meetings at which District business will be discussed and/or at which a quorum or more of the board members have been invited to allow for the proper public meeting notice requirements.
- e. **No Informal Action by Directors/Executive Sessions.** All official business of the Board shall be conducted at regular or special meetings. Executive sessions may be called at regular or special meetings, and conducted according to the following guidelines:

- (1) **Calling the Executive Session.** The topic for discussion in the executive session shall be announced in a motion, and the specific statute that authorizes the executive session shall be cited. The matter to be discussed shall be described in as much detail as possible without compromising the purpose of being in executive session. An affirmative vote of two-thirds (2/3) of the quorum present shall be required to go into executive session.
- (2) **Conducting the Executive Session.** No adoption of any proposed policy, position, resolution, rule, regulation, or formal action shall take place in an executive session. The discussion in executive session shall be limited to the reasons for which the executive session was called. Discussions that occur in an executive session shall be electronically recorded. The electronic recording must reflect the specific citation to the provision that authorizes the executive session and the actual contents of the discussion during the session. No record or electronic recording is necessary to be kept for any portions of the discussion which the District's attorney reasonably believes constitute attorney-client privileged communication. The electronic recording shall reflect that no further record or electronic recording was kept of the discussion based upon the opinion of the attorney representing the District, as stated for the record during the executive session, that the discussion constituted a privileged attorney-client communication. The attorney may also provide a signed written statement attesting that the portion of the executive session that was not recorded constituted a privileged attorney-client communication in the opinion of the attorney.
- (3) **After Executive Session.** The electronic recording of any executive session shall be retained by the District for ninety days and then destroyed or erased. Minutes or electronic recordings of the executive session shall not be released to the general public for review under any circumstances, except as required by law.

f. **Adjournment and Continuance of Meetings.** When a regular or special meeting is for any reason continued to another time and place, notice need not be given of the continued meeting if the time and place of such meeting are announced at the meeting at which the continuance is taken, except as required by law. At the continued meeting, any business may be transacted which could have been transacted at the original meeting.

- g. **Emergency Meetings.** Notwithstanding any other provisions in this Section 6, emergency meetings may be called by the Chair or any two (2) Board members in the event of an emergency that requires the immediate action of the Board in order to protect the public health, safety and welfare of the property owners and electors of the District, without notice if notice is not practicable. A twenty-four (24) hour notice of such emergency meeting may be given to the Board by telephone or whatever other means are reasonable to meet the circumstances of the emergency. At such emergency meeting, any action within the power of the Board that is necessary for the immediate protection of the public health, safety and welfare may be taken; provided, however, that any action taken at an emergency meeting shall be effective only until the first to occur of (a) the next regular meeting, or (b) the next special meeting of the Board at which the emergency issue is on the public notice of the meeting. At such subsequent meeting, the Board may ratify any emergency action taken. If any emergency action taken is not ratified, then it shall be deemed rescinded as of the date of such subsequent meeting.

Section 7. **Conduct of Business.**

- a. **Quorum.** All official business of the Board shall be transacted at a regular or special meeting at which a quorum of the Directors shall be present in person, except as provided in Section 7.b.
- b. **Vote Requirements.** Any action of the Board shall require the affirmative vote of a majority of the Directors present and voting. When special or emergency circumstances affecting the affairs of the District and the health and safety of District residents so dictate, then those Directors available at the time may undertake whatever action is considered necessary and may so instruct the District's employees, agents and contractors. Such actions shall later be ratified by the Board.
- c. **Order of Business.** The business of all regular meetings of the Board shall be transacted, as far as practicable, in the following order. All reports or other documents for consideration or discussion by the Board must be provided to the District Manager in sufficient time to be included in the Board meeting packet. Failure to provide such items to the District Manager for inclusion may result in deferment of any such matter and consideration of the same to the next Board meeting:
 - (1) Declaration of Quorum/Director Qualifications/Disclosure of Conflicts;
 - (2) Approval of Consent Items;

- (3) Public Comments;
- (4) Old Business;
- (5) Reports;
- (6) New Business;
- (7) Next Meeting; and
- (8) Adjournment.

- d. **Motions and Resolutions.** Each and every action of the Board necessary for the governance and management of the affairs of District, for the execution of the powers vested in District, and for carrying into effect the provisions of Article 1 of Title 32, C.R.S., shall be taken by the passage of motions or resolutions.
- e. **Minute Book.** Within a reasonable time after passage, all resolutions and minutes of Board meetings shall be attested by the Secretary and maintained by the District in its permanent records. Minutes of regular sessions shall be available for public review as soon as practicable following acceptance of the minutes by adoption of a motion therefor by the Board. Minutes of executive sessions shall be kept separate from minutes of regular sessions as described in Section 6(e) of these Bylaws and shall not be open to the public except as required by law.

Section 8. **Directors, Officers and Personnel.**

- a. **Director Qualifications and Terms.** Directors shall be electors of the District. The term of each Director shall be determined by relevant statutory provisions with elections held in even numbered years and conducted in the manner prescribed by Articles 1 through 13, Title 1, and Part 8, Article 1, Title 32, C.R.S. Each Director shall sign an oath of office and, at the expense of the District, furnish a faithful performance surety bond in a sum of not less than \$1,000.
- b. **Director's Performance of Duties.** A Director of the District shall perform all duties of a Director, including duties as a member of any committee of the Board upon which the Director may serve, in good faith, in a manner which the Director reasonably believes to be in the best interests of the District, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. In performing the Director's duties, the Director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other

financial data, in each case prepared or presented by persons and groups listed in subparagraphs 1, 2 and 3 of this subsection b. The Director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause such reliance to be unwarranted. Those programs and groups upon whose information, opinions, reports, and statements a Director is entitled to rely are:

- (1) One or more officers or employees of the District whom the Director reasonably believes to be reliable and competent in the matters presented;
- (2) Counsel, public accountants, or other persons as to matters which the Director reasonably believes to be within such persons' professional knowledge or expertise; and
- (3) A committee of the Board upon which the Director does not serve, duly designated in accordance with the provisions of the By-Laws, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.

- c. **Oath of Office.** Each member of the Board, before assuming the responsibilities of his office, shall take and subscribe an oath of office in the form prescribed by law.
- d. **Election of Officers.** The Board of Directors shall elect from its membership a Chair and President, Secretary, Treasurer, and Vice Presidents and Assistant Secretaries and/or Assistant Treasurers who shall be the officers of the Board of Directors and of the District; the Board may, in accordance with Paragraph 8(1), appoint the District Manager to perform duties of Secretary to the Board The Vice Presidents and Assistant Secretaries and/or Assistant Treasurers shall have all powers of the offices of Secretary and/or Treasurer as applicable, in the absence of such officers. The officers shall be elected by a majority of the Directors voting at such election. The Board may, from time to time, appoint an acting officer in the absence of any individual officer. The election of the officers shall be conducted biennially at the first regular meeting of the Board following the regular biennial election of the Directors held in May of even numbered years or more often as deemed appropriate by the Board. Each officer so elected shall serve for a term of two years, which term shall expire upon the election of their successor or upon their reelection to that office.
- e. **Vacancies.** Any vacancy occurring on the Board shall be filled by an affirmative vote of a majority of the remaining Directors, as prescribed by

law. The appointed individual must meet the statutorily prescribed qualifications for Directors and shall serve until the next regular election.

- f. **Resignation and Removal.** Directors may be removed from office only by recall as prescribed by statute. Any Director may resign at any time by giving written notice to the Board, and acceptance of such resignation shall not be necessary to make it effective, unless the notice so provides.
- g. **Chair and President.** The Chair shall preside at all meetings. The Chair shall also be the President of the District. The President is authorized to sign all contracts, deeds, notes, debentures, warrants and other instruments on behalf of the District.
- h. **Vice President.** In the absence of the Chair, the Vice President shall preside at all meetings. The Vice President shall have the authority to make all management or administrative decisions regarding District matters. The Vice President is also authorized to sign all contracts, deeds, notes, debentures, warrants, checks, and other instruments on behalf of the District.
- i. **Secretary.** The Secretary shall be responsible for the records of the District; may act as Secretary at meetings of the Board and record all votes; shall be responsible for composing a record of the proceedings of the Board in a minute book kept for that purpose, which shall be an official record of the Board; and shall perform all duties incident to that office. The Secretary shall be the designated election official of the District, unless otherwise determined by the Board. The Secretary shall have the authority to affix such seal to and attest all contracts and instruments authorized to be executed by the Board.
- j. **Treasurer.** The Treasurer shall keep or cause to be kept strict and accurate accounts of all money received by and disbursed for and on behalf of the District in permanent records. The Treasurer shall cause a corporate fidelity bond in an amount determined by the Board of not less than \$5,000 to be filed with the Clerk of the Court, at the expense of the District, conditioned on the faithful performance of the duties of the Treasurer's office.
- k. **Vice Presidents and Assistant Secretaries and/or Treasurers.** The Vice Presidents and Assistant Secretaries and/or Treasurers shall have all powers of the offices of Secretary and/or Treasurer, as applicable, in the absence of such officers. The Vice Presidents and Assistant Secretaries and/or Treasurers are also authorized to sign all contracts, deeds, notes, debentures, warrants, checks, and other instruments on behalf of the District. In the event that dual signatures of the District officers are

required on any instrument, then two different officers shall sign such instrument.

- l. **Recording Secretary.** The Board shall have the authority to appoint a recording secretary who need not be a member of the Board of Directors, and who will be responsible for recording all votes and composing a record of the proceedings of the Board in the minute book. The recording secretary shall not be required to take an oath of office, nor shall the recording secretary be required to post a performance bond.
- m. **Additional Duties.** The officers of the Board shall perform such other duties and functions as may from time to time be required by the Board, by the By-Laws or rules and regulations of the District, by law, or by special exigencies, which shall later be ratified by the Board.
- n. **Manager or Administrator.** The Board may appoint a manager or contract with an administrator to serve for such term and upon such conditions, including compensation, as the Board may establish. Such manager or administrator shall have general supervision over the daily administration of the affairs, employees and business of the District and shall be charged with the hiring and discharging of employees and the management of the District property. All billings and invoices shall be submitted to such manager or administrator for approval for payment, as the same may be further confirmed by an authorized Board member. Upon approval, all such invoices shall be submitted to the District accountant for payment.

Section 9. **Personnel Selection and Tenure.** The selection of agents, employees, engineers, contractors, accountants, special consultants and attorneys of the District by the Board will be based upon the relative qualifications and capabilities of the applicants and shall not be based on political services or affiliations. Agents and employees shall hold their offices at the pleasure of the Board. Contracts for professional services of engineers, accountants, special consultants and attorneys may be entered into on such terms and conditions as may seem reasonable and proper to the Board. All services provided to the District shall be evidenced in a written agreement that has been approved by a majority of the Board at a regular or special meeting of the District.

Section 10. **Financial Administration.**

- a. **Fiscal Year.** The fiscal year of the District shall commence on January 1 of each year and end on December 31.
- b. **Budget.** On or before October 15th of each year, the District Accountant and District Manager shall prepare and submit to the Board a proposed

budget for the ensuing fiscal year. Such proposed budget shall be accompanied by a statement which shall describe the important features of the budget plan and by a general summary wherein shall be set forth the aggregate features of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income or other means of financing the proposed budget for the ensuing fiscal year, as contrasted with the corresponding figures for the last completed fiscal year and the current fiscal year. It shall be supported by explanatory schedules or statements classifying the expenditures contained therein by services, subjects and funds. The anticipated income of the District shall be classified according to the nature of receipts.

- c. **Notice of Budget.** Upon receipt of the proposed budget, the Board shall cause to be published a notice that the proposed budget is open for inspection by the public at the business office; that the Board will consider the adoption of the proposed budget at a public hearing on a certain date; and that any interested elector may inspect the proposed budget and file or register any objections thereto at any time prior to its final adoption. Notice shall be posted or published in substantial compliance with law.
- d. **Adoption of Budget.** On the day set for consideration of such proposed budget, the Board shall review the proposed budget and revise, alter, increase or decrease the items as it deems necessary in view of the needs of the District and the probable income of the District. The Board shall then adopt a budget setting forth the expenditures to be made in the ensuing fiscal year. The Board shall provide for sufficient revenues to finance expenditures in the budget with special consideration given to the proposed property tax levy.
- e. **Levy and Collection of Taxes.** On or before December 15th of each year, unless an election for an increased operating tax levy is held, the Board shall certify to the Board of County Commissioners of the County in which the District was formed the mill levy established for the ensuing fiscal year, in order that, at the time and in the manner required by law for the levying of taxes, such Commissioners will levy such tax upon the assessed valuation of all taxable property within the District.
- f. **Filing of Budget.** On or before January 30th of each year, the Board shall cause a certified copy of such budget to be filed with the Division of Local Government in the State Department of Local Affairs.
- g. **Appropriating Resolution.**
 - (1) At the time of adoption of the budget, the Board shall enact a resolution making appropriations for the ensuing fiscal year.

The amounts appropriated there under shall not exceed the amounts fixed therefore in the adopted budget.

- (2) The income of the District, as estimated in the budget and as provided for in the tax levy resolution and other revenue and borrowing resolutions, shall be allocated in the amounts and according to the funds specified in the budget for the purpose of meeting the expenditures authorized by the appropriation resolution.
- (3) The Board may make an appropriation to and for a contingent fund to be used in cases of emergency or other unforeseen contingencies.

h. **No Contract to Exceed Appropriation.** The Board shall have no authority to enter into any contract, or otherwise bind or obligate the District to any liability for payment of money for any purposes, for which provision is not made in an appropriation resolution, including any legally authorized amendment thereto, in excess of the amounts of such appropriation for that fiscal year. Any contract, verbal or written, contrary to this Section shall be void ab initio, and no District funds shall be expended in payment of such contracts.

i. **Reimbursement of Board Members.** Board members shall be entitled to submit itemized receipts and other evidence of the following expenditures to the District Manager or Administrator for reimbursement:

- a. **Special Meetings.** Any meeting, conference or workshop which takes place in the State of Colorado and enhances the Board member's understanding of the District, Title 32 districts and/or participation on the board of directors.
- b. **Mileage.** Mileage of more than ten (10) miles for an authorized District event, meeting or business.
- c. **Meals.** Meal expenses as a result of meetings with consultants, or other persons the Board member may be meeting in furtherance of District business or as otherwise authorized by the Board. The District shall not reimburse Board members for alcohol purchased during these meetings.
- d. **Office Supplies.** The District shall not reimburse the Board for office supplies or other personal supplies purchased by Board members.

j. **Annual Audit.**

- (1) The Board shall cause an annual audit to be made at the end of each fiscal year of all financial affairs of the District through December 31st of such fiscal year. In all events, the audit report must be submitted to the Board within six months of the close of such fiscal year. Such audit shall be conducted in accordance with generally accepted auditing standards by a registered or certified public accountant, who has not maintained the books, records and accounts of the District during the fiscal year. The auditor shall prepare, and certify as to its accuracy, an audit report, including a financial statement and balance sheet based on such audit, an unqualified opinion or qualified opinion with explanations, and a full disclosure of any violation of State law pursuant to statutory requirements.
- (2) A copy of the audit report shall be maintained by the District as a public record for public inspection at all reasonable times.
- (3) A copy of the audit report shall be forwarded to the State Auditor or other appropriate State official pursuant to statutory requirements.

Section 11. **Corporate Seal.** The seal of the District shall be a circle containing the name of the District and shall be used on all documents and in such manner as seals generally are used by public and private corporations. The Secretary shall have custody of the seal and shall be responsible for its safe keeping and care.

Section 12. **Disclosure of Conflict of Interest.** A potential conflict of interest of any Director shall be disclosed in accordance with State law, particularly Article 18 of Title 24, C.R.S., and Sections 32-1-902(3) and 18-8-308, C.R.S.

Section 13. **Compensation.** Each Director shall receive the maximum compensation authorized by statute, unless otherwise determined by the Board. No Director shall receive compensation as an employee of the District, except as may be provided by statute.

Section 14. **Indemnification of Directors and Employees.** The District shall defend, hold harmless and indemnify any Director, officer, agent, or employee, whether elective or appointive, against any tort or liability, claim or demand, without limitation, arising out of any alleged act or omission occurring during the performance of official duty, as more fully defined by law or by an indemnification resolution. The provisions of this Section shall be supplemental and subject to and, to the extent of any inconsistency therewith, shall be modified by the provisions of the Colorado Governmental Immunity Act, 24-10-101, et seq., C.R.S.

Section 15. **Bidding and Contracting Procedures**. Except in cases in which the District will receive aid from a government agency or for service contracts of the District, a notice shall be published for bids on all construction contracts for work or material, or both, involving an expense of \$60,000 or more of District funds. The Board may reject any and all bids, and if it appears that the District can perform the work or secure material for less than the lowest bid, it may proceed to do so in accordance with law. All other statutory requirements relating to performance bonds, retainage, and similar matters shall also be complied with. The District may, in its discretion, require public bidding process for any other contracts. District consultants are not authorized to enter into contracts or agreements on the District's behalf as agents of the District absent prior authorization from the Board. All services provided to the District shall be evidenced in a written agreement that has been approved by a majority of the Board at a regular or special meeting of the District.

Section 16. **Modification of By-Laws**. These By-Laws may be altered, amended or repealed at any regular or special meeting of the Board to become effective immediately or at a subsequent date.

ADOPTED this ____ day of _____, 2016, by the Board of Directors of Eagle Bend Metropolitan District.
