

When recorded return to:
McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203

NOTICE TO TITLE COMPANIES: THE FOLLOWING RESOLUTION IMPOSES FEES WHICH, UNTIL PAID, CONSTITUTE A STATUTORY AND PERPETUAL LIEN ON AND AGAINST THE PROPERTY SERVED. CONTACT THE DISTRICT MANAGER, TIMBERLINE DISTRICT CONSULTING, LLC, AT (303) 359-9330 TO VERIFY PAYMENT.

RESOLUTION NO. 2022-08-02

**AMENDED AND RESTATED RESOLUTION OF THE BOARD OF DIRECTORS OF
EAST BEND METROPOLITAN DISTRICT
REGARDING THE IMPOSITION OF OPERATION AND MAINTENANCE FEE**

A. East Bend Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in the City of Aurora, Arapahoe County, Colorado.

B. The District’s boundaries are described in the legal description attached hereto as **Exhibit A**, which legal description may be amended from time to time, pursuant to the inclusion and/or exclusion of property into or from the District (the “**Property**”).

C. Pursuant to the authority granted to the District by its Service Plan, as approved by the City Council for the City of Aurora, Colorado on August 9, 2021, as it may be amended from time to time (the “**Service Plan**”), the District is responsible for the ownership, operation, maintenance and construction of facilities to benefit the Property (the “**Improvements and Services**”).

D. The District is authorized pursuant to Section 32-1-1001(1)(j), C.R.S., as amended from time to time, and its Service Plan to fix and impose fees, rates, tolls, charges and penalties for services of facilities provided by the District, which, until paid, shall constitute a perpetual lien on and against all property served.

E. The District has determined that, to meet the costs of the provision, operation, and maintenance of the Improvements and Services, it is necessary and equitable to impose an operations and maintenance fee for each residential dwelling unit (the “**Residential Units**”) located within the Property (the “**Operation and Maintenance Fee**”).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE EAST BEND METROPOLITAN DISTRICT, AS FOLLOWS:

1. The Board of Directors hereby finds, determines and declares that it is in the best interests of the District, its inhabitants and taxpayers to exercise its power by imposing an Operations and Maintenance Fee on the Property and to use the revenues from the Operations

and Maintenance Fee for the payment of the costs concerning the provision, operations, and maintenance of the Improvements and Services.

2. An Operations and Maintenance Fee is hereby established for all Residential Units within the District at the following rate:

(a) \$155 per month for each Residential Unit, to be increased by 2% annually.

(b) The first Operations and Maintenance Fee payment for any Residential Unit shall become due and payable to the District upon the sale or transfer of a Residential Unit from a builder to an owner or from an owner to another owner, and shall be billed quarterly.

(c) The District reserves the right to amend this resolution in the future to increase or decrease the amount of the Operations and Maintenance Fee or to otherwise modify this resolution.

3. An invoice for the Operations and Maintenance Fee for a given quarter will be mailed to each property owner ("**Owner**") on or before the 15th day of the month following the end of the subject quarter (e.g., on or before April 15th for the quarter ending on March 31st, on or before July 15th for the quarter ending on June 30th, on or before October 15th for the quarter ending on September 30th, and on or before January 15th for the quarter ending on December 31st) (the "**Bill Date**"). If payment in full is not received within thirty (30) calendar days after the Bill Date, the fee is deemed past due and otherwise outstanding. A reminder notice may be, but is not required to be, sent at such time. Strict compliance with this invoice procedure is not required in order for the District to enforce its rights as set forth herein.

4. Failure to make payment of the Operations and Maintenance Fee due hereunder shall constitute a default in the payment of such Operations and Maintenance Fee. Upon default, simple interest shall accrue on such total amount of the Operations and Maintenance Fee due at the rate of eighteen percent (18%) per annum until paid, as permitted by Section 29-1-1102(7), C.R.S., as amended from time to time.

5. If the Owner does not make payment of all past due amounts, including interest (the "**Delinquent Balance**"), within sixty (60) days from the Bill Date, the District may deliver to the Owner a Notice of Intent to File a Lien Statement (a "**Lien Notice**"). The Lien Notice shall give notice to the Owner that the District intends to perfect its lien against the Property by recording a Lien Statement in the office of the Arapahoe County Clerk and Recorder if the Delinquent Balance is not paid in full within thirty (30) days after said Lien Notice is served upon Owner by certified mail, return receipt requested, pursuant to Section 38-22-109(3), C.R.S., as amended from time to time. The District is under no obligation to deliver a Lien Notice as the Delinquent Balance constitutes a perpetual charge and lien upon the Property served by operation of law.

6. The Operations and Maintenance Fee shall not be imposed on real property actually conveyed or dedicated to non-profit owners' associations, governmental entities or utility providers.

7. The Operations and Maintenance Fee, in the amount of the Delinquent Balance, shall constitute a statutory and perpetual charge and lien upon the Property pursuant to Section 32-1-1001(1)(j), C.R.S., as amended from time to time, from the date the same becomes due and payable until paid. 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 and such lien may be foreclosed by the District in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens. In addition, any and all attorney fees incurred related to the collection of any defaulted amounts are included in the balance of the Delinquent Balance and constitute a lien on the Property. This Resolution shall be recorded in the real property records of the Clerk and Recorder of Arapahoe County, Colorado.

8. The District shall be entitled to institute such remedies and collection proceedings as may be authorized under Colorado law, including, but not limited to, foreclosure of its perpetual lien. The defaulting Owner shall pay all costs, including attorneys' fees, incurred by the District in connection with the foregoing. In foreclosing such lien, the District will enforce the lien only to the extent necessary to collect the Delinquent Balance and costs of collection (including, but not limited to, reasonable attorneys' fees).

9. Judicial invalidation of any of the provisions of the Resolution or of any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstances shall not affect the validity of the remainder of the Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

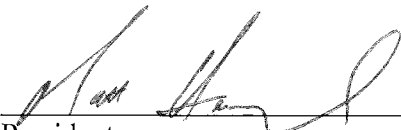
10. Any inquiries pertaining to the Operations and Maintenance Fee may be directed to the District's Manager at: Timberline District Consulting, LLC, 25633 Roxana Pointe Drive, Evergreen, CO 80439.

11. This Resolution shall take effect immediately upon its adoption and approval.

[SIGNATURE PAGE FOLLOWS]

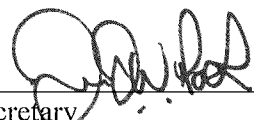
APPROVED AND ADOPTED THIS 19th day of August, 2022.

**EAST BEND METROPOLITAN
DISTRICT**, a quasi-municipal corporation and
political subdivision of the State of Colorado

By: 

President

Attest:

By: 

Secretary

EXHIBIT A

Legal Description of the Property

All of East Bend Subdivision Filing No. 1