

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

Chuck Broerman
03/21/2022 02:25:10 PM
Doc \$0.00 8
Rec \$48.00 Pages

El Paso County, CO



222039962

**RESOLUTION
OF THE
BOARDS OF DIRECTORS
OF THE
BRADLEY HEIGHTS METROPOLITAN DISTRICT NO. 2**

CONCERNING THE IMPOSITION OF CAPITAL FACILITIES FEE

WHEREAS, the Bradley Heights Metropolitan District No. 2 (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 streets, water, sanitation, parks and recreation, transportation, TV relay and translation, mosquito control, safety protection, limited security and limited fire protection 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 may incur 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 Residential Lot, 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 within

the District and paying the Capital Facilities Costs, and that imposition thereof is necessary and appropriate.

NOW, THEREFORE, be it resolved by the District 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 Unit” means each office space, unit, building or other structure within the District Boundaries that is used and or zoned for commercial, industrial, office, retail, or other non-residential use.

“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 **Exhibit B**, attached hereto and incorporated herein by this reference.

“Due Date” means the date by which the Capital Facilities Fee is due, which Due Date is reflected on the Schedule of Fees.

“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.

2. **CAPITAL FACILITIES FEE.**

a. A one-time Capital Facilities Fee is hereby established and imposed upon each Residential Unit, Apartment Unit, and Commercial Unit within the District Boundaries.

b. The Capital Facilities Fee shall be first due and owing upon issuance of a building permit. The amount of each Capital Facilities Fee due hereunder shall be at the rate in effect at the time of payment.

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.

e. The Board has determined, and does hereby determine, that the Capital Facility 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 "Bradley Heights Metropolitan District No. 2" 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 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 March 9, 2021.

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

ADOPTED this 9th day of March, 2021

BRADLEY HEIGHTS METROPOLITAN
DISTRICT NO. 2




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

BRADLEY HEIGHTS METROPOLITAN DISTRICT NO. 2

Schedule of Fees

Effective March 9, 2021

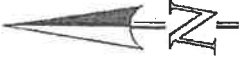
Schedule of Fees		
Fee Type	Classifications	Rate
Capital Facilities Fee	Low Density Single Family Detached (0-6.0 Residential Units/acre)	\$2,999 / Residential Unit
Capital Facilities Fee	Moderate Density (6.10 to 14.0 Residential Units/acre)	\$2,499 / Residential Unit
Capital Facilities Fee	High Density Apartments (14.1+ Residential Units/acre)	\$1,999 / Apartment Unit
Capital Facilities Fee	Non-Residential, Commercial and Industrial Use/Commercial Unit	\$0.95/square foot

The Due Date for each Capital Facilities Fee is at the time of issuance of a building permit.

PAYMENTS: Payment for each fee shall be made payable to the Bradley Heights Metropolitan District No. 2 and sent to the following address for receipt by the Due Date:

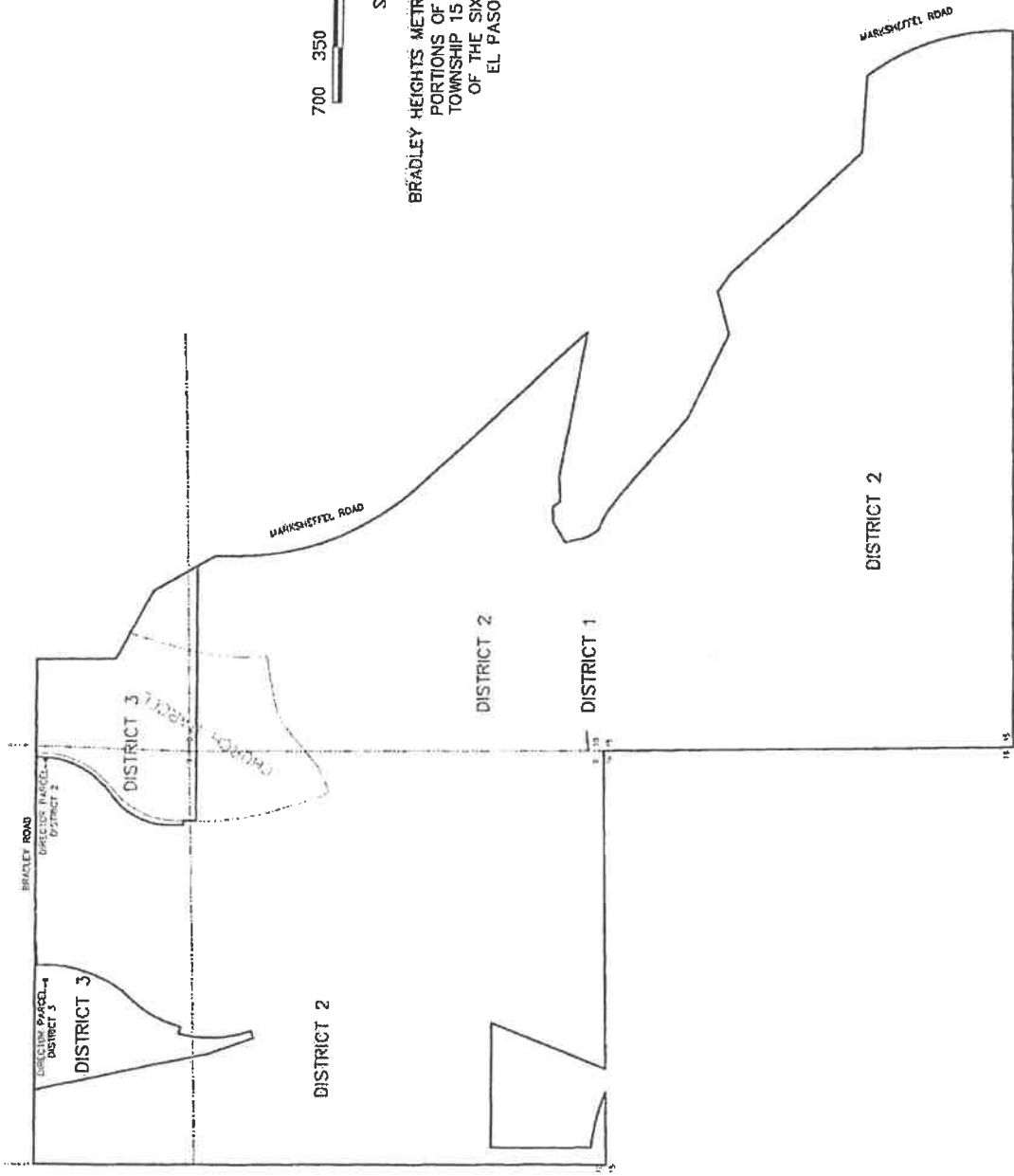
Bradley Heights Metropolitan District No. 2
c/o Walker Schooler District Managers
614 N. Tejon St.
Colorado Springs, CO 80903

EXHIBIT B
BRADLEY HEIGHTS METROPOLITAN DISTRICT NO. 2
District Boundaries



SCALE: 1" = 700'

BRADLEY HEIGHTS METROPOLITAN DISTRICTS 1, 2 AND 3
PORTIONS OF SECTIONS 9, 10 AND 15
TOWNSHIP 15 SOUTH, RANGE 65 WEST
OF THE SIXTH PRINCIPAL MERIDIAN
EL PASO COUNTY, COLORADO



PROPOSED DISTRICTS 2015
BRADLEY HEIGHTS
JOB NO. 2266.00
JUNE 29, 2015
REV. JUNE 30, 2015
SHEET 1 OF 1



CLASSIC CONSULTING ENGINEERS & ARCHITECTS, INC.
6801 Colorado Ave., Suite 201
Colorado Springs, Colorado 80901
(719) 576-0700
(719) 576-0701 (fax)