

RESOLUTION NO. 04-03

SPRING VALLEY METROPOLITAN DISTRICT NO. 2

FIRST AMENDMENT TO FIRE PROTECTION FEE RESOLUTION

WHEREAS, Spring Valley Metropolitan District No. 2 (the "District") is situated in Elbert County (the "County"), State of Colorado, and within the boundaries of the Elizabeth Fire Protection District ("EFPD") and the Rattlesnake Fire Protection District ("RFPD"), as more fully 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 the District (the "Property"); and

WHEREAS, pursuant to the District's Service Plan, the District has authority to provide limited fire protection services; and

WHEREAS, the Service Plan contemplates that the District will assist with the payment for the construction of certain fire protection facilities which will benefit the residents of the District, through imposition of a Fire Protection Fee on each residential unit constructed within the District; and

WHEREAS, the adoption of services and facilities rates in the form of a "Fire Protection Fee" will serve a public purpose and promote the health, safety and general welfare of the District by providing for the orderly payment of the costs associated with the construction of certain fire protection facilities that will benefit the residents of the District; and

WHEREAS, the District Board of Directors finds that such a Fire Protection Fee is authorized by Section 32-1-1001(1)(j)(I), C.R.S.

NOW, THEREFORE, be it resolved by the Board of Directors of the Spring Valley Metropolitan District No. 2:

1. The following words and phrases used herein shall have the following meaning:
  - a. Fire Protection Facilities: those certain fire protection facilities which will be constructed and installed by EFPD and RFPD, which will benefit the residents of the District.
  - b. Dwelling Unit: a residential building located on the Property, intended for occupancy by one or more individuals and consisting of one self-contained living unit whether attached or detached, as reasonably determined by the District.
  - c. Fire Protection Costs: the costs associated with the construction of certain fire protection facilities to be constructed by EFPD and RFPD, which facilities will benefit the residents of the District.

- d. Fire Protection Fee: the payment made or to be made by the owner(s) of the Property to the District for each Dwelling Unit constructed within the District in the amount of \$1,000 per residential unit constructed therein.

2. There shall be assessed and charged a Fire Protection Fee pursuant to Section 32-1-1001(1)(j)(I), C.R.S., upon the Property for costs incurred for the construction of the Fire Protection Facilities. The owners of all land within the District, other than non-profit organization or governmental owners, shall be subject to the Fire Protection Fee.

3. The Fire Protection Fee shall be imposed at a rate of One Thousand Dollars (\$1,000) per Dwelling Unit beginning in 2005, which amount may increase or decrease. The Fire Protection Fee for commercial parcels shall be negotiated on a case by case basis.

4. The Fire Protection Fee due with respect to any Dwelling Unit shall be due and payable on or before the date of issuance of a certification of occupancy by Elbert County for such Dwelling Unit.

5. The Fire Protection Fee shall constitute a statutory and perpetual charge and lien upon the Property pursuant to Section 32-1-1001(1)(j)(I), C.R.S., in the District from the date the same becomes due and payable until paid, 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. The Resolution shall be recorded in the real property records of the Clerk and Recorder of Elbert County, Colorado.

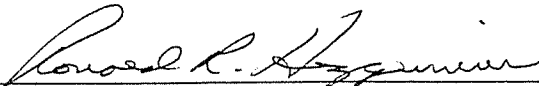
6. Failure to make payment of the Fire Protection Fee due hereunder shall constitute a default in the payment of such Fire Protection Fees. Upon a default, interest shall accrue on such total amount of Fire Protection Fees due at the rate of 12% per annum and the District shall be entitled to institute such remedies and collection proceedings as may be authorized under Colorado law, including, but not limited to, foreclosure of its perpetual lien. The defaulting property owner shall pay all costs, including attorneys' fees, incurred by the District in connection with the foregoing. In foreclosing its lien, the District will enforce the lien only to the extent necessary to collect unpaid Fire Protection Fees, accrued interest thereon and costs of collection (including, but not limited to, reasonable attorneys' fees).

7. Judicial 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 circumstances, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

8. Any inquires pertaining to the Fire Protection Fee may be directed to the District's Accountant at: J.W. Simmons & Associates, 9155 E. Nichols Ave #330, Englewood, CO 80111-0834, 303-689-0833.

The First Amendment to Fire Protection Fee Resolution set forth herein is hereby approved and adopted by Resolution of the Spring Valley Metropolitan District No. 2 effective as of the 24<sup>th</sup> day of March, 2004.

SPRING VALLEY METROPOLITAN DISTRICT NO. 2

  
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President

Attest:

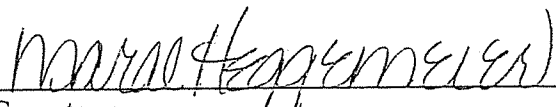
  
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Secretary

EXHIBIT "A"  
(LEGAL DESCRIPTION)

METROPOLITAN DISTRICT NO. 2  
PROPERTY DESCRIPTION

A PARCEL OF LAND BEING SECTION 33, TOGETHER WITH A PARCEL OF LAND SITUATED IN SECTION 32 OF TOWNSHIP 6 SOUTH AND BEING THE W1/2 OF SECTION 4, TOWNSHIP 7 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ELBERT, STATE OF COLORADO; SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 33, A 3-1/4" ALUMINUM CAP L.S.#10377 IN PLACE, THE POINT OF BEGINNING; THENCE N 89°52'37" W ALONG THE SOUTHERLY LINE OF SAID SECTION 33 A DISTANCE OF 2619.44 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 33, ALSO BEING THE NORTH QUARTER CORNER OF SECTION 4, A 2" ALUMINUM CAP L.S. #23032 IN PLACE; THENCE LEAVING SAID SOUTHERLY LINE S 00°34'31" W ALONG THE NORTH-SOUTH CENTERLINE OF SAID SECTION 4 A DISTANCE OF 5212.97 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 4, A 3-1/4" ALUMINUM CAP L.S. #10377 IN PLACE; THENCE N 89°59'14" W ALONG THE SOUTHERLY LINE OF SAID SECTION 4 A DISTANCE OF 2598.61 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 4, A 2-1/2" ALUMINUM CAP L.S. #10377 IN PLACE; THENCE N 00°25'06" E ALONG THE WESTERLY LINE OF SAID SECTION 4 A DISTANCE OF 2635.25 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 4, A 3-1/4" ALUMINUM CAP L.S. #10377 IN PLACE; THENCE CONTINUING ALONG SAID WESTERLY LINE N 00°16'16" E A DISTANCE OF 2582.64 FEET TO THE NORTHWEST CORNER OF SAID SECTION 4, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SECTION 32, A 3-1/4" ALUMINUM CAP L.S. #10377 IN PLACE; THENCE N 89°37'37" W ALONG THE SOUTHERLY LINE OF SAID SECTION 32 A DISTANCE OF 2653.62 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 32, A 2-1/2" ALUMINUM CAP L.S. #6935 IN PLACE; THENCE CONTINUING ALONG SAID SOUTHERLY LINE N 89°38'02" W A DISTANCE OF 82.39 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY COUNTY ROAD 17-21; THENCE LEAVING SAID SOUTHERLY LINE ALONG SAID RIGHT-OF-WAY THE FOLLOWING NINE (9) COURSES:

1. N06°14'25"E A DISTANCE OF 670.27 FEET
2. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 2,450.00 FEET AND A CENTRAL ANGLE OF 12°38'51" A DISTANCE OF 540.81 FEET (CHORD BEARS N12°33'51"E 539.72 FEET)
3. N18°53'16"E A DISTANCE OF 378.31 FEET
4. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 3,050.00 feet AND A CENTRAL ANGLE OF 04°53'18" A DISTANCE OF 260.22 FEET (CHORD BEARS N21°19'55"E 260.14 FEET)
5. N23°25'34"E A DISTANCE OF 1,607.92 FEET
6. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 725.00 FEET AND A CENTRAL ANGLE OF 48°06'03" A DISTANCE OF 608.65 FEET (CHORD BEARS N46°46'53"E 590.93 FEET)
7. N70°49'54"E A DISTANCE OF 598.65 FEET

8. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 1,030.00 FEET AND A CENTRAL ANGLE OF 70°28'07" A DISTANCE OF 1,266.81 FEET (CHORD BEARS N35°35'51"E 1,188.46 FEET)
9. N00°21'47"E A DISTANCE OF 436.03 FEET TO A POINT ON THE NORTHERLY LINE OF SAID SECTION 32; THENCE LEAVING SAID RIGHT-OF-WAY S 89°36'48" E ALONG SAID NORTHERLY LINE A DISTANCE OF 44.00 FEET TO THE NORTHEAST CORNER OF SAID SECTION 32, A 2-1/2" ALUMINUM CAP L.S. #7361 IN PLACE; THENCE S 89°36'42" E ALONG THE NORTHERLY LINE OF SECTION 33 A DISTANCE OF 2634.04 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 33, A 2-1/2" ALUMINUM CAP L.S. #7361 IN PLACE; THENCE CONTINUING ALONG THE NORTHERLY LINE OF SAID SECTION 33 S 89°37'14" E A DISTANCE OF 2635.58 FEET TO THE NORTHEAST CORNER OF SAID SECTION 33, A 2-1/2" ALUMINUM CAP L.S. #7361 IN PLACE; THENCE S 00°49'33" W ALONG THE EASTERLY LINE OF SAID SECTION 33 A DISTANCE OF 2633.18 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 33, A 2-1/2" ALUMINUM CAP L.S. #7361 IN PLACE; THENCE CONTINUING ALONG THE EASTERLY LINE OF SAID SECTION 33 S 00°49'31" W A DISTANCE OF 2633.20 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING A GROSS ACREAGE OF 1,149.591 ACRES, MORE OR LESS.

EXCEPTING FROM THE ABOVE DESCRIBED PARCEL THE SPRING VALLEY GOLF COURSE, AS SHOWN IN RECEPTION NO. 353734 OF THE ELBERT COUNTY CLERK AND RECORDER'S OFFICE; RESULTING IN A NET ACREAGE OF 84.416 ACRES LYING WESTERLY OF SAID GOLF COURSE AND 838.395 ACRES LYING EASTERLY OF SAID GOLF COURSE.

EXCEPTING FROM

A PARCEL OF LAND SITUATED IN SECTION 33, TOWNSHIP 6 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ELBERT, STATE OF COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 33, A 2 1/4" ALUMINUM CAP L.S. #7361 IN PLACE; THENCE S77°10'21"W, A DISTANCE OF 1,138.81 FEET TO THE POINT OF BEGINNING; THENCE S20°33'00"W A DISTANCE OF 98.35 FEET; THENCE S26°56'28"E A DISTANCE OF 404.85 FEET; THENCE S07°47'10"E A DISTANCE OF 633.65 FEET; THENCE S01°28'41"E A DISTANCE OF 820.62 FEET; THENCE S17°12'42"W A DISTANCE OF 501.85 FEET; THENCE S09°56'36"E A DISTANCE OF 927.93 FEET; THENCE S18°18'55"E A DISTANCE OF 747.54 FEET; THENCE S01°30'30"E A DISTANCE OF 208.07 FEET; THENCE S45°50'53"E A DISTANCE OF 206.30 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 360.00 FEET AND A CENTRAL ANGLE OF 40°25'50" A DISTANCE OF 254.03 FEET (CHORD BEARS 64°22'02"W 248.79 FEET); THENCE N25°15'08"W A DISTANCE OF 265.24 FEET; THENCE N82°39'48"W A DISTANCE OF 251.14 FEET; THENCE

N39°32'12"W A DISTANCE OF 369.61 FEET; THENCE N12°00'16"W A DISTANCE OF 484.20 FEET; THENCE N09°56'36"W A DISTANCE OF 860.48 FEET; THENCE N75°11'25"W A DISTANCE OF 238.33 FEET; THENCE S83°35'23"W A DISTANCE OF 411.53 FEET; THENCE S32°04'44"W A DISTANCE OF 156.17 FEET; THENCE N16°10'37"W A DISTANCE OF 68.33 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 605.00 FEET AND A CENTRAL ANGLE OF 19°11'09" A DISTANCE OF 202.59 FEET (CHORD BEARS N06°35'03"W 201.64 FEET); THENCE N03°00'32"E A DISTANCE OF 571.68 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 845.00 FEET AND A CENTRAL ANGLE OF 04°12'08" A DISTANCE OF 61.97 FEET (CHORD BEARS N00°54'28"E 61.96 FEET); THENCE S79°57'09"E A DISTANCE OF 648.93 FEET; THENCE N69°15'27"E A DISTANCE OF 167.79 FEET; THENCE N17°35'05"E A DISTANCE OF 179.03 FEET; THENCE N01°10'03"W A DISTANCE OF 467.46 FEET; THENCE N19°38'37"W A DISTANCE OF 325.46 FEET; THENCE N01°59'58"E A DISTANCE OF 675.03 FEET; THENCE N39°24'35"W A DISTANCE OF 166.59 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 400.00 FEET AND A CENTRAL ANGLE OF 19°23'30" A DISTANCE OF 135.38 FEET (CHORD BEARS N53°45'28"E 134.73 FEET); THENCE N63°27'12"E A DISTANCE OF 43.48 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 420.00 FEET AND A CENTRAL ANGLE OF 49°35'39" A DISTANCE OF 363.55 FEET (CHORD BEARS N88°15'02"E 352.30 FEET), TO THE POINT OF BEGINNING. SAID PARCEL CONTAINS 67.782 ACRES, MORE OR LESS.

EXCEPTING

A PARCEL OF LAND SITUATED IN SECTION 33, TOWNSHIP 6 SOUTH, RANGE 64 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ELBERT, STATE OF COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SECTION 33, A 2 1/4" ALUMINUM CAP L.S. #7361 IN PLACE; THENCE S64°49'28"W, A DISTANCE OF 4,455.40 FEET TO THE POINT OF BEGINNING; THENCE S57°02'21"E A DISTANCE OF 600.35 FEET; THENCE S84°04'52"E A DISTANCE OF 672.43 FEET; THENCE N87°41'15"E A DISTANCE OF 522.07 FEET; THENCE S03°00'32"W A DISTANCE OF 416.30 FEET; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 675.00 FEET AND A CENTRAL ANGLE OF 11°31'16" A DISTANCE OF 135.73 FEET (CHORD BEARS S02°45'06"E 135.50 FEET); THENCE S87°41'15"W A DISTANCE OF 524.07 FEET; THENCE N84°04'52"W A DISTANCE OF 1048.51 FEET; THENCE N22°38'46"W A DISTANCE OF 132.99 FEET; THENCE N22°38'46"W A DISTANCE OF 435.56 FEET; THENCE N33°08'27"W A DISTANCE OF 361.44 FEET TO THE POINT OF BEGINNING. SAID PARCEL CONTAINING 20.749 ACRES, MORE OR LESS.

NET ACREAGE FOR METROPOLITAN DISTRICT NO. 2 EQUALS 834.280 ACRES, MORE OR LESS.