

RESOLUTION NO. 06-10-2

SPRING VALLEY METROPOLITAN DISTRICT NO. 2
SPRING VALLEY METROPOLITAN DISTRICT NO. 3
SPRING VALLEY METROPOLITAN DISTRICT NO. 4

JOINT AMENDED AND RESTATED FIRE PROTECTION FEE RESOLUTION

WHEREAS, Spring Valley Metropolitan District No. 2 (District No. 2"), Spring Valley Metropolitan District No. 3 (District No. 3") and Spring Valley Metropolitan District No. 4 (District No. 4") (individually, "District," and collectively, "Districts") are each a quasi-municipal corporation and political subdivision of the State of Colorado and are 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 descriptions attached hereto as **Exhibit A**, which legal descriptions may be amended from time to time, pursuant to the inclusion and/or exclusion of property into the Districts (the "Property"); and

WHEREAS, pursuant to the Districts' Service Plans, the Districts have the authority to provide limited fire protection services; and

WHEREAS, the Service Plans contemplate that the Districts will assist with the payment for the construction of certain fire protection facilities which will benefit the residents of the Districts, through imposition of a fire protection fee on each Residential Unit constructed within the Districts; 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 Districts 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 Districts; and

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

WHEREAS, District No 2 adopted that certain Amended and Restated Fire Protection Fee Resolution dated March 16, 2005, establishing a fire protection fee for District No. 2 in the amount of \$1,000.00 per each Residential Unit ("the District No. 2 Resolution"); and

WHEREAS, District No. 3 adopted that certain Fire Protection Fee Resolution dated March 16, 2005, establishing a fire protection fee for District No. 3 in the amount of \$1,000.00 per each Residential Unit ("the District No. 3 Resolution"); and

WHEREAS, District No. 4 desires to establish a fire protection fee for each Residential Unit within District No. 4; and

WHEREAS, the Districts have determined from the findings of a cost study for the construction of fire protection facilities that additional revenue will be required in order for the Districts to assist with the payment for such facilities as contemplated by the Service Plans; and

WHEREAS, in order for the Districts to realize the necessary revenue to assist with the payment of the costs for the construction of fire protection facilities, the Districts have determined that the appropriate Fire Protection Fee to be charged by each of the Districts should be based on a staged fee schedule that is based on the various planning areas in which the Residential Units within the Districts are constructed; and

WHEREAS, for the purposes of efficiency and clarity, the Districts desire to adopt this Joint Amendment and Restated Fire Protection Fee Resolution ("Resolution") to supersede and replace in their entirety the District No. 2 Resolution and the District No. 3 Resolution, and to implement a Fire Protection Fee for District No. 4.

NOW, THEREFORE, be it resolved by the Board of Directors of District No. 2, District No. 3 and District No. 4:

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) Residential 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 Residential Unit constructed within the District.

(e) Fire Protection Fee Schedule: the staged fee schedule set forth in **Exhibit B**, attached hereto and incorporated herein.

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 Districts, 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 the rates and in the manner set forth on the Fire Protection Fee Schedule. 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 Residential Unit shall be due and payable on or before the date of issuance of a certification of occupancy by Elbert County for such Residential 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 each of the Districts from

the date the same becomes due and payable until paid, and such lien may be foreclosed by the respective District in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens. This Joint Amended and Restate Fire Protection Fee 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 Fee. Upon a default, interest shall accrue on such total amount of Fire Protection Fee(s) due at the rate of 12% per annum and each of the Districts 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 respective 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 Fee(s), 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 Districts' Manager at: 141 Union Boulevard, #150, Lakewood, CO 80228, 303-987-0835, Attn: Debbie McCoy.

The Amended and Restated Fire Protection Fee Resolution set forth herein is hereby approved and adopted by Resolution of the Spring Valley Metropolitan District No. 2, Spring Valley Metropolitan District No. 3 and Spring Valley Metropolitan District No. 4 effective as of the 19th day of October, 2006.

SPRING VALLEY METROPOLITAN
DISTRICT NO. 2

By: Robert R. Hageman
Its: President

Attest:

Maraal Hageman
Secretary

[Signatures continued]

SPRING VALLEY METROPOLITAN
DISTRICT NO. 3

By: Paul R. Hagemer
Its: President

Attest:

Mara Hagemer
Secretary

SPRING VALLEY METROPOLITAN
DISTRICT NO. 4

By: Paul R. Hagemer
Its: President

Attest:

Mara Hagemer
Secretary

EXHIBIT A

LEGAL DESCRIPTIONS

(District No. 2, District No. 3 and District No. 4)

EXHIBIT B

FIRE PROTECTION FEE SCHEDULE

SPRING VALLEY METROPOLITAN DISTRICT NOS. 2, 3 AND 4
FIRE PROTECTION FEES

Planning Area	District	<u>Stage 1*</u> \$1,000.00	<u>Stage 2*</u> \$3,108.00	Total Lot Count
A	No. 2	60	0	60
B	No. 2	57	0	57
C	No. 2	24	0	24
D	No. 2	62	58	120
E	No. 2	109	6	115
F	No. 2	40	0	40
G	No. 2	112	30	142
H	No. 2	50	54	104
I	No. 3	114	42	156
J	No. 3	102	35	137
K	No. 3	32	30	62
L	No. 3	74	18	92
M	No. 4	349	327	676
N	No. 3	1	0	1
		1186	600	1786

* The Stage 1 Fee will be applied first, and once all Stage 1 Fees have been paid within a particular Planning Area, the remaining Residential Units will be subject to the Stage 2 Fee.