

SECOND AMENDED AND RESTATED RESOLUTION OF THE
BOARD OF DIRECTORS
OF THE
VILLAGE AT SOUTHGATE METROPOLITAN DISTRICT
IMPOSING FEES UPON PROPERTY WITHIN THE DISTRICT
(2021)

WHEREAS, the Village at SouthGate Metropolitan District, City of Brighton, Adams County, Colorado (the "District") is a quasi-municipal corporation and political subdivision of the State of Colorado and was duly organized pursuant to §§ 32-1-101, et seq., C.R.S., as amended; and

WHEREAS, the Board of Directors of the District (the "Board") is the governing body of the District; and

WHEREAS, the District was created for the purpose of constructing, acquiring, financing and maintaining public improvements including, without limitation, streets and safety controls, landscaping, water, sewer, storm drainage and park and recreation improvements (collectively, the "Improvements"); and

WHEREAS, the Improvements are intended to serve the Village at SouthGate development located within the boundaries of the District (the "Development"); and

WHEREAS, pursuant to § 32-1-1001(1)G(I), C.R.S., as amended, the Board is empowered to fix and, from time to time, to increase or decrease fees, rates, tolls, penalties or charges for services, programs or facilities furnished by the District; and

WHEREAS, pursuant to § 32-1-1001(1)G(I), C.R.S., as amended, until paid, all such fees, rates, tolls, penalties or charges shall constitute a perpetual lien on and against the property served and any such lien may be foreclosed in the same manner as provided by the laws of Colorado for the foreclosure of mechanics' liens; and

WHEREAS, the Board previously adopted its Resolution Imposing Fees upon Property Within the District, dated April 20, 2016 and recorded in the official records of the Adams County Clerk and Recorder on May 5, 2016 at Reception No. 2016000034638 as amended by the First Amended and Restated Resolution in 2018 and on March 22, 2018 at Reception No. 2018000023494 (the "Prior Resolutions"); and

WHEREAS, in May 2021 and by separate resolution, the Board adopted and imposed Maintenance Fees on the residential property within the District; and

WHEREAS, the Board wishes amend, restate and replace the Prior Resolutions in their entirety to add an Account Transfer Fee; and

WHEREAS, portions of the fees, rates, tolls, penalties or charges imposed by the District may be used to pay the costs set forth in intergovernmental agreements by and between the District and the State of Colorado, counties, cities, towns other political subdivisions of the State of Colorado for improvements benefiting the District, its residents and taxpayers; and

WHEREAS, pursuant to that Intergovernmental Agreement Regarding the Reimbursement of Costs for the South Brighton Infrastructure Improvements entered into between and among the District, the City of Brighton, Colorado (the "City") and PFG Acquisitions, LLC, dated April 19, 2016 (the "IGA"), there shall be due and payable to the City upon the issuance of a building permit for each lot located within the Development a water tap fee in the amount of One Hundred and Fifty-One Dollars (\$151.00) for each water single family residential equivalent ("SFRE") connection required for the Development (a "Supplemental SBI Water Tap Fee"); and

WHEREAS, pursuant to the IGA, there shall be due and payable to the City upon the issuance of a building permit for each lot located within the Development a wastewater tap fee in the amount of One Hundred and Forty-Nine Dollars (\$149.00) for each wastewater SFRE connection required for the Development (a "Supplemental SBI Wastewater Tap Fee"); and

WHEREAS, collectively, the Supplemental SBI Water Tap Fee and the Supplemental SBI Wastewater Tap Fee shall be referred to herein as the "Supplemental SBI Tap Fees;"

WHEREAS, the Supplemental SBI Tap Fees are intended to reimburse the City for a portion of the costs associated with providing regional water and wastewater infrastructure for the benefit of the Development, and, pursuant to the IGA, the City shall collect and attribute such Supplemental SBI Tap Fees upon the issuance of a building permit for each lot located within the Development; and

WHEREAS, the Improvements to be provided by the District will benefit the District, its residents and taxpayers; and

WHEREAS, in order to defray the costs of the Improvements and other services provided by the District, the District elects to adopt this Second Amended and Restated Resolution to establish fees for the Improvements and the services provided by the District.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE VILLAGE AT SOUTHGATE METROPOLITAN DISTRICT AS FOLLOWS:

1. FACILITY FEES. There shall be due and payable to the District prior to the issuance of a building permit by the City for each residential single-family attached and detached lot or unit located within the Development and/or the

District, unless otherwise previously paid to the District and attributable to one or more specified lot(s) or units, as applicable, a Facility Fee in the amount of Two Thousand, Five Hundred Dollars (\$2,500.00) (the "SF Facility Fee"). Further, there shall be due and payable to the District prior to the issuance of a building permit by the City for each residential multi-family unit located within the Development and/or the District, unless otherwise previously paid to the District and attributable to one or more specified unit(s), a Facility Fee in the amount of One Thousand, Five Hundred Dollars (\$1,500.00) (the "MF Facility Fee"). Collectively, the SF Facility Fee and the MF Facility Fee shall be referred to herein as the "Facility Fees," and individually as a "Facility Fee." The property upon which the Facility Fees shall be imposed is as described in Exhibit A, as attached hereto and incorporated herein. The effective date of the imposition of the Facility Fees shall be May 1, 2016. The District may impose such penalties for non-compliance herewith as may be permitted by applicable law. Without limiting the foregoing, a late charge on any past-due amounts shall accrue from the date due at a rate of Fifteen Dollars (\$15.00) per day or up to five percent (5%) per month, not-to-exceed twenty-five percent (25%) of the amount of the applicable Facility Fee, whichever is greater. Nothing herein shall prevent any party from prepaying the applicable Facility Fee(s) at any time with the consent of the District or pursuant to separate contract.

2. TAP FEES. There shall be due and payable to the District upon the issuance of a building permit for each lot located within the Development a water tap fee in the amount of One Hundred and Fifty-One Dollars (\$151.00) for each water SFRE connection required for the Development (a "Water Tap Fee"). Further, there shall be due and payable to the District upon the issuance of a building permit for each lot located within the Development a wastewater tap fee in the amount of One Hundred and Forty-Nine Dollars (\$149.00) for each wastewater SFRE connection required for the Development (a "Wastewater Tap Fee"). Collectively, the Water Tap Fee and the Wastewater Tap Fee shall be referred to as the "Tap Fees," and shall be individually referred to as a "Tap Fee." The property upon which the Tap Fees shall be imposed is as described in Exhibit A, as attached hereto and incorporated herein. The effective date of the imposition of the Tap Fees shall be May 1, 2016. The District may impose such penalties for non-compliance herewith as may be permitted by applicable law. Without limiting the foregoing, a late charge on any past-due amounts shall accrue from the date due at a rate of Fifteen Dollars (\$15.00) per day or up to five percent (5%) per month, not-to-exceed twenty-five percent (25%) of the amount of the applicable Tap Fee, whichever is greater. Nothing herein shall prevent any party from prepaying the Tap Fees at any time with the consent of the District or pursuant to separate contract. Notwithstanding the foregoing, to the extent that either or both of the Supplemental SBI Water Tap Fee and/or Supplemental SBI Wastewater Tap Fee attributable to one or more particularly-identified lot(s) or unit(s) are otherwise collected by the City upon the issuance of a building permit for such particularly-identified lot(s) or unit(s), the District shall hereby waive the collection of such corresponding Water Tap Fee and/or Wastewater Tap Fee attributable to such particularly-identified lot(s) or unit(s). Without limiting the

foregoing, the collection of Supplemental SBI Water Tap Fee(s) for one or more particularly-identified lot(s) or unit(s) by the City shall correspondingly result in the District automatically waiving the collection of the Water Tap Fee(s) attributable to the same particularly-identified lot(s) or unit(s), and the collection of Supplemental SBI Wastewater Tap Fee(s) for one or more particularly-identified lot(s) or unit(s) by the City shall correspondingly result in the District automatically waiving the collection of the Wastewater Tap Fee(s) attributable to the same particularly-identified lot(s) or unit(s).

4. ACCOUNT TRANSFER FEE. There shall be due and payable to the District upon the transfer of ownership of any residential or commercial property owner to a new property owner, a fee in the amount of Seventy-Five Dollars (\$75.00) to defray costs incurred by the District to update and transfer the District's account records from one party to another. The fee is imposed upon the property and not upon the account holder.

3. MODIFICATION AND FUTURE EVENTS. The Facility Fees are based upon projected budgetary requirements of the District using various assumptions regarding the cost of the Improvements, bond issues and interest rates therefor, together with operation and maintenance expenses. Actual costs may differ from the projections and the District may, in its sole discretion, determine to modify, increase or decrease the Facility Fees and Account Transfer Fees imposed hereunder based upon actual circumstances.

4. NOTIFICATION AND COLLECTION. The appropriate officers, agents and/or employees of the District are hereby authorized to establish a system for notification of adoption of this Resolution and collection of amounts due hereunder. Such notification shall provide for the recording of an appropriate notice of the Facility Fees, Tap Fees and Account Transfer Fees (collectively, the "Fees") upon the property to be charged.

5. STATUS OF LIEN AND FORECLOSURE. As of the date of this Resolution and pursuant to § 32-1-1001(1)(j)(I), C.R.S., as may be amended, the Fees established herein shall, until paid, constitute a perpetual lien against the property so charged. In the event of non-payment of the Fees, as appropriate, the District may foreclose upon the lien in the same manner as provided by the laws of the State of Colorado for the foreclosure of mechanics' liens, which lien amount may include interest and any costs of collection of the Fees, including, without limitation, reasonable attorney's fees and costs. Upon payment of Fees, and upon request of the party making the payment, the property or properties subject to a satisfied Facility Fee(s) or Tap Fee(s) shall be released from the lien thereof by the recordation of a form of Release of Lien by the District.

6. RECORDING. This Resolution, and any amendments thereto, shall be recorded in the official records of the Clerk and Recorder in and for the County of Adams, State of Colorado; however, any failure to record this Resolution, or

any amendments thereto shall in no way affect the validity of the Resolution of the District's ability to enforce the terms and provisions contained herein.

7. **RESTATEMENT.** This Second Amended and Restated Resolution shall completely amend, restate and replace the Prior Resolutions in their entirety.

8. **EFFECTIVE DATE.** The terms and conditions of this Second Amended and Restated Resolution shall be effective as of December 1, 2021.

ADOPTED AND APPROVED this 27th day of October ,2021.

VILLAGE AT SOUTHGATE METROPOLITAN
DISTRICT



Kevin Amolsch, President

ATTEST:



, Secretary

EXHIBIT A

The Property

The West 1/2 of the Northeast ¼ of Section 1, Township 2 south, Range 67 West, of the 6th P.M., County of Adams, State of Colorado, except the right of way for 120th Avenue as described in Road Book 2 at Page 593.

Parcel described above contains a total of 79.811 acres, more or less.