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Carol Snyder, Clerk \$46.00

**RESOLUTION 2005-09-01**

**AMENDED AND RESTATED RESOLUTION OF THE AURORA HIGH  
POINT AT DIA METROPOLITAN DISTRICT REGARDING THE  
IMPOSITION OF FACILITIES FEES**

WHEREAS, Colorado International Center Metropolitan District No. 2 ("District") adopted a Facilities Fee Resolution on January 21, 2005 ("Original Resolution"); and

WHEREAS, the District has changed its name to Aurora High Point at DIA Metropolitan District (the "District") and is a quasi-municipal corporation and political subdivision of the State of Colorado; and

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WHEREAS, the District desires to amend and restate the Original Resolution to modify the time of payment; and

WHEREAS, pursuant to its Service Plan and the FFCO, herein defined, the District is responsible for providing for the design, acquisition, construction, installation, and financing of certain water, sanitation (including storm and sanitary sewer), street, safety protection, park and recreation, transportation, and mosquito control facilities and services (the "Facilities") for its benefit and for the benefit of Colorado International Center Metropolitan District Nos. 1, 3, 4, 5, 6, 7, 8, 9, 10 and 11 (the "Taxing Districts"); and

WHEREAS, pursuant to that certain Facilities Funding, Construction and Operations Agreement among the District and the Taxing Districts dated January 21, 2005 ("FFCO"), the District is authorized to impose fees for the right of residents and property owners in the District and the Taxing Districts to connect to or gain access to the Facilities; and

WHEREAS, pursuant to the FFCO, the District and/or the Taxing Districts will issue bonds to provide funding for the Facilities; and

WHEREAS, the District is authorized pursuant to Section 32-1-1001(1)(j)(I), C.R.S. to fix fees and charges for services or facilities provided by the District; and

WHEREAS, the District is authorized to utilize the revenue from the Facilities Fees for capital improvement costs and/or to pledge it for the repayment of principal and interest on bonds; and

WHEREAS, the District has determined that it is in the best interests of its inhabitants and taxpayers and the inhabitants and taxpayers of the Taxing Districts to provide the Facilities; and

WHEREAS, the property currently within the boundaries of the District and the Taxing Districts is described on Exhibit A attached hereto and incorporated herein by this reference (the "Property"); and

*Enno*  
x *Attn: Julie*  
McGeady Sisneros, PC  
1675 Broadway  
Suite 2100  
Denver, CO 80202

WHEREAS, as property is included within the boundaries of the District and the Taxing Districts, Exhibit A to this Resolution shall be amended to add the additional property and the amendment shall be recorded on the additional properties to put the property owners on notice of this imposition of Facilities Fees. The form of amendment is attached hereto as Exhibit B; and

WHEREAS, this Resolution shall be recorded on the Property to put the property owners on notice of this imposition of Facilities Fees; and

WHEREAS, the District has determined that, to meet the costs of providing the Facilities, it is necessary to impose the Facilities Fees on the Property;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT, AS FOLLOWS:

1. The Board does hereby determine that it is in the best interests of the District and the Taxing Districts and their taxpayers and inhabitants to impose Facilities Fees on the Property as described on Exhibit A attached hereto, as amended from time to time, and to pledge the revenues from said Facilities Fees for the payment of bonds or any other indebtedness of the District.
2. District hereby imposes Facilities Fees of Two Thousand Five Hundred Dollars (\$2,500) on each Residential Unit within the Service Area of the District. A Residential Unit is a residential building 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. The number of Residential Units shall be based upon either (1) the number of residential units identified on the plat applicable to the particular parcel(s) being conveyed, or (2) the units identified on the plat applicable to the parcel for which a building permit is issued by the City of Aurora for development ("Development Parcel"). The District reserves the right to amend this resolution in the future to impose Facilities Fees on commercial property and to differentiate the Facilities Fees for different residential uses. The Facilities Fees shall be due and owing on each Residential Unit on or before the date of issuance of a building permit for any Development Parcel.
3. The Facilities Fees shall not be imposed on real properties conveyed to or owned by non-profit homeowners' associations, governmental entities or utility providers.
4. Any unpaid Facilities Fees shall constitute a statutory and perpetual lien against the Property pursuant to Section 32-1-1001(1)(j)(I), C.R.S., such lien being a charge imposed for the provision of the services and facilities to the Property. 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 Adams County, Colorado.
5. Failure to make payment of the Facilities Fees due hereunder shall constitute a default in the payment of such Facilities Fees. Upon a default, interest shall accrue on such total amount of the Facilities Fees due at the rate of 18% 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 the unpaid Facilities Fees and costs.

6. 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.


7. This Resolution shall supersede in its entirety the Original Resolution.

Approved and adopted this 34<sup>th</sup> day of September, 2005.

AURORA HIGH POINT AT DIA  
METROPOLITAN DISTRICT

By:   
Gardiner Hammond, President

Attest:

  
Secretary

**EXHIBIT A**

Service Area

## HIGH POINT AT DIA SUBDIVISION FILING NO. 1 LEGAL DESCRIPTION

A PARCEL OF LAND SITUATED IN THE NORTHEAST ONE-QUARTER OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 66 WEST, OF THE 6TH P.M., CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 10, THENCE N00°06'19"E ALONG THE WEST LINE OF SAID NORTHWEST ONE-QUARTER, A DISTANCE OF 67.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N00°06'19"E, A DISTANCE OF 2554.67 FEET; THENCE N89°25'10"E, A DISTANCE OF 1272.19 FEET THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 110.23 FEET AND A RADIAL LINE WHICH BEARS N39°20'56"E; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 2°46'57", AN ARC DISTANCE OF 5.35 FEET; THENCE S49°27'23"E, A DISTANCE OF 86.16 FEET; THENCE N89°25'10"E, A DISTANCE OF 20.13 FEET; THENCE S00°06'22"W, A DISTANCE OF 136.10 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 15.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°06'12", AN ARC DISTANCE OF 23.59 FEET; THENCE S00°09'20"W, A DISTANCE OF 64.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 15.00 FEET AND A RADIAL WHICH BEARS S00°00'03"W; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°53'41", AN ARC DISTANCE OF 23.53 FEET; THENCE S00°06'22"W, A DISTANCE OF 190.01 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 15.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°06'19", AN ARC DISTANCE OF 23.59 FEET; THENCE S89°59'57"E, A DISTANCE OF 107.88 FEET; THENCE S00°00'03"W, A DISTANCE OF 63.99 FEET; THENCE N89°59'57"W, A DISTANCE OF 5.03 FEET; THENCE S00°06'22"W, A DISTANCE OF 357.00 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 10.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°06'19", AN ARC DISTANCE OF 15.73 FEET; THENCE S89°59'57"E, A DISTANCE OF 87.96 FEET; THENCE N00°10'35"E, A DISTANCE OF 15.03 FEET; THENCE S89°53'38"E, A DISTANCE OF 64.00 FEET; THENCE S00°06'22"W, A DISTANCE OF 333.76 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 15.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°41'01", AN ARC DISTANCE OF 23.74 FEET; THENCE S00°25'32"W, A DISTANCE OF 64.01 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 15.00 FEET AND A RADIAL LINE WHICH BEARS S00°34'39"E; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°18'59", AN ARC DISTANCE OF 23.38 FEET; THENCE S00°06'22"W, A DISTANCE OF 281.09 FEET; THENCE N89°53'38"W, A DISTANCE OF 64.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 15.00 FEET AND A RADIAL LINE WHICH BEARS N89°53'38"W; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°41'01", AN ARC DISTANCE OF 23.74 FEET; THENCE S89°25'21"W, A DISTANCE OF 186.01 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 15.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°18'59", AN ARC DISTANCE OF 23.38 FEET; THENCE S00°06'22"W, A DISTANCE OF 424.37 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 15.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°42'05", AN ARC DISTANCE OF 23.75 FEET; THENCE S00°26'02"W, A DISTANCE OF 64.01 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 15.00 FEET AND A RADIAL LINE WHICH BEARS S00°35'43"E; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°17'55", AN ARC DISTANCE OF 23.38 FEET; THENCE

S89°04'33"W, A DISTANCE OF 64.01 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE LEFT, CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 15.00 FEET AND A RADIAL LINE WHICH BEARS N89°53'38"W; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°42'05", AN ARC DISTANCE OF 23.75 FEET; THENCE S89°24'17"W, A DISTANCE OF 472.03 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 15.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 89°17'55", AN ARC DISTANCE OF 23.38 FEET; THENCE S00°06'22"W, A DISTANCE OF 190.06 FEET TO THE BEGINNING OF A CURVE TO THE LEFT, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 15.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°42'14", AN ARC DISTANCE OF 23.75 FEET; THENCE S00°35'52"E, A DISTANCE OF 64.00 FEET; THENCE S89°24'08"W, A DISTANCE OF 20.29 FEET; THENCE S00°35'52"E, A DISTANCE OF 110.00 FEET; THENCE S00°31'23"E, A DISTANCE OF 65.79 FEET; THENCE S89°28'37"W, A DISTANCE OF 731.58 FEET TO THE BEGINNING OF A CURVE TO THE RIGHT, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 20.00 FEET; THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 90°37'42", AN ARC DISTANCE OF 31.64 FEET; THENCE N00°06'19"E, A DISTANCE OF 9.32 FEET; THENCE N89°53'41"W, A DISTANCE OF 42.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 3,504,406 SQUARE FEET OR 80.450 ACRES MORE OR LESS.

**EXHIBIT B**

Form of Amendment

**AMENDMENT NO. \_\_\_\_\_ TO THE AMENDED AND  
RESTATED RESOLUTION OF THE AURORA HIGH  
POINT AT DIA METROPOLITAN DISTRICT  
REGARDING THE IMPOSITION OF FACILITIES FEES**

This AMENDMENT NO. \_\_\_\_\_ TO THE AMENDED AND RESTATED RESOLUTION OF THE AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT REGARDING THE IMPOSITION OF FACILITIES FEES (the "Amendment No. \_\_\_\_\_") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_, by the Aurora High Point At DIA Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District").

**RECITALS**

WHEREAS, the District has approved and adopted that certain AMENDED AND RESTATED RESOLUTION OF THE AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT REGARDING THE IMPOSITION OF FACILITIES FEES dated \_\_\_\_\_, 2005, and recorded in the Adams County, Colorado Clerk and Recorder's office of on \_\_\_\_\_, 2005 at Reception No. \_\_\_\_\_, as amended from time to time (the "Resolution");

WHEREAS, the Resolution provides for the amendment to the Resolution in the event of the inclusion of additional real property to the boundaries of the District and/or Colorado International Center Metropolitan District Nos. 1, 3, 4, 5, 6, 7, 8, 9, 10 or 11 (the "Taxing Districts");

WHEREAS, certain real property has been included in the boundaries of \_\_\_\_\_; and

WHEREAS, this Amendment No. \_\_\_\_\_ shall be recorded in the Adams County, Colorado real property records to put the property owners of the included real property on notice of the imposition of Facilities Fees as referenced in the Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT, AS FOLLOWS:

1. Exhibit A to the Resolution is hereby amended by the addition of the real property legal description in Exhibit A attached hereto and incorporated herein by this reference.
2. Except as expressly set forth in this Amendment No. \_\_\_\_\_, all other terms, conditions and provisions of the Resolution, as amended, remain in full force and effect.

APPROVED AND ADOPTED as of the day and year first set forth above.

AURORA HIGH POINT AT DIA  
METROPOLITAN DISTRICT

By: \_\_\_\_\_  
\_\_\_\_\_, President

Attest:

\_\_\_\_\_  
Secretary



**Exhibit A**