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RESOLUTION NO. 09-01
LINCOLN CREEK METROPOLITAN DISTRICT

A RESOLUTION IMPOSING FEES FOR TRASH AND RECYCLING, AND RECREATIONAL FACILITIES PROVIDED BY LINCOLN CREEK METROPOLITAN DISTRICT; THIS RESOLUTION PROVIDES FOR THE AUTHORITY AND APPLICABILITY OF THE RESOLUTION; PROVIDES DEFINITIONS; PROVIDES FOR THE IMPOSITION OF A DISTRICT SERVICES FEE; PROVIDES FOR FINDINGS; PROVIDES FOR SEVERABILITY; AND PROVIDES FOR AN EFFECTIVE DATE.

WHEREAS, the Lincoln Creek Metropolitan District (the "District") is a quasi-municipal corporation and political subdivision of the State of Colorado organized and operating pursuant to Section 32-1-101 *et seq.*, C.R.S. and other Colorado law; and

WHEREAS, the District was organized to serve a public purpose and to promote the health, safety, prosperity, security, and general welfare of the District's residents and other residents of the State of Colorado; and

WHEREAS, the Board of Directors of the District (the "Board") is empowered to have the management, control, and supervision of all the business and affairs of the District pursuant to Section 32-1-1001(1)(h), C.R.S.; and

WHEREAS, the Master Declaration of Covenants, Conditions, and Restrictions ("Declaration") applicable to property within the District's Service Area contemplates that the District will facilitate the provision of, among numerous other facilities and services, trash services under Section 8.25, and park and recreation services under Section 2.2 (all together, the "Services"); and

WHEREAS, the District is empowered by Section 32-1-1004(8), C.R.S., and the Declaration to furnish covenant enforcement and design review services within the District; and

WHEREAS, the District finds and declares that the availability of the Services and covenant enforcement and design review services to the properties within the District is a benefit to those properties, providing added and continuing value to such properties; and

WHEREAS, the District is entitled to fix and from time to time increase fees, rates, tolls, penalties, or charges for services, programs, or facilities it provides pursuant to Section 32-1-1001(1)(j)(I), C.R.S., and Section 3.1 of the Declaration; and

WHEREAS, the District desires to provide the Services and covenant enforcement and design review services to the property within the District in exchange for reasonable fees to defer the costs of such services.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Lincoln Creek Metropolitan that:

1. Definition. As used in this Resolution, "dwelling unit" shall mean any residential dwelling unit, including but not limited to a single family home, a duplex unit, a townhome, and for-sale condominium units but excluding for-rent apartment units.

2. Applicability. This Resolution shall apply to all dwelling units within the District.

3. Services Fee. The District hereby imposes a District Services Fee ("Fee") of \$131.00 per month per dwelling unit on all dwelling units within the District to defray the cost of the provision of the Services and covenant enforcement and design review services to such units, and \$100.00 per month per vacant lot or tract on all such lots and tracts within the District (but excluding lots or tracts that are owned by a governmental entity) to defray the cost of the provision of the Services and covenant enforcement and design review services to such lots or tracts.

4. Fees not Divisible. No party may pay less than the entire amount due for the Fee regardless of the Services in which that party actually partakes.

5. Fee Deposit For Dwelling Units. Upon and as a condition of the closing on any dwelling unit within the District, the party purchasing the property shall pay to the District an amount equal to three months' Fees (the "Fee Deposit"), currently \$393.00. The District shall segregate the Fee Deposit in a non-interest bearing account, and shall apply one-third of the Fee Deposit to the first month's Fee requirement for the dwelling unit in question. The balance of the Fee Deposit shall continue to be held and the District shall refund the entire Fee Deposit to the party making the deposit when that party sells the property associated with the Fee Deposit. If the party making the Fee Deposit fails to pay any Fee when due, the District may charge the amount unpaid against the Fee Deposit. Notwithstanding this ability, the party's account shall be "delinquent" and subject to the enforcement provisions of this Resolution until the party remits sufficient funds to return the Fee Deposit to an amount equal to two months' Fees. The Fee Deposit, at all times, must be an amount at least equal to two months' Fees, or the account is delinquent.

6. Fee Adjustment. The amount of the Fee, and the corresponding Fee Deposit, may be adjusted by lawful action of the Board at any time, without notice.

7. Additional Costs. The Fee does not, by its nature, entitle any party unlimited access to the facilities and services provided by the District. Additional charges may apply, depending on the services requested, including without limitation use fees for recreation centers and facilities.

8. Statements. Statements for the Fee shall be rendered on such periodic basis as the Board shall deem appropriate. Bills shall be payable within twenty (20) days of the statement date. All bills which are not paid within twenty (20) days of the statement date shall be deemed delinquent, and the amount due shall be charged against the party's Fee Deposit. If the party's Fee Deposit is insufficient to pay the amounts due, the party shall be assessed a penalty of one-percent (1%) per month of all amounts due, including amounts due for the Fee and amounts due to make the Fee Deposit equal to two months' Fees.

9. Enforcement. The District may discontinue trash service to any dwelling unit delinquent in any of its payment obligations, including any dwelling unit with an insufficient Fee Deposit. Notice of discontinuance shall be mailed with the statement advising that payment must be made within twenty (20) days from the date of the notice or trash and/or cable service will be discontinued. No party shall be permitted to use District services, including recreation services, if the Fees associated with that party's property have not been paid in full. In addition to these remedies, fees of the District is by statute a first lien against the property served, and may be collected in the manner described in Section 32-1-1001(1)(j)(I), C.R.S.


10. Findings. The Board hereby finds, determines, and declares that this Resolution is promulgated in the best interests of the District. The Board further determines that the Resolution bears a reasonable and rational relation to the proper legislative object sought to be attained.

11. Severability. 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 circumstance, shall not affect the validity of the remainder of this Resolution.

12. Effective Date. This Resolution shall be effective immediately upon execution.


RESOLVED THIS 23RD DAY OF APRIL, 2009.

LINCOLN CREEK METROPOLITAN
DISTRICT



President

ATTEST:



Secretary