

After Recording, Return to:  
WHITE BEAR ANKELE TANAKA & WALDRON  
2154 East Commons Avenue, Suite 2000  
Centennial, Colorado 80122

**RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
POMPONIO TERRACE METROPOLITAN DISTRICT  
CONCERNING THE IMPOSITION OF AN OPERATIONS FEE**

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WHEREAS, the Pomponio Terrace Metropolitan District (the “**District**”) was formed pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended (the “**Special District Act**”), by order of the District Court for Adams County, Colorado, and after approval of the District’s eligible electors at an election; and

WHEREAS, pursuant to § 32-1-1001(1)(h), C.R.S., the Board of Directors of the District (the “**Board**”) shall have the management, control and supervision of all the business and affairs of the District; and

WHEREAS, the Board has determined it to be in the best interests of the District, and the property owners, taxpayers, and residents of the District, to acquire, construct, operate and maintain certain amenities and facilities benefitting property and inhabitants within the District, which amenities and facilities generally include without limitation water, storm and sanitary sewer, landscape, park and recreation, street and alleyway improvements, facilities, appurtenances and rights-of-way (collectively, the “**Facilities**”); and

WHEREAS, the Board has determined it to be in the best interests of the District, and the property owners, taxpayers, and residents of the District, to provide certain services to property and inhabitants within the boundaries of the District, including without limitation, water and sewer maintenance, landscape maintenance, snow removal, and covenant enforcement and design review (collectively, the “**Services**”); and

WHEREAS, pursuant to § 32-1-1001(1)(j)(I), C.R.S., the District is authorized to fix and impose fees, rates, tolls, penalties and charges for services or facilities furnished by the District which, until paid, shall constitute a perpetual lien on and against the property served; and

WHEREAS, the District incurs certain direct and indirect costs associated with the repair, replacement, improvement, reconstruction operation and maintenance of the Facilities, as necessary, inclusive of the costs of utilities and capital replacement costs (collectively, the “**Facility Costs**”) in order that the Facilities may be properly provided and maintained; and

WHEREAS, the District incurs certain direct and indirect costs associated with the provision of the Services in order that the Services may be properly provided, the property within the District maintained, and that the health, safety and welfare of the District and its inhabitants may be safeguarded (collectively, the “**Service Costs**”); and

WHEREAS, the establishment and continuation of a fair and equitable fee (the “**Operations Fee**”) to provide a source of funding to pay for the Facility Costs and the Service Costs, (collectively, the “**Operations Costs**”), which Operations Costs are generally attributable to the persons and/or properties subject to such Operations Fees, is necessary to provide for the common good and for the prosperity and general welfare of the District and its inhabitants and for the orderly and uniform administration of the District’s affairs; and

WHEREAS, the District finds that the Operations Fee, as set forth in this Resolution, is reasonably related to the overall cost of providing the Facilities and Services and paying the Operations Costs, and that imposition thereof is necessary and appropriate.

NOW, THEREFORE, be it resolved by the Board as follows:

1. **DEFINITIONS.** Except as otherwise expressly provided or where the context indicates otherwise, the following capitalized terms shall have the respective meanings set forth below:

“**Commercial Lot**” means each Lot, regardless of the number of Commercial Units thereon, within the District Boundaries that is used and/or zoned for general commercial, industrial, office, retail or other non-residential uses.

“**Commercial Unit**” means each office space, unit, building or other structure within the District Boundaries that is used and/or zoned for general commercial, industrial, office, retail, or other non-residential uses.

“**District Boundaries**” means the legal boundaries of the District, as the same are established and amended from time to time pursuant to §§32-1-101, *et seq.*, C.R.S., as more particularly set forth in the map and legal description attached hereto as **Exhibit B** and incorporated herein by this reference.

“**Due Date**” means the date by which the Operations Fee is due, which Due Date is reflected on the Schedule of Fees.

“**End User**” means any third-party homeowner or tenant of any homeowner occupying or intending to occupy a Residential Unit and any third party owner or tenant occupying or intending to occupy a Commercial Unit.

“**Fee Schedule**” or “**Schedule of Fees**” means the schedule of fees set forth in **Exhibit A**, attached hereto and incorporated herein by this reference, until and unless otherwise amended and/or repealed.

“**Lot**” means each parcel of land established by a recorded final subdivision plat and which is located within the District Boundaries.

“**Residential Unit**” means each residential dwelling unit (including, without limitation, condominiums, townhomes, and any other attached dwelling unit and detached single

family dwelling units) located within the District Boundaries which has been Transferred to an End User.

“**Transfer**” or “**Transferred**” shall include a sale, conveyance or transfer by deed, instrument, writing, lease or any other documents or otherwise by which real property is sold, granted, let, assigned, transferred, exchanged or otherwise vested in a tenant, tenants, purchaser or purchasers.

“**Vacant Lot**” means each parcel of land within the District established by a recorded final subdivision plat, but specifically excluding any parcel upon which one or more Residential Units, Commercial Units is situated and specifically excluding any parcel owned by the District.

## 2. OPERATIONS FEE.

a. The Board has determined, and does hereby determine, that it is in the best interests of the District and its respective residents and property owners to impose, and does hereby impose an Operations Fee to fund the Operations Costs. The Operations Fee is hereby established and imposed in an amount as set forth by the District from time to time pursuant to an annual “Fee Schedule” and shall constitute the rate in effect until such schedule is amended or repealed. The initial Fee Schedule is set forth in **Exhibit A**, attached hereto and incorporated herein by this reference. The Operations Fee shall consist of a recurring payment (the “**Recurring Payment**”) and a separate payment imposed on transfers of a Residential Unit (the “**Transfer Payment**”), which together shall comprise the Operations Fee.

b. The Transfer Payment shall be imposed on all Transfers of a Residential Unit and Commercial Unit by an End User. The Transfer Payment shall not apply to any of the following, except to the extent the District determines that such exception is being undertaken for the purpose of improperly avoiding the Operations Fee:

i. Any Transfer wherein the United States, or any agency or instrumentality thereof, the State of Colorado, any county, city and county, municipality, district or other political subdivisions of this State, is either the grantor or the grantee.

ii. Any Transfer by document, decree or agreement partitioning, terminating or evidencing termination of a joint tenancy, tenancy in common or other co-ownership; however, if additional consideration or value is paid in connection with such partition or termination the Transfer Payment shall apply and be based upon such additional consideration.

iii. Any Transfer of title or change of interest in real property by reason of death, pursuant to a will, the law of descent and distribution, or otherwise.

iv. Any Transfer made and delivered without consideration for the purpose of: confirming, correcting, modifying or supplementing a Transfer previously made; making minor boundary adjustments; removing clouds of title; or granting easements, rights-of-way or licenses.

v. Any decree or order of a court of record quieting, determining or resting title, except for a decree of foreclosure.

vi. Transfers to secure a debt or other obligation, or releases other than by foreclosure, which is security for a debt or other obligation.

vii. Transfers pursuant to a decree or separation of divorce.

c. The Board has determined, and does hereby determine, that the Operations Fee is reasonably related to the overall cost of providing the Facilities and Services, and is imposed on those who are reasonably likely to benefit from or use the Facilities and Services.

d. The revenues generated by the Operations Fee will be accounted for separately from other revenues of the District. The Operations Fee revenue will be used solely for the purpose of paying Operations Costs, and may not be used by the District to pay for general administrative costs of the District. This restriction on the use of the Operations Fee revenue shall be absolute and without qualification.

e. The Board has determined, and does hereby determine, that the Operations Fee is calculated to defray the cost of funding Operations Costs and reasonably distributes the burden of defraying the Operations Costs in a manner based on the benefits received by persons paying the fees and using the Facilities and Services.

3. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., any Operations Fee not paid in full within fifteen (15) days after the scheduled due date will be assessed a late fee in the amount of Fifteen Dollars (\$15.00) or up to five percent (5%) per month, or fraction thereof, not to exceed a total of twenty-five percent (25%) of the amount due. Interest will also accrue on any outstanding Operations Fees, exclusive of assessed late fees, penalties, interest and any other costs of collection, specially including, but not limited, to attorney fees, at the rate of 18% per annum, pursuant to § 29-1-1102(7), C.R.S. The District may institute such remedies and collection procedures as authorized under Colorado law, including, but not limited to, foreclosure of its perpetual lien. The defaulting property owner shall pay all fees and costs, specifically including, but not limited to, attorneys' fees and costs and costs associated with the collection of delinquent fees, incurred by the District and/or its consultants in connection with the foregoing.

4. PAYMENT. Payment for all fees, rates, tolls, penalties, charges, interest and attorney fees shall be made by check or equivalent form acceptable to the District, made payable to "Pomponio Terrace Metropolitan District" and sent to the address indicated on the Fee Schedule. The District may change the payment address from time to time and such change shall not require an amendment to this Resolution.

5. LIEN. The fees imposed hereunder, together with any and all late fees, interest, penalties and costs of collection, shall, until paid, constitute a statutory, perpetual lien on and against the property served, and any such lien may be foreclosed in the manner provided by the laws of the State of Colorado for the foreclosure of mechanic's liens, pursuant to § 32-1-1001(1)(j)(I), C.R.S. Said lien may be foreclosed at such time as the District, in its sole discretion, may determine. 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.

6. SEVERABILITY. If any portion of this Resolution is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Resolution, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Resolution a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

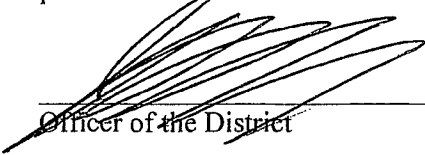
7. THE PROPERTY. This Resolution shall apply to all property within the District's boundaries, including, but not limited to, the property set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, and any additional property included into the District after the date of this Resolution.

8. EFFECTIVE DATE. This Resolution shall become effective August 1, 2018.

*[Remainder of Page Intentionally Left Blank. Signature Page to Follow].*

ADOPTED this 14<sup>th</sup> day of August, 2018.

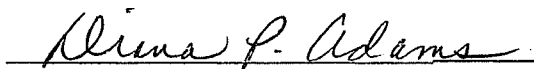
POMPONIO TERRACE METROPOLITAN  
DISTRICT, a quasi-municipal corporation and  
political subdivision of the State of Colorado



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Officer of the District

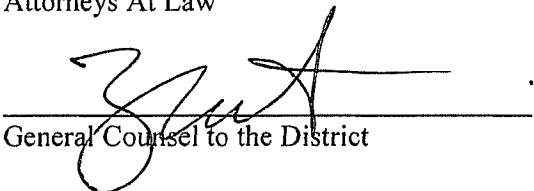
ATTEST:



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APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys At Law



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General Counsel to the District

*Signature page to Resolution Concerning the Imposition of an Operations Fee*

**EXHIBIT A**

**POMPONIO TERRACE METROPOLITAN DISTRICT  
 Schedule of Fees  
 Effective August 1, 2018**

Schedule of Fees		
Fee Type	Classifications	Rate
<b>Operations Fee – Recurring Payment</b>		
	Residential Unit	\$82.00/month
	Commercial Unit	\$0.00/month
The Due Date for each Operations fee is the 1 <sup>st</sup> day of each month.		
<b>Operations Fee – Payment Due Upon a Transfer</b>		
	Residential Unit	\$0.00 per Transfer
	Commercial Unit	\$0.00 per Transfer
The Due Date for each Operations Fee—Payment Due Upon Transfer is the date upon which the Transfer occurs.		

**PAYMENTS:** Payment for each fee shall be made payable to the Pomponio Terrace Metropolitan District and sent to the following address for receipt by the Due Date:

Overlook Property Management  
 6860 S. Yosemite Court, Suite 2000  
 Centennial, Colorado 80112

**EXHIBIT B**

**POMPONIO TERRACE METROPOLITAN DISTRICT**

**District Boundaries**



EXHIBIT A

A parcel of land in the east half of Section 5, T 3 S, R 68 W of the 6th P.M.,  
County of Adams, State of Colorado, more particularly described as follows:

(Note: The following courses are not based upon a field survey.)

Commencing at the northwest corner of said east half of Section 5, and considering  
the southwest corner of said east half of Section 5 to bear South 00°47'03" West;  
Thence South 00°47'03" West, a distance of 1400.01 feet;  
Thence South 89°12'57" East, a distance of 50.23 feet to the Point of Beginning;

Thence South 89°12'57" East along the north line of that certain parcel of land described in Book 4947 at Page 741, a  
distance of 200.00 feet;

Thence South 89°12'57" East along the north line of that certain parcel of land described in Book 4947 at Page 751, a  
distance of 35.88 feet;

Thence along the south right-of-way for West 70th Avenue the following five (5) courses:

1. Thence North 89°46'10" East, a distance of 63.91 feet;
2. Thence along the arc of a curve to the right having a radius of 260.00 feet and a central angle of  
39°24'15", an arc distance of 178.81 feet (chord bears South 69°28'41" East, 175.31 feet);
3. Thence South 49°48'15" East, a distance of 396.78 feet;
4. Thence along the arc of a curve to the left having a radius of 340.00 feet and a central angle of  
33°20'54", an arc distance of 197.89 feet (chord bears South 66°28'42" East, 195.11 feet);
5. Thence South 83°09'09" East, a distance of 519.66 feet;

Thence South 00°33'56" West along the west line of Lot 1, Block 1, Sundstrand Subdivision, a distance of 1299.82 feet;

Thence along the north line of that certain parcel of land described in Book 5158 Page 820 the following four (4) courses:

1. Thence North 57°34'30" West, a distance of 382.11 feet;
2. Thence North 42°17'24" West, a distance of 182.93 feet;
3. Thence North 57°34'30" West, a distance of 130.95 feet;
4. Thence North 84°13'48" West, a distance of 196.66 feet;

Thence North 57°34'30" West along the northerly right-of-way line for the Burlington Northern and Santa Fe Railroad, a  
distance of 244.38 feet;

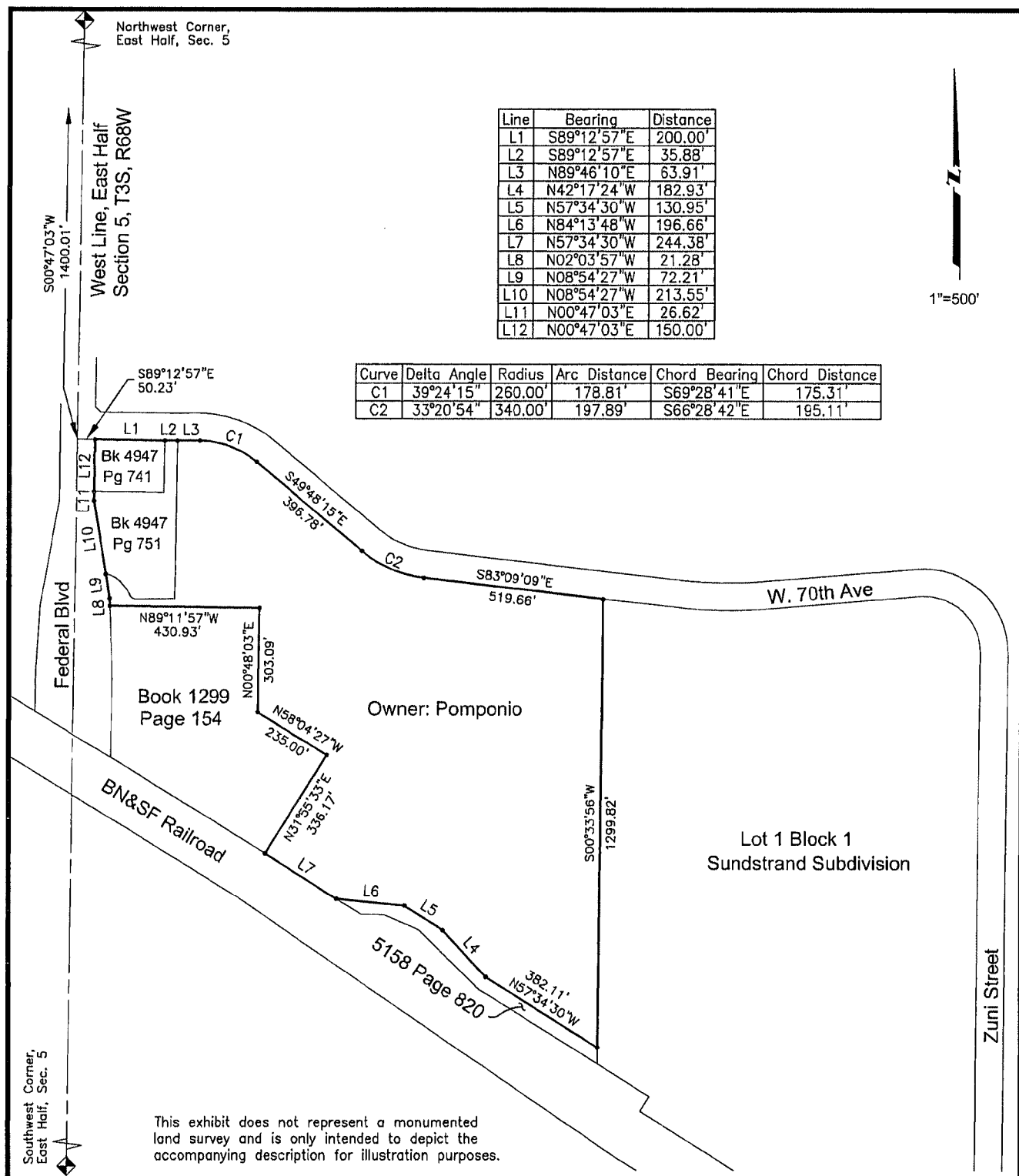
Thence along the easterly and northerly lines of that certain parcel of land described in Book 1299 Page 154 the following  
four (4) courses:

1. Thence North 31°55'33" East, a distance of 336.17 feet;
2. Thence North 58°04'27" West, a distance of 235.00 feet;
3. Thence North 00°48'03" East, a distance of 303.09 feet;
4. Thence North 89°11'57" West, a distance of 430.93 feet;

Thence along the east right-of-way line for Federal Boulevard the following five (5) courses:

1. Thence North 02°03'57" West, a distance of 21.28 feet;
2. Thence North 08°54'27" West, a distance of 72.21 feet;
3. Thence North 08°54'27" West, a distance of 213.55 feet;
4. Thence North 00°47'03" East, a distance of 26.62 feet;
5. Thence North 00°47'03" East, a distance of 150.00 feet to the Point of Beginning,  
containing 1,259,444 Square Feet, or 28.913 Acres, more or less.

## ILLUSTRATION FOR EXHIBIT A



**FWS** FORESIGHT WEST SURVEYING INC.  
 4955 Iris Street, Wheat Ridge, CO 80033  
 (303) 504-4440

**DISTRICT EXHIBIT**  
 East 1/2 Sec. 5, T3S, R68W  
 Adams County, Colorado

Compiled by: LJJ  
 Date: 13 Jan '16  
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