

GVR METROPOLITAN DISTRICT

RESOLUTION NO. 09-12-07(A)

A RESOLUTION AMENDING DISTRICT POLICIES RELATING TO SYSTEM DEVELOPMENT CHARGES, AUTHORIZING AN INITIAL MINIMUM CHARGE FOR COMMERCIAL PROPERTIES, THE IMPOSITION OF INTEREST CHARGES ON DELINQUENCIES AND NOTICE PROCEDURES

WHEREAS, the GVR Metropolitan District (“District”) is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Title 32, Colorado Revised Statutes; and

WHEREAS, pursuant to Sections 32-1-1001(1)(j) and 32-1-1006(1)(g), C.R.S., the District is authorized to assess fees for the provision of water and sanitation improvements; and

WHEREAS, the District has imposed and modified its System Development Charges (SDC) pursuant to numerous resolutions including Resolution No. 1996-11-20, as later modified by Resolution Nos. 08-15-01(B) and 04-19-06(B), the payment of all such SDCs due upon issuance of a building permit for any particular structure by the City and County of Denver; and

WHEREAS, although developers of commercial and residential developments are required to notify the District of the issuance of each building permit received for properties within the District’s boundaries and to provide the approved plans for such developments to the District so that an appropriate SDC can be calculated, many developers fail to timely do so; and

WHEREAS, pursuant to Section 32-1-1006(1)(d), C.R.S., the District is authorized to assess reasonable penalties for the delinquency in the payment of rates, fees, tolls, or charges, and, pursuant to Section 29-1-1102(3), C.R.S., such penalties may be assessed at a maximum rate of five percent per month up to an accumulated maximum penalty of not more than twenty-five percent of the amount due; and

WHEREAS, pursuant to Sections 29-1-1102(6) and (7), C.R.S., the District is authorized to charge interest on the amount of the System Development Charge due, excluding the accumulated amount of delinquency charges due, at a rate not to exceed an annual percentage rate of eighteen percent or the equivalent for a longer or shorter period of time; and

WHEREAS, the Board of Directors (“Board”) of the District hereby finds and determines that the establishment and assessment of minimum charges, penalties and

interest for SDCs that are not timely paid when building permits are issued is appropriate and necessary to the function and operation of the District.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the GVR Metropolitan District as follows:

1. **Modification of Late Fees for Delinquent System Development Charges.** By Resolution No. 04-19-06(B), the District imposed a penalty of 1% per month or fraction thereof against all System Development Charges not paid within 60 days after notice of such charges is issued by the District. The Board hereby modifies its late fee policy to create a cap on accumulated late fees of no more than 25% of the original System Development Charge against which such late fees have been assessed.
2. **Imposition of Interest Charges Against Delinquent System Development Charges.** In accordance with its statutory authority, the Board hereby establishes its policy to charge interest equaling 1.5% per month against all or any portion of an unpaid System Development Charge, exclusive of accumulated late fees or interest charges, not paid within 60 days after a building permit is issued by the City and County of Denver. Interest charges shall begin to be applied immediately to all or any portion of an unpaid System Development Charge unpaid as of the date of this Resolution.
3. **Establishment of a Minimum System Development Charge for Commercial Developments.** By Resolution No. 08-15-01(B), the District adopted a Table of Residential Water Tap Equivalent Factors for use in calculating the waster and sewer impacts of various commercial and residential developments. A minimum of 1.0 single-family equivalent unit (EQR) is calculated for commercial developments of any type based on indoor water use. Additional EQRs are calculated for outdoor irrigation associated with any commercial development, and further, the City and County of Denver reliably requires substantial outdoor irrigated landscaping as a condition of approval of such developments. Therefore, the Board hereby amends its System Development Charge Policies and establishes a minimum SDC of 1.5 EQRs for every commercial development, such minimum SDC due upon issuance of the building permit for any particular building within a commercial development. Once approved building and landscaping plans have been received by the District and the actual SDC has been calculated, notice shall be provided to the developer of the calculated SDC, and appropriate adjustments will be made to the fee, penalty, and interest schedule associated with the particular commercial development.
4. **Improvement of Timely Notice to the District of Commercial and Residential Developments Occurring Within the District.** Developers of commercial and residential developments within the District are required to notify the District of the

issuance of each building permit received for such properties and to provide the approved plans for the buildings and outside landscaping associated with such developments to the District so that an appropriate SDC can be calculated. Many developers fail to timely notify the District or provide plans. To improve notification and receipt of plans by the District, the Board hereby directs staff and legal counsel to contact the City and County of Denver planning and building departments to establish the District as a reviewing member of the plan review team for each development proposal or building permit application made to such City departments. If successful, the District will have timely notice of the issuance of building permits, and will be better able to accurately calculate actual District SDC for each.

5. **Enforcement of System Development Charges, Penalties and Interest.**

The officers of the District shall enforce the collection of the System Development Charges and all related penalties and interest by any and all legally available means. In particular, the officers of the District shall record liens against, and foreclose such liens upon, delinquent properties as authorized by Colorado law, pursuant to the procedures set forth in the next paragraph. Such liens shall be perpetual liens, shall have the same priority as tax liens and shall be collectible by certification to the Treasurer for the City and County of Denver (“Treasurer”). Section 32-1-1001(1)(d), C.R.S., Wasson v. Hogenson, 583 P.2d 914 (Colo. 1978); North Washington Water & San. Dist. v. Majestic Sav. & Loan, 594 P.2d 599 (Colo. Ct. App. 1979).

6. **Enforcement Procedures.** The District shall provide written notice to owners of property for which the System Development Charges are at least 30 days delinquent, including any properties 30 or more days delinquent as of the date of this Resolution. Such notice shall indicate the amount of System Development Charges and state the date that related penalties and interest thereon will begin to accrue. Furthermore, the District shall provide separate notice that the District intends to certify any delinquent amount plus accrued penalties for collection by the Treasurer in accordance with North Washington Water & San. Dist. v. Majestic Sav. & Loan, 594 P.2d 599 (Colo. Ct. App. 1979).

7. **Severability.** If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

8. **Effective Date.** This Resolution shall take effect and be enforced immediately upon its approval by the District Board. District staff and legal counsel are directed to make necessary revisions to District policies to effect the changes approved herein.

ADOPTED this 12th day of September, 2007.

GVR Metropolitan District

By /s/
Trenton J. Stone, President

Attest:

/s/
Marlene A. Martin, Secretary