

STONE CREEK METROPOLITAN DISTRICT

141 Union Boulevard, Suite 150
Lakewood, Colorado 80228-1898
Tel: 303-987-0835 • 800-741-3254
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NOTICE OF A REGULAR MEETING AND AGENDA

<u>Board of Directors:</u>	<u>Office:</u>	<u>Term/Expiration:</u>
Patrick L. Lyng	President	2022/May 2022
Peter J. Klymkow	Secretary/Treasurer	2020/May 2020
Eric Kubly	Assistant Secretary	2022/May 2022
Mauricio Barbera	Assistant Secretary	2020/May 2020
Shawnee Williams	Assistant Secretary	2022/May 2020

DATE: November 28, 2018
TIME: 11:00 A.M.
PLACE: Stone Creek Ranch Offices (Barn)
6700 E. Scott Avenue
Parker, Colorado 80134

I. ADMINISTRATIVE MATTERS

A. Present Conflict Disclosures.

B. Approve Agenda, confirm location of the meeting and posting of meeting.

C. Review and consider approval of Minutes from the October 24, 2018 Regular Meeting (enclosure).

D. Consider regular meeting dates for 2019. Review and consider approval of Resolution No. 2018-11-01; Resolution Establishing 2019 Regular Meeting Dates, Times and Location, and Designating Locations for Posting of 72 Hour and 24 Hour Notices (enclosure).

E.

II. LEGAL MATTERS

A. Discuss status of Clubhouse Funding, Construction, and Operations Agreement by and among the District, Choke Cherry Investors, LLC, Cielo Metropolitan District and Forestar (USA) Real Estate Group, Inc.

- B. Discuss preparation of Clubhouse Rules and Regulations related to District facilities.

- C. Consider adoption of Resolution No. 2018-11-02; Amended and Restated Resolution of the Board of Directors of the Stone Creek Metropolitan District Regarding the Imposition of Fees (enclosure).

- D. Status of Special District Disclosure Document - Disclosure to Purchasers.

- E. Acknowledge receipt of confirmation from HEI Civil regarding Pay Application No. 6 under HEI Contract.

- F. Acknowledge receipt of confirmation from HEI Civil regarding Pay Application No. 7 under HEI Contract.

- G. Discuss and consider approval of amendments to Design Review Guidelines for Stone Creek Ranch (if necessary).

- H. Discuss and consider approval of amendments to Declaration of Covenants, Conditions, and Restrictions of Stone Creek Ranch dated March 6, 2018 (if necessary).

- I. Review and consider approval of Fourth Amendment to Operation Funding Agreement by and between the District and Choke Cherry Investors, LLC (enclosure).

III. FINANCIAL MATTERS

- A. Review and consider approval of payment of claims through the period ending November 28, 2018 in the amount of \$ _____ (to be distributed).

- B. Review and consider approval of schedule of cash position for the period ending _____, 2018 (to be distributed).

- C. Review and consider adoption of Resolution No. 2018-11-03; Resolution Authorizing Adjustment of the District Mill Levy in Accordance with Colorado Constitution, Article X, Section 3 (enclosure).
-

IV. EXPENDITURE VERIFICATION/COST CERTIFICATION

- A. Discuss and consider approval of Pay Application No. 8 under the HEI Contract (to be distributed).
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- B. Discuss and consider acceptance of Expenditure Verification Report No. 7 prepared by IDES certifying District Eligible Improvements in the amount of \$_____ (Pay Application No. 8 under the HEI Contract) (to be distributed).
-
- C. Discuss and consider approval of Cost Certification Report No. 5 prepared by IDES (to be distributed).
-

V. CAPITAL IMPROVEMENTS

- A. Review of IDES Board Meeting Project Status report (enclosure).
-

VI. COVENANT ENFORCEMENT/DESIGN REVIEW

- A. Review Community Manager Report.
-

VII. OTHER BUSINESS

- A. Discuss rescheduling or cancelling the December Regular Board meeting.
-

VIII. ADJOURNMENT **THERE ARE NO MORE REGULAR MEETINGS SCHEDULED FOR 2018.**

RECORD OF PROCEEDINGS

**MINUTES OF A REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
STONE CREEK METROPOLITAN DISTRICT (THE “DISTRICT”)
HELD
OCTOBER 24, 2018**

A Regular Meeting of the Board of Directors of the Stone Creek Metropolitan District (referred to hereafter as the “Board”) was convened on Wednesday, the 24th day of October, 2018, at 11:00 a.m., at the Stone Creek Ranch Offices (Barn); 6700 E. Scott Avenue, Parker, CO. The meeting was open to the public.

Directors In Attendance Were:

Patrick L. Lyng
Eric Kubly
Mauricio Barbera

Following discussion, upon motion duly made by Director Lyng, seconded by Director Kubly and, upon vote, unanimously carried, the absences of Peter J. Klymkow and Shawnee Williams were excused.

Also In Attendance Was:

Lisa A. Johnson and Peggy Ripko; Special District Management Services, Inc. (“SDMS”)

Elisabeth Cortese, Esq. (for a portion of the meeting) and Suzanne Meintzer, Esq.; McGeady Becher P.C.

Gigi Pangindian; CliftonLarsonAllen LLP

Tanna Boisvert; Independent District Engineering Services, LLC (“IDES”)

Mike Sanders; Choke Cherry Incestors, LLC

RECORD OF PROCEEDINGS

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

The Board noted that disclosures of potential conflict of interest statements for each of the Directors were filed with the Secretary of State seventy-two hours in advance of the meeting. Attorney Cortese requested that the Directors consider whether they had any additional conflicts of interest to disclose. Attorney Cortese noted for the record that there were no new disclosures made by the Directors present at the meeting and incorporated for the record those applicable disclosures made by the Board Members prior to this meeting and in accordance with the statutes.

ADMINISTRATIVE MATTERS

Agenda: Ms. Johnson distributed for the Board's review and approval a proposed Agenda for the District's Regular meeting.

Following discussion, upon motion duly made by Director Lyng, seconded by Director Kubly and, upon vote unanimously carried, the Agenda for the District's Regular meeting was approved, as amended.

Approval of Meeting Location: The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District's Board meeting.

Following discussion, upon motion duly made by Director Lyng, seconded by Director Kubly and, upon vote unanimously carried, the Board determined that the meeting location was in accordance with statute, as it was conducted at a location within the boundaries of the District. The Board further noted that notice of this location was duly posted and that they have not received any objections to the location or any requests that the meeting place be changed by taxpaying electors within its boundaries.

Minutes: The Board reviewed the Minutes of the September 26, 2018 Regular Meeting.

Following discussion, upon motion duly made by Director Kubly, seconded by Director Lyng and, upon vote unanimously carried, the Board approved the Minutes of the September 26, 2018 Regular Meeting.

LEGAL MATTERS

Clubhouse Funding, Construction, and Operations Agreement by and among the District, Choke Cherry Investors, LLC, Cielo Metropolitan District and Forestar (USA) Real Estate Group, Inc. ("Clubhouse Agreement"): Attorney Meintzer reported to the Board that revisions to the Clubhouse Agreement had been provided to Forestar. Mr. Sanders will follow up with Forestar regarding the status.

RECORD OF PROCEEDINGS

Preparation of Clubhouse Rules and Regulations related to District Facilities:

The Board discussed preparation of Clubhouse Rules and Regulations related to District facilities, including an estimate of SDMS's expenses to prepare. The Board discussed its preference for the homebuilders to be involved in the preparation of the District's Rules and Regulations, including the Design Guidelines and Clubhouse Rules and Regulations. Ms. Johnson suggested that the Board conduct a work session with builder representatives. The Board directed SDMS to schedule a work session regarding District Rules and Regulations within 30 days. No other actions with regard to this matter were taken by the Board at this time.

Amended and Restated Resolution of the Board of Directors of the Stone Creek Ranch Metropolitan District Regarding the Imposition of District Fees ("Amended and Restated Resolution"): Attorney Cortese presented to the Board the Amended and Restated Resolution. Ms. Johnson and Ms. Ripko discussed with the Board the recommended fees. Discussion ensued by the Board.

Following discussion, the Board determined to defer action on the Amended and Restated Resolution pending determination of the estimate of the fee imposed and the 2019 Budget.

Special District Disclosure Document- Disclosure to Purchasers: Attorney Cortese will update the Special District Disclosure Document - Disclosure to Purchasers ("Disclosure to Purchasers"), pending determination of the aforementioned fee and the 2019 Budget.

First Amendment to Offsite Improvements Agreement (Stone Creek Ranch Filing No. 1) by and among the District, KB Home Colorado, Inc., Richmond American Homes of Colorado, Inc., Taylor Morrison of Colorado, Inc., Choke Cherry Investors, LLC, and First American Title Insurance Company: The Board reviewed First Amendment to Offsite Improvements Agreement (Stone Creek Ranch Filing No. 1) by and among the District, KB Home Colorado, Inc., Richmond American Homes of Colorado, Inc., Taylor Morrison of Colorado, Inc., Choke Cherry Investors, LLC, and First American Title Insurance Company ("First Amendment").

Following discussion, upon motion duly made by Director Lyng, seconded by Director Kubly and, upon vote unanimously carried, the Board ratified approval of the First Amendment

Receipt of Confirmation from HEI Civil Regarding Payment of Pay Application No. 6 under the HEI Contract: The Board of Directors deferred discussion until the November Meeting.

RECORD OF PROCEEDINGS

Termination of Management Agreement by and between the District and MSI, LLC: The Board discussed and reviewed the Termination of Management Agreement by and between the District and MSI, LLC.

Following discussion, upon motion duly made by Director Barbera, seconded by Director Lyng and, upon vote unanimously carried, the Board approved the Termination of Management Agreement by and between the District and MSI, LLC.

Amendments to Design Review Guidelines for Stone Creek Ranch: Ms. Ripko provided suggested revisions to Attorney Cortese. Further discussion of this matter was deferred to the work session to be scheduled for matters related to District Rules and Regulations.

Amendments to Declaration of Covenants, Conditions, and Restrictions of Stone Creek Ranch dated March 6, 2018: Ms. Ripko provided suggested revisions to Attorney. Further discussion of this matter was deferred to the work session to be scheduled for matters related to District Rules and Regulations.

Fourth Amendment to Operations Funding Agreement (“OFA”): The Board deferred discussion until the November Meeting.

FINANCIAL MATTERS

Claims: Ms. Pangindian presented the claims for the period ending October 24, 2018 in the amount of \$17,544.58.

Following review and discussion, upon motion duly made by Director Lyng, seconded by Director Kubly and, upon vote, unanimously carried, the Board approved the payment of the claims for the period ending October 24, 2018 in the amount of \$17,544.58.

Cash Position: Ms. Pangindian presented schedule of cash position for the period ending June 30, 2018 updated as of October 24, 2018.

Following discussion, upon motion duly made by Director Lyng seconded by Director Kubly, and upon vote unanimously carried, the Board accepted the schedule of cash position for the period ending June 30, 2018, updated as of October 24, 2018.

2018 Budget Amendment Hearing: The President opened the public hearing to consider the Resolution to Amend the 2018 Budget and discuss related issues.

RECORD OF PROCEEDINGS

It was noted that publication of Notice stating that the Board would consider adoption of a Resolution to Amend the 2018 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to this public hearing. No public comments were received and the public hearing was closed.

Following review and discussion, Director Kubly moved to adopt the Resolution to Amend 2018 Budget, Director Lyng seconded the motion and, upon vote, unanimously carried, the Board adopted Resolution No. 2018-10-01 to Amend the 2018 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

2019 Budget Hearing: The Board opened the public hearing to consider the District's proposed 2019 Budget and discuss related issues.

It was noted that publication of a Notice stating that the Board would consider adoption of the 2019 Budget, and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to the public hearing. There was no public comment. The public hearing was closed.

Ms. Pangindian reviewed the estimated 2018 expenditures and the proposed 2019 expenditures.

Following discussion, upon motion duly made by Director Kubly, seconded by Director Lyng and, upon vote, unanimously carried, the Board adopted Resolution No. 2018-10-02 to Adopt the 2019 Budget and Appropriate Sums of Money. In addition, upon motion, duly made by Director Lyng, seconded by Director Kubly and, upon vote, unanimously carried, the Board adopted Resolution No. 2018-10-03 to Set Mill Levies (for the General Fund at 11.055 mills and the Debt Service Fund at 55.277 mills, for a total mill levy of 66.332 mills) and execution of the Certification of Budget and Certification of Mill Levies was authorized, subject to receipt of final Certification of Assessed Valuation from the County on or before December 10, 2018. Ms. Johnson was authorized to transmit the Certification of Mill Levies to the Board of County Commissioners of Douglas County and the Division of Local Government, not later than December 15, 2018. Ms. Johnson was also authorized to transmit the Certification of Budget to the Division of Local Government not later than January 30, 2019. Copies of the Resolutions are attached hereto and incorporated herein by this reference.

RECORD OF PROCEEDINGS

DLG-70 Mill Levy Certification Form: The Board considered authorizing the District Accountant to prepare and sign the DLG-70 Mill Levy Certification Form for certification to the Board of County Commissioners and other interested parties.

Following discussion, upon motion duly made by Director Lyng, seconded by Director Kubly and, upon vote, unanimously carried, the Board authorized the District Accountant to prepare and sign the DLG-70 Mill Levy Certification Form for certification to the Board of County Commissioners and other interested parties.

EXPENDITURE VERIFICATION/ COST CERTIFICATION

Pay Application No. 7 under the HEI Contract: The Board discussed Pay Application No. 7 under the HEI Contract.

Following discussion, upon motion duly made by Director Lyng, seconded by Director Kubly and, upon vote, unanimously carried, the Board approved Pay Application No. 7 under the HEI Contract.

Expenditure Verification Report No. 6 prepared by IDES (District Eligible Expenditures) in the amount of \$1,715,980.84, (Pay Application No. 7 under the HEI Contract): Following review and discussion, upon motion duly made by Director Kubly, seconded by Director Lyng, and upon vote unanimously carried, the Board accepted the Expenditure Verification Report No. 6 prepared by IDES (District Eligible Expenditures), in the amount of \$1,715,980.94, (Pay Application No. 7 under the HEI Contract).

Cost Certification Report No. 5 prepared by IDES: The Board deferred discussion until November Meeting.

CAPITAL IMPROVEMENTS

Project Status Report: Ms. Boisvert distributed and reviewed with the Board the Project Status Report dated October 24, 2018. A copy of the report is attached hereto and incorporated herein by this reference.

COVENANT ENFORCEMENT/ DESIGN REVIEW

Community Management Services: The Board discussed community management services to include covenant control, fee billing, website creation and maintenance and design review. Ms. Ripko presented to the Board the estimated costs for 2018 to be \$1,140 and 2019 to be \$2,850.

RECORD OF PROCEEDINGS

OTHER BUSINESS

There was no other business at this time.

ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made, seconded and, upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By _____
Secretary for the Meeting

THESE MINUTES ARE APPROVED AS THE OFFICIAL OCTOBER 24, 2018,
REGULAR MEETING MINUTES OF THE STONE CREEK METROPOLITAN
DISTRICT BY THE BOARD OF DIRECTORS SIGNING BELOW:

Patrick L. Lyng

Peter J. Klymkow

Shawnee Williams

Eric Kubly

Mauricio Barbera

RESOLUTION NO. 2018-11-01

**RESOLUTION OF THE BOARD OF DIRECTORS OF
STONE CREEK METROPOLITAN DISTRICT
ESTABLISHING REGULAR MEETING DATES, TIME AND LOCATION, AND
DESIGNATING LOCATIONS FOR POSTING OF 72-HOUR AND 24-HOUR NOTICES**

A. Pursuant to Section 32-1-903, C.R.S., special districts are required to designate a schedule for regular meetings, indicating the dates, time and location of said meetings.

B. Pursuant to Section 24-6-402(2)(c), C.R.S., special districts are required to designate annually at the board of directors of the district's first regular meeting of each calendar year, the place at which notice will be posted at least 24 hours prior to each meeting.

C. Pursuant to Section 32-1-903, C.R.S., special districts are required to post notices of regular and special meetings at three (3) public places within the district and at the office of the County Clerk and Recorder at least 72 hours prior to said meeting.

D. Pursuant to Section 32-1-903, C.R.S., all special and regular meetings of the board shall be held at locations which are within the boundaries of the district or which are within the boundaries of any county in which the district is located, in whole or in part, or in any county so long as the meeting location does not exceed twenty (20) miles from the district boundaries unless such provision is waived.

E. The provisions of Section 32-1-903, C.R.S., may be waived if: (1) the proposed change of location of a meeting of the board appears on the agenda of a regular or special meeting; and (2) a resolution is adopted by the board stating the reason for which a meeting is to be held in a location other than under Section 32-1-903(1), C.R.S., and further stating the date, time and place of such meeting.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the STC Metropolitan District No. 2 of the County of Boulder, Colorado:

1. That the provisions of Section 32-1-903(1), C.R.S., be waived pursuant to the adoption of this Resolution.

2. That the Board of Directors (the "**District Board**") has determined that conducting regular and special meetings pursuant to Section 32-1-903(1), C.R.S., would be inconvenient and costly for the Directors and consultants of the District in that they live and/or work outside the twenty (20) mile radius requirement.

3. That regular meetings of the District Board of the Stone Creek Metropolitan District for the year 2019 shall be held on the fourth Wednesday of every month at 11:00 a.m., at the Stone Creek Ranch Offices (Barn) 6700 E. Scott Avenue, Parker, CO 80134. That special meetings of the District Board shall be held as often as the needs of the District require, upon notice to each Director.

4. That, until circumstances change and a future resolution of the District Board so designates, the location of all special and regular meetings of the District Board shall appear on the agenda(s) of said special and regular meetings.

5. That the residents and taxpaying electors of the District shall be given an opportunity to object to the meeting(s), location(s) and any such objections shall be considered by the District Board in setting future meetings.

6. Notice of Meetings of the District Board required pursuant to Section 24-6-402(2)(c), C.R.S., shall be posted within the boundaries of the District at least 24 hours prior to each meeting at the following location:

- (a) On Scott Ave, just east of Szymanski

7. Notices of regular and special meetings required to be posted at three (3) public places within the District and at the office of the County Clerk and Recorder at least 72 hours prior to said meeting shall be made pursuant to Section 32-1-903, C.R.S., at the following locations:

- (a) At the south west corner of Scott and Szymanski
- (b) On the south end of Szymanski on the east side of the road

8. Patrick Lyng, or his/her designee, is hereby appointed to post the above-referenced notices.

RESOLUTION APPROVED AND ADOPTED on November 28, 2018.

STONE CREEK METROPOLITAN DISTRICT

By: _____
President

Attest:

Secretary

When recorded return to:
McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203

NOTICE TO TITLE COMPANIES: THE FOLLOWING RESOLUTION IMPOSES FEES WHICH, UNTIL PAID, CONSTITUTE A STATUTORY AND PERPETUAL LIEN ON AND AGAINST THE PROPERTY SERVED. CONTACT SDMS, AT (303) 987-0835 TO VERIFY PAYMENT.

RESOLUTION NO. 2018-11-___

**AMENDED & RESTATED RESOLUTION OF THE BOARD OF DIRECTORS OF
THE STONE CREEK METROPOLITAN DISTRICT
REGARDING THE IMPOSITION OF DISTRICT FEES**

A. Stone Creek Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in Douglas County, Colorado (the “**County**”).

B. The District was organized pursuant to its Service Plan approved by the County on September 23, 2014, as it may be amended from time to time (the “**Service Plan**”).

C. The District’s boundaries are described in the legal description attached hereto as **Exhibit A**, which legal description may be amended from time to time, pursuant to the inclusion and/or exclusion of property into or from the District (the “**Property**”).

D. Choke Cherry Investors, LLC, a Colorado limited liability company (the “**Developer**”), anticipates causing the recordation of that certain Declaration of Covenants and Restrictions of Stone Creek Ranch in the real property records of the County, as the same may be amended and/or modified from time to time (the “**Covenants**”) and applicable to the Property.

E. The Covenants provide that the District shall enforce each of the provisions provided therein.

F. The District, pursuant to the Covenants and Service Plan, is authorized and responsible for the ownership, operation, maintenance and construction of facilities to benefit the Property, including but not limited to neighborhood parks, a community center, a fitness center, and swimming pools (the “**District Improvements**”).

G. Pursuant to the Covenants, the District shall also provide for trash removal for any Unit, as defined in the Covenants.

H. The Property will benefit from the District Improvements and the District’s operation and maintenance of the same.

I. The District is authorized pursuant to Section 32-1-1001(1)(j), C.R.S., and its Service Plan to fix and impose fees, rates, tolls, charges and penalties for services, programs, or

facilities provided by the District, which, until paid, shall constitute a perpetual lien on and against all property served.

J. The District is providing a service by operating and maintaining the District Improvements, administering trash collection, and administering the transfer of ownership of any dwelling Unit (hereinafter defined) located within the Property (the “**Services**”).

K. The District has determined that, to meet the costs associated with the District Improvements, the cost of operating and maintaining the District Improvements, and to meet the costs of providing the Services it is necessary to impose an O&M Fee (defined below) on each lot and/or single family residential dwelling unit (“**Residential Unit**”) on the Property.

L. The District has determined that to offset the administrative expenses incurred when property within the District is sold, it is necessary to impose an Administrative Fee (defined below) on each Residential Unit on the Property.

M. The District previously adopted Resolution No. 2017-11-05, Resolution of the Board of Directors of the Stone Creek Metropolitan District Regarding the Imposition of District Fees (“**Original Fee Resolution**”).

N. The District wishes to amend and restate in its entirety the Original Fee Resolution by adoption of this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE STONE CREEK METROPOLITAN DISTRICT, AS FOLLOWS:

1. The Original Fee Resolution is hereby amended and restated in its entirety with this Resolution.

2. The Board of Directors of the District hereby finds, determines and declares that it is in the best interests of the District, its inhabitants and taxpayers to exercise its power by imposing the following fees:

(a) **Operations and Maintenance Fee.**

(i) The Board hereby imposes an Operations and Maintenance Fee (the “**O&M Fee**”) as follows:

(1) Upon sale of a vacant lot to a homebuilder as follows:

a) In the amount of \$_____ per month per vacant lot, payable quarterly;

b) Upon substantial completion of the two neighborhood parks, as verified by the District Engineer, \$_____ per month per lot, payable quarterly; and

- c) Upon substantial completion of the two neighborhood parks, the clubhouse, the fitness center, and the swimming pools, as verified by the District Engineer, \$_____ per month per lot, payable quarterly.
- (2) Upon sale of a lot to an Owner (other than the homebuilder constructing the initial Residential Unit)
- a) Upon substantial completion of the two neighborhood parks, as verified by the District Engineer, \$_____ per month per lot, payable quarterly; and
 - b) Upon substantial completion of the two neighborhood parks, the clubhouse, fitness center, and the swimming pools, as verified by the District Engineer, \$_____ per month per lot, payable quarterly.

(ii) The District reserves the right to amend this Resolution in the future to increase or decrease the amount of the O&M Fee.

(iii) The O&M Fee shall be paid in quarterly amounts as provided above per calendar quarter invoiced on each January 1st, April 1st, July 1st and October 1st and due on each January 25th, April 25th, July 25th and October 25th. An invoice for the O&M Fee payable for each calendar quarter will be mailed to each property owner (“**Owner**”) thirty (30) days prior to the final due date (the “**Bill Date**”), following a five (5) day grace period after the initial due date. If payment in full is not received by the 30th day following the Bill Date (the “**Past Due Date**”), the fee is deemed past due and otherwise outstanding. A “Reminder Notice” may be, but is not required to be, sent at such time. Notwithstanding the above, the Owner shall have the right to pay the O&M Fee for said calendar year in one (1) installment on or before January 15th, in which event, the Owner shall be entitled to a five percent (5%) discount.

(iv) Failure to make payment of any O&M Fees due hereunder shall constitute a default in the payment of such O&M Fee. Upon default, Owner shall be responsible for a late payment (“**Late Payment Fee**”) in the amount of \$15.00 per late payment.

(v) If the Owner does not make payment of all past due amounts, which in the District’s sole discretion may include simple interest as permitted by Section 29-1-1102(7), C.R.S. (the “**Delinquent Balance**”), within sixty (60) days from the Past Due Date, the District may deliver to the Owner a Notice of Intent to File a Lien Statement (a “**Lien Notice**”). The Lien Notice shall give notice to the Owner that the District intends to perfect its lien against the Property by recording a Lien Statement in the office of the Douglas County Clerk and Recorder if the Delinquent Balance is not paid in full within thirty (30) days after said Lien Notice is served upon Owner by certified mail, return receipt requested, pursuant to Section 38-22-109(3), C.R.S.

(b) Administrative Fee.

(i) The Board hereby determines that in order to offset administrative costs associated with a transfer of ownership of any dwelling unit located within the Property, the District shall impose an Administrative Fee (the “**Administrative Fee**” and, collectively with the O&M Fee, the “**Fees**”) to be paid by each Owner (other than the builder constructing the initial Residential Unit) upon the conveyance or refinance of such Residential Unit, beginning when the builders sells the Residential Unit to the initial Owner as follows:

(ii) The Administrative Fee shall not exceed One Hundred Dollars (\$100.00) *per conveyance* per Unit;

(iii) The Administrative Fee shall be due and payable at the time of any sale, transfer or re-sale of any Unit constructed on a lot which has a certificate of occupancy.

(iv) The District reserves the right to amend this Resolution in the future to increase or decrease the amount of the Administrative Fee.

3. The Fees shall not be imposed on real property actually conveyed or dedicated to non-profit owners’ associations, governmental entities or utility providers.

4. The Fees shall constitute a statutory and perpetual charge and lien upon the Property pursuant to Section 32-1-1001(1)(j), C.R.S., from the date the same becomes due and payable until paid. 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 and such lien may be foreclosed by the District in the same manner as provided by the laws of Colorado for the foreclosure of mechanics’ liens. This Resolution shall be recorded in the real property records of the Clerk and Recorder of Douglas County, Colorado.

5. 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 Owner shall pay all costs, including attorneys’ fees, incurred by the District in connection with the foregoing. In foreclosing such lien, the District will enforce the lien only to the extent necessary to collect the Delinquent Balance and costs of collection (including, but not limited to, reasonable attorneys’ fees).

6. Judicial invalidation of any of the provisions of the 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 the Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

7. Any inquiries pertaining to the Fees may be directed to Lisa A. Johnson, District Manager, Special District Management Services, Inc., 141 Union Blvd., Ste. 150, Lakewood, CO 80228, (303) 987-0835, ljohnson@sdmsi.com.

8. This Resolution shall take effect immediately upon its adoption and approval.

[SIGNATURE PAGE FOLLOWS]

[SIGNATURE PAGE TO RESOLUTION NO. 2018-11-___

APPROVED AND ADOPTED on November 28, 2018.

**STONE CREEK METROPOLITAN
DISTRICT**, a quasi-municipal corporation and
political subdivision of the State of Colorado

By: _____
President

Attest:

Secretary or Assistant Secretary

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

FOURTH AMENDMENT TO OPERATION FUNDING AGREEMENT

This **FOURTH AMENDMENT TO OPERATION FUNDING AGREEMENT** (“**Fourth Amendment**”) is made and entered into this 28th day of November, 2018, by and between **STONE CREEK METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **CHOKE CHERRY INVESTORS, LLC**, a Colorado limited liability company (the “**Developer**”) (each a “**Party**” and collectively the “**Parties**”).

RECITALS

A. The Parties previously entered into that certain 2014 - 2015 Operation Funding Agreement dated February 3, 2015, with an effective date of December 15, 2014 (the “**Original OFA**”), as amended by that certain First Amendment to 2014 – 2015 Operation Funding Agreement dated November 13, 2015, with an effective date of January 1, 2016 (the “**First Amendment**”), by that certain Second Amendment to Operation Funding Agreement dated November 30, 2016 (the “**Second Amendment**”), and by that certain Third Amendment to Operation Funding Agreement dated November 30, 2017 (the “**Third Amendment**”, and together with the Original OFA, the First Amendment and the Second Amendment, the “**Agreement**”).

B. The Parties desire to amend the Agreement to (i) extend the term, (ii) increase the Shortfall Amount; and (iii) clarify the priority of payments under the Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. Defined Terms. All terms not expressly defined herein shall have the same meaning as set forth in the Agreement.

2. Amendment to Section 1. Section 1 of the Agreement is hereby deleted in its entirety, and substituted in lieu thereof shall be the following:

1. Acknowledgement of Anticipated Shortfalls. The District anticipates a shortfall in revenues available for operations and maintenance expenses to be incurred for fiscal years 2014 through 2019 in an aggregate amount of **Six Hundred Fifteen Thousand Dollars (\$615,000)** (the “**Shortfall Amount**”).

3. Amendment to Section 2. Section 2 of the Agreement is hereby deleted in its entirety, and substituted in lieu thereof shall be the following:

2. Payment of Shortfall. The Developer shall advance funds necessary to fund, or directly pay, the District’s operations and maintenance expenses on a periodic basis as needed for the fiscal years 2015 - 2019 up to the Shortfall Amount. The District shall, from time to time, provide written notice to the Developer that an advance of all or part of the Shortfall Amount is required. The

Developer shall make an advance of funds to the District within fifteen (15) days of receipt from the District of any such written notice that an advance of funds is required (“**Developer Advance**”).

4. Amendment to Section 6. Section 6 of the Agreement is hereby deleted in its entirety, and substituted in lieu thereof shall be the following:

6. Subject to the provisions of Section 5 above, payments to reimburse the Developer shall be made on December 2 of each year and shall be applied as follows: (a) first to the accrued and unpaid interest and then to the principal amount due pursuant to this Agreement.

5. Amendment to Section 8. Section 8 of the Agreement is hereby deleted in its entirety, and substituted in lieu thereof shall be the following:

8. Term/Repose. The term of this Fourth Amendment shall commence on the date hereof and shall expire on December 31, 2019, unless terminated earlier by the mutual agreement of the Parties. Any obligation of Developer to advance funds will expire upon advance to the District of amounts sufficient to pay expenses incurred in 2014 **through 2019**, not to exceed the Shortfall Amount. Any obligation of the District to reimburse Developer shall expire on December 31, 2049. In the event the District has not reimbursed the Developer for any Developer Advance(s) made pursuant to this Fourth Amendment on or before December 31, 2049, any amount of principal and accrued interest outstanding on such date shall be deemed to be forever discharged and satisfied in full.

6. Term. All references in the Agreement to the phrase “fiscal years 2014 – 2018” shall be deleted in their entirety and substituted in lieu thereof shall be the phrase: “fiscal years 2014 – 2019”.

7. Effect of Amendment. Except as expressly set forth in this Fourth Amendment, all provisions of the Agreement remain unchanged and in full force and effect, valid and binding on the Parties thereto.

8. Conflict. In the event of any express conflict or inconsistency between the terms of the Agreement and this Fourth Amendment, this Fourth Amendment shall control and govern.

9. Counterparts. This Fourth Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Fourth Amendment to Operation Funding Agreement as of the day and year first set forth above.

STONE CREEK METROPOLITAN DISTRICT,
a quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____
President

Attest:

Secretary

CHOKO CHERRY INVESTORS, LLC, a
Colorado limited liability company

By: _____
Title _____

RESOLUTION NO. 2018-11-03

**RESOLUTION OF THE BOARD OF DIRECTORS OF STONE CREEK
METROPOLITAN DISTRICT AUTHORIZING ADJUSTMENT OF THE DISTRICT
MILL LEVY IN ACCORDANCE WITH THE COLORADO CONSTITUTION,
ARTICLE X, SECTION 3**

A. Stone Creek Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado pursuant to Title 32, Colorado Revised Statutes.

B. The District operates pursuant to its Service Plan approved by the Douglas County Board of County Commissioners on September 23, 2014 (the “**Service Plan**”), which provides the District with the authority to impose mill levies on taxable property. Such mill levies will be the primary source of revenue for repayment of debt service, public improvements, and operations and maintenance costs of the District.

C. The Service Plan authorizes a Maximum Total Mill Levy of sixty (60) mills (“**Maximum Total Mill Levy**”) to support debt service and operations and maintenance of the District. The Service Plan authorizes a Maximum Debt Service Mill Levy of fifty (50) mills to support the District’s debt service, subject to the Maximum Total Mill Levy.

D. The Service Plan and Article X, Section 3 of the Colorado Constitution, (the “**Gallagher Amendment**”) authorizes adjustment of the Maximum Total Mill Levy and the Maximum Debt Service Mill Levy in the event that the method of calculating assessed valuation is changed after September 23, 2014, by any change in law, change in method of calculation, or in the event of any legislation or constitutionally mandated tax credit, cut, or abatement. The Maximum Total Mill Levy and the Maximum Debt Service Mill Levy may be increased or decreased to reflect such changes. Such increases or decreases shall be determined by the Board in good faith (such determination to be binding and final) so that, to the extent possible, the actual tax revenues generated by the mill levy, as adjusted, are neither diminished nor enhanced as a result of such changes.

E. The Service Plan and Gallagher Amendment provide that, for purposes of the foregoing, a change in the ratio of actual valuation to assessed valuation shall be deemed to be a change in the method of calculating assessed valuation.

F. The Colorado General Assembly passed House Bill 17-1349, signed by the Governor of Colorado on June 15, 2017, which amends Section 39-1-104.2, C.R.S., setting the ratio of valuation for assessment for real residential property at 7.2% (decreased from 7.96%) for property tax years commencing on and after January 1, 2017, until the next property tax year that the General Assembly determines to adjust the ratio of valuation for assessment for residential real property.

G. The Board of Directors of the District (the “**Board**”), authorized by the Service Plan and the Gallagher Amendment, determines it to be in the best interest of the District, its residents, users, property owners, and the public to adjust the Maximum Total Mill Levy and the Maximum Debt Service Mill Levy to mitigate the effect of the statutory change in the ratio of

valuation for assessment from 7.96% to 7.2%, so that actual tax revenues are neither diminished nor enhanced as a result of the change in the ratio of valuation for assessment for residential real property.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Stone Creek Metropolitan District, Douglas County, Colorado:

1. The Board of the District hereby authorizes the adjustment of the Maximum Total Mill Levy and the Maximum Debt Service Mill Levy to reflect the statutory change in the ratio of valuation for assessment for residential real property to 7.2% (from 7.96%).

2. The Gallagher Amendment allows for a total mill levy imposition of 66.332 mills, which consists of 55.277 mills for the Maximum Debt Service Mill Levy and 11.055 mills for the Operations and Maintenance mill levy (collectively, the “**Gallagherized Mill Levy**”), so that District revenues shall be neither diminished nor enhanced as a result of the change in the ratio of valuation for assessment to 7.2% pursuant to the authority granted by the Service Plan and the Gallagher Amendment.

3. The Gallagherized Mill Levy shall be reflected in the District’s Certification of Tax Levies to be submitted to Douglas County on or before December 15, 2018, for collection in 2019.

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO RESOLUTION AUTHORIZING ADJUSTMENT OF THE
DISTRICT MILL LEVY IN ACCORDANCE WITH THE COLORADO
CONSTITUTION, ARTICLE X, SECTION 3]**

RESOLUTION APPROVED AND ADOPTED ON November 13, 2018.

**STONE CREEK METROPOLITAN
DISTRICT**

President

Attest:

Secretary

STONE CREEK METROPOLITAN DISTRICT
Board Meeting Project Status
November 28, 2018



Construction Status

Hudick Excavating, Inc. (HEI) & Bridge Contractor

- Continuing storm sewer at west end of Scott Road.
- Bridge work nearing completion in Scott Road.
- Grading Scott Road to east and west ends of Bridge.
- Low water crossing structure construction progressing.
- Continuing water, sanitary sewer and storm sewer in Village A., Village C and Village D.
- Concrete curb and gutter progressing in Interlocken Road.
- Pavement report received from County. Lime operations to beginning to mobilize.
- Schedule changes provided to owners.
- Over excavation and grading progressing in Village B.

Reports

Expenditure Verification – HEI Pay Applications

- Expenditure Verification Report #7 – Pay Application 8 - Consider approval.

Cost Certification – Choke Cherry Investors Expenditures

- Cost Certification Report #5 – Will be completed once invoices are provided.

Other Matters

Storm Water Management Documentation

- SWAP continuing with management of Stormwater Management Documents
- Maintained on site in compliance with CDPHE
- Appropriate Routine and Post Storm observations and reports have been completed to date

Contract Administration

- RFI, Submittals, Change Order Requests, Pay Applications, etc. continue to be administered by the Developer with oversight by the District Engineer Representative relative to District Eligible Expenditures.
- Construction meetings including Developers, Builders and General Contractor occur every Wednesday of the week at 10:00am at the Stone Creek Site barn.

