

**RESOLUTION  
OF THE  
BOARD OF DIRECTORS  
OF THE  
EAST RIVER REGIONAL SANITATION DISTRICT**

**CONCERNING THE IMPOSITION OF VARIOUS FEES, RATES, PENALTIES AND  
CHARGES FOR SANITARY SEWER SERVICES AND FACILITIES**

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WHEREAS, the East River Regional Sanitation 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 Gunnison 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 sanitary sewer 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 sanitary sewer services to property and inhabitants within and without the boundaries of the District (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 such fees, rates, tolls, penalties and charges are 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 acquisition, construction, installation, 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 and without the District maintained, and that the health, safety and welfare of the District, its users and its inhabitants may be safeguarded (collectively, the “**Service Costs**”); and

WHEREAS, the establishment and continuation of fair and equitable fees and charges (collectively, the “**Fees and Charges**”) to provide a source of funding to pay for the Facility Costs and the Service Costs, (collectively, the “**Costs**”), which Costs are generally attributable to the persons and/or properties subject to such Fees and Charges, 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, pursuant to § 32-1-1006(1)(g), C.R.S., the District is empowered to fix and from time to time increase or decrease tap fees; and

WHEREAS, the establishment of a fair and equitable fee (the “**Capital Facilities Fee**” or “**Tap Fee**”) to provide a source of funding to pay for the initial capital direct and indirect costs associated with the construction, installation and acquisition of the Facilities (the “**Capital Facilities Costs**”), which Capital Facilities Costs are generally attributable to each Lot (defined below), is necessary to provide for the common good and for the prosperity and general welfare of the District, its users and its inhabitants; and

WHEREAS, the District finds that the Fees and Charges and Capital Facilities Fee (as defined below), as set forth in this Resolution, are reasonably related to the overall cost of providing the Facilities and Services and paying the Costs and Capital Facilities 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:

“**Apartment Unit**” means a unit within an apartment building which unit is held for lease or rent for residential occupancy and for which a final certificate of occupancy has been issued.

“**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 well as properties outside of the District’s legal boundaries which receive service from the District, all 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 Fees and Charges and Capital Facilities Fee are 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. End User specifically excludes a tenant occupying an Apartment Unit.

“**Fee Schedule**” or “**Schedule of Fees and Charges**” 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.

“**Property Owner**” shall include all owners of real property, customers, users, residents, leaseholders and other recipients of District services.

“**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 or Apartment Units are situated and specifically excluding any parcel owned by the District.

## 2. THE FEES AND CHARGES.

a. Service Fees and Charges. The Board has determined, and does hereby determine, that it is in the best interests of the District and its respective residents, users and property owners to impose, and does hereby impose the Fees and Charges set forth in the Schedule of Fees and Charges to fund the Costs. The Fees and Charges are 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.

b. Transfer Payment. The Fees shall include a separate payment imposed on transfers of a Residential Unit (the “**Transfer Payment**”). The Transfer Payment shall be imposed on all Transfers of a Residential 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 Fees and Charges:

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 Fees and Charges are 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 Fees and Charges will be accounted for separately from other revenues of the District, specifically *ad valorem* property tax revenues, if applicable. The revenue from Fees and Charges will be used solely for the purpose of paying Costs, and, if *ad valorem* property tax revenues are available, may not be used by the District to pay for general administrative costs of the District. This restriction on the use of the Fees and Charges revenue shall be absolute and without qualification.

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

3. CAPITAL FACILITIES FEE/SEWER TAP FEE. A one-time Capital Facilities Fee Sewer Tap Fee is hereby established and imposed upon each Residential Unit and each Commercial Unit within the District Boundaries in the amounts set forth in the Schedule of Fees and Charges.

4. LATE FEES AND INTEREST. Pursuant to § 29-1-1102(3), C.R.S., any Fees and Charges and Capital Facilities Fee not paid in full within fifteen (15) days after the scheduled due date will be assessed a late fee in the amount of one percent (1%) 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 Fees and Charges and Capital Facilities Fee, 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.

5. 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 "East River Regional Sanitation 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.

6. 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 Gunnison County, Colorado.

7. CERTIFICATION OF ACCOUNT TO COUNTY TREASURER. Pursuant to §32-1-1101(1)(e), C.R.S., the Board may elect to certify any delinquent account and late fees satisfying the criteria established therein to the Gunnison County Treasurer for collection with the District's *ad valorem* property taxes. The certification process may be in addition to or in lieu of any procedures set forth in this Resolution in the Board's sole discretion. The fees for the certification process shall be in accordance with Colorado law and Gunnison County policy.

8. SHUT OFF OR DISCONTINUATION OF SERVICE. Pursuant to § 32-1-1006(1)(d), C.R.S., the Board may elect to shut off or discontinue sewer service for delinquencies. The shut off or discontinuation of service may be in addition to or in lieu of any procedures set forth in this Resolution in the Board's sole discretion. The fees associated with the shut off or discontinuation of service as set forth in the Schedule of Fees and Charges.

9. 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.

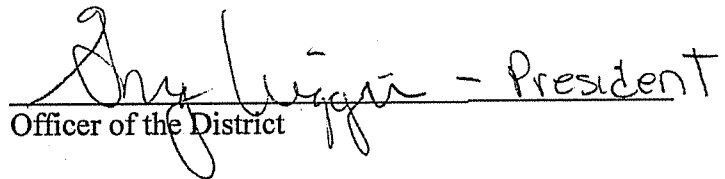
10. THE PROPERTY. This Resolution shall apply to all property within the District's boundaries, including, but not limited to, the property set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, and any additional property included into the District after the date of this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

11. EFFECTIVE DATE. This Resolution shall become effective as of January 1, 2016.

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

ADOPTED this 20 day of January, 2016.

EAST RIVER REGIONAL SANITATION  
DISTRICT, a quasi-municipal corporation and  
political subdivision of the State of Colorado

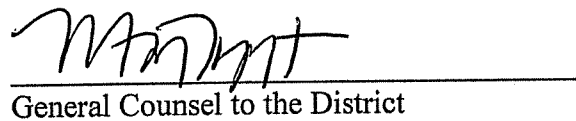
 - President  
\_\_\_\_\_  
Officer of the District

ATTEST:

  
\_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys At Law

  
\_\_\_\_\_

General Counsel to the District

*Signature page to Resolution Concerning the Imposition of Various Fees and Charges for  
Sanitary Sewer Services and Facilities*

## EXHIBIT A

### EAST RIVER REGIONAL SANITATION DISTRICT

#### Schedule of Fees and Charges Effective January 1, 2016

##### USER FEES (per EQR)

EQR	Fee
0.5	\$56.13/quarter
0.7	\$78.58/quarter
1.0	\$112.25/quarter
1.1	\$123.48/quarter
1.2	\$134.70/quarter
1.3	\$145.93/quarter
1.4	\$157.15/quarter
1.5	\$168.38/quarter
1.6	\$179.60/quarter
1.7	\$190.83/quarter
1.8	\$202.05/quarter
1.9	\$213.28/quarter
2.0	\$224.50/quarter

##### TAP FEES (per EQR\*)

EQR	Fee
1.0	\$8,516.00**
	**add \$452.80 for every additional 0.05 EQR

\*EQR Calculations:

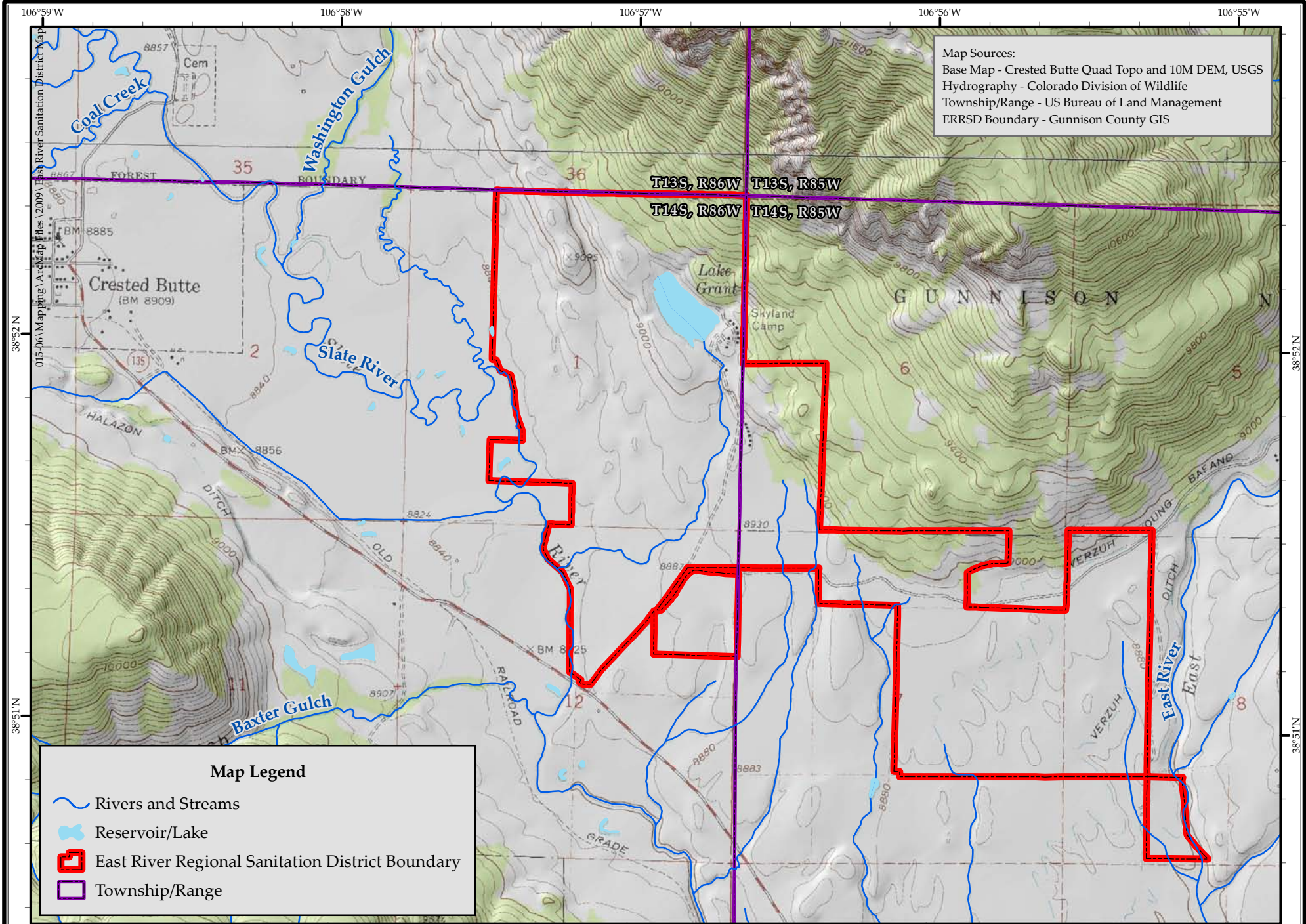
1.0 EQR Base - Single Family/Duplex	3 bathrooms, 1 kitchen
0.7 EQR Baseline - Multi Family	1 bathroom, 1 kitchen
0.5 EQR Baseline - Multi Family	1 bathroom
0.1 EQR per	Each additional tub or shower
0.05 EQR per	Each additional toilet, sink, hot tub or spa
0.4 EQR per	Each additional kitchen



**EXHIBIT B**

**EAST RIVER REGIONAL SANITATION DISTRICT**

**District Boundaries**



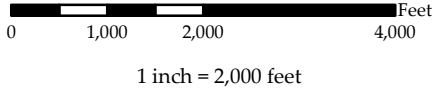
Map Sources:  
 Base Map - Crested Butte Quad Topo and 10M DEM, USGS  
 Hydrography - Colorado Division of Wildlife  
 Township/Range - US Bureau of Land Management  
 ERRSD Boundary - Gunnison County GIS

**Map Legend**

- Rivers and Streams
- Reservoir/Lake
- East River Regional Sanitation District Boundary
- Township/Range



555 RiverGate Lane, Suite B4-82  
 Durango, CO 81301  
 (970) 385-2340ph 385-2341fx  
 www.BikisWater.com



Designed by: MJK  
 Detail by: EAB  
 Date: 12/16/09  
 Scale: 1:24,000

**East River Regional Sanitation District  
 Location Map**