

After Recording, Return to:
White Bear Ankele Tanaka & Waldron
2154 East Commons Avenue, Suite 2000
Centennial, Colorado 80122

**SECOND AMENDED AND RESTATED
RESOLUTION
OF THE BOARD OF DIRECTORS OF
WHEATLANDS METROPOLITAN DISTRICT**

CONCERNING THE IMPOSITION OF A PARK AND RECREATION FEE

WHEREAS, Wheatlands Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and existing pursuant to §§ 32-1-101, *et seq.*, C.R.S., as amended (the “**Special District Act**”); 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, consistent with the purposes of the District’s organization and the Amended and Restated Consolidated Service Plan for the District, dated August 6, 2004, the Board has previously determined it to be in the best interests of the District, and the property owners, taxpayers, and residents of the District, to acquire, construct, install, operate and maintain certain park and recreation amenities benefiting the property within the District, which amenities generally include a clubhouse and pool and related improvements, trails, parks and open space, and other recreational improvements, facilities, appurtenances, and rights-of-way (collectively, the “**Current Park and Rec. Facilities**”); and

WHEREAS, the Board has determined that it is in the best interest of the District, its property owners, taxpayers and residents to finance, acquire, construct, install operate and maintain additional park and recreational facilities and amenities benefiting the property within the District, as shall from time to time be financed, acquired, constructed, installed, operated and maintained by the District (the “**Additional Park and Rec. Facilities**”) (collectively, with the Current Park and Rec. Facilities, the “**Park and Rec. Facilities**”); and

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

WHEREAS, pursuant to § 32-1-1001(1)(j), C.R.S., the District may pledge such revenue for the payment of indebtedness of the District; and

WHEREAS, pursuant to § 32-1-1001(1)(f), C.R.S., the District is authorized to acquire, dispose of, and encumber real and personal property; and

WHEREAS, the District incurs certain direct and indirect costs associated with the acquisition, construction, installation, upkeep, repair, operation, maintenance, improvement, replacement and reconstruction of the Park and Rec. Facilities, as necessary, inclusive of the costs of utilities and capital replacement costs (collectively, the “**Park and Rec. Costs**”), in order that the Park and Rec. Facilities may be properly provided, operated and maintained and that the health, safety, and welfare of the District and its inhabitants may be safeguarded; and

WHEREAS, the establishment and continuation of a fair and equitable fee to provide a source of funding to pay for Park and Rec. Costs (the “**Park and Rec. Fee**”), which costs are generally attributable to the persons and 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, the District finds that the Park and Rec. Fee as set forth in this Resolution is reasonably related to the overall cost of providing the Park and Rec. Facilities and paying Park and Rec. Costs, and that imposition thereof is necessary and appropriate; and

WHEREAS, on April 14, 2016, the Board adopted an Amended and Restated Resolution Concerning the Imposition of a Park and Recreation Fee, which was recorded in the real property records of the Arapahoe County Clerk and Recorder’s Office on April 18, 2016, at Reception No. D6038912 (the “**Prior Fee Resolution**”), and the Board desires to adopt this Resolution to amend, restate, and supersede the Prior Fee Resolution in its entirety. Any fees, rates, tolls, penalties, or charges due under the Prior Fee Resolution, to the extent outstanding and unpaid, shall remain in effect until fully paid and shall not be eliminated hereby.

NOW, THEREFORE, be it resolved by the Board of Directors of the District 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:

(a) “**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.

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

(c) “**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.

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

(e) “*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 boundaries of the District which has been Transferred to an End User.

(f) “*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 an End User.

2. Park and Recreation Fee. The Board has determined, and does hereby determine, that it is in the best interests of the District and the residents, taxpayers and property owners within the District, to impose a recurring Park and Rec. Fee to fund the Park and Rec. Costs. The Park and Rec. Fee is hereby established and imposed at a rate established 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 the Transfer of a Residential Unit to an End User (the “**Transfer Payment**”), which together shall comprise the Operations Fee.

(a) The Transfer Payment shall be imposed on all Transfers of a Residential Unit to 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 Park and Rec. 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.

(b) The Board has determined, and does hereby determine, that the Park and Rec. Fee is reasonably related to the overall cost of paying the Park and Rec. Costs, and is imposed on those who are reasonably likely to benefit from or use the Park and Rec. Facilities.

(c) The revenues generated by the Park and Rec. Fee will be accounted for separately from other revenues of the District. The Park and Rec. Fee revenue will be used solely for the purpose of paying Park and Rec. Costs, and may not be used by the District to pay for general administrative costs of the District.

3. Late Fees and Penalty Interest. Pursuant to § 29-1-1102(3), C.R.S, any Park and Rec. Fee not paid in full within fifteen (15) days after the scheduled Due Date will be assessed a late fee 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, pursuant to § 29-1-1102(3), C.R.S. Interest will also accrue on any outstanding Park and Rec. Fees, exclusive of assessed late fees, penalties, interest, and any other costs of collection, including attorney's 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 its consultants in connection with the foregoing.

4. Payment. Payment for all Park and Rec. Fees, fees, rates, tolls, penalties, charges, interest and attorneys' fees shall be made by check or equivalent form acceptable to the District, made payable to "Wheatlands Metropolitan District" and sent to the following address, on or before the due date: Wheatlands Metropolitan District, c/o AmCoBi PO Box 912599, Denver, CO 80291-2599 or online via www.AmCoBi.com. The District may change the payment address from time and time and such a change shall not require an amendment to this Resolution.

5. Fees Constitute Lien. The Operations Fees imposed by this Resolution, 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., such lien being a charge imposed for the provision of services and facilities to the property. Said lien may be foreclosed at such times 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 Arapahoe County, Colorado.

6. Collection Procedures. The District will process all delinquent accounts in accordance with any applicable collections resolution or other rules and regulations of the District as may be adopted and amended from time to time.

7. Use of Park and Rec. Fee. The revenues generated by the Park and Rec. Fee will be deposited into and accounted for in a special revenue fund of the District. The Park and Rec. Fee revenue will be used solely for the purpose of paying Park and Rec. Costs, and may not be transferred into the District's general fund. This restriction on the use of Park and Rec. Fee revenue shall be absolute and without qualification.

8. 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.

9. The Property. This Resolution shall apply to all property within the District's boundary, 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.

10. Effective Date. This Resolution shall become effective January 1, 2024.

[Remainder of Page Intentionally Left Blank. Signature Page Follows]

APPROVED and ADOPTED this 9th day of November 2023.

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

Paulette Martin

Officer of the District

ATTEST:

Brooke Holliman

Brooke Holliman (Feb 7, 2024 11:13 MST)

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON
Attorneys At Law

CAW

General Counsel to the District

Signature page to Second Amended and Restated Resolution Concerning the Imposition of a Park and Recreation Fee

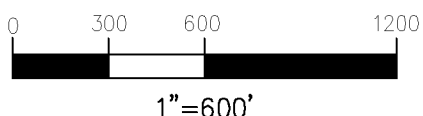
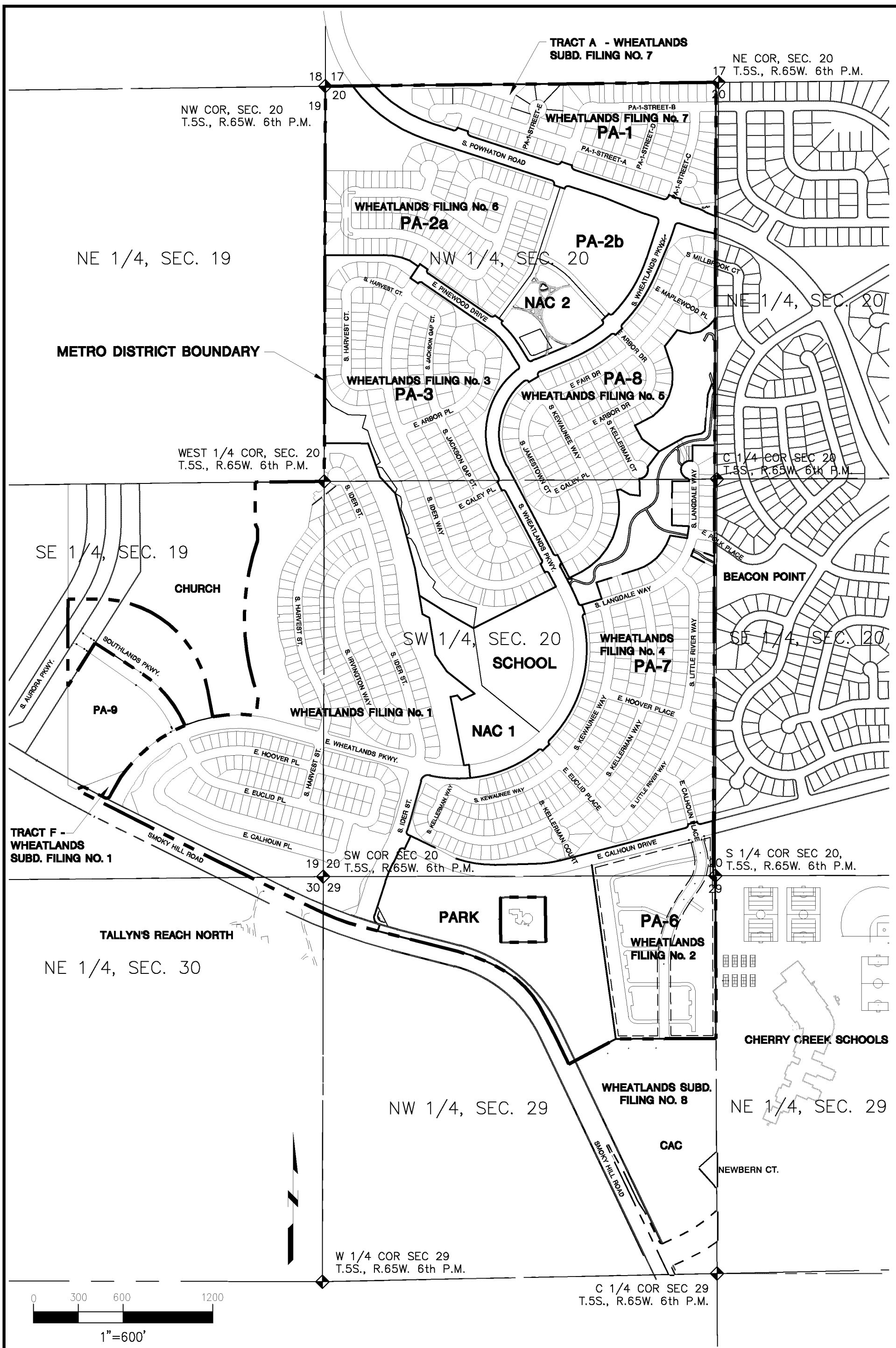
EXHIBIT A**Fee Schedule****Effective January 1, 2024****Park and Recreation Fee:**

- (a) *Apartment Unit.* Upon each Apartment Unit at a rate of \$21.50 per month.
- (b) *Residential Unit.* Upon each Residential Unit at a rate of \$48.00 per month
- (c) *Transfer Payment.* \$50 per Transfer


The Due Date for each recurring Park and Rec. Fee is the 1st day of each month.

The Due Date for each Transfer Payment is the date upon which the Transfer occurs.

EXHIBIT B



[G:\Projects\2495.E0-Wheatlands Metro Dist Mapping\Documents\Cad\Exhibits\2495-METRO-DISTRICT-MAP-090211.dwg] [Dec 23, 2016 - 7:45am]

1	WHEATLANDS METRO DISTRICT, LGID #65033	 CIVIL ENGINEERS CONSTRUCTION MANAGERS 603 PARK POINT DRIVE, SUITE 100 GOLDEN, CO 80401 PHONE: (303) 674-7355 FAX: (303) 674-3263	<table border="1"> <thead> <tr> <th>DATE</th> <th>NO.</th> <th>REVISIONS</th> <th>BY</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>		DATE	NO.	REVISIONS	BY												
	DATE		NO.	REVISIONS	BY															
METRO DISTRICT MAP	DATE 12/23/16 DRAWN BY SM JOB NO. 2495.E0 CHECKED BY SM DO NOT SCALE, USE DIMENSION ONLY																			
AURORA, COLORADO																				