

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE CHIMNEY ROCK METROPOLITAN DISTRICT JUNE 9, 2021

A Special Meeting of the Board of Directors of the Chimney Rock Metropolitan District was duly held on Wednesday, the 9th day of June, 2021, at 1:00 P.M. Due to concerns regarding the spread of the coronavirus (COVID-19) and the benefits to the control of the spread of the virus by limiting in-person contact, this District Board Meeting was held by conference call without any individuals (neither district representatives nor the general public) attending in person. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Telfer “Woody” Norman
Kenneth “Delmar” Rumph
Charles “Charlie” H. Haase
John “Marc” Rinehart
Charles “Chuck” Hansen

Also In Attendance Were:

David Solin; Special District Management Services, Inc.

Jeffrey E. Erb, Esq. and Michele “Mitch” Barrasso; Seter & Vander Wall, P.C.

Kimberly Johannis; Simmons & Wheeler, P.C.

Darcy Beard, CPA; Accountant for the District

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Disclosures of Potential Conflicts of Interest: Attorney Erb noted that disclosure of potential conflict of interest statements for Director Haase and Director Rumph were filed with the Secretary of State at least 72 hours in advance of the meeting. It was disclosed that Director Haase is also the President of and a Director on the Willowbrook Water & Sanitation District Board and Director Rumph is Treasurer of and a Director on the Board of Directors of the Willow Springs North Master Homeowners’ Association. Mr. Solin noted for the record that there were no further 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 statutes.

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ADMINISTRATIVE MATTERS

Agenda: The meeting was called to order at 1:03 p.m. Mr. Solin distributed for the Board's review and approval, a proposed Agenda for the District's Special Meeting.

Following discussion, upon motion duly made by Director Rumph, seconded by Director Hansen and, upon vote, unanimously carried, the Agenda 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 Rumph, seconded by Director Hansen and, upon vote, unanimously carried, the Board determined that due to concerns regarding the spread of the Coronavirus (Covid-19) and the benefits to the control of the spread of the virus by limiting in-person contact, this District Board Meeting would be held by teleconference and neither District Representatives nor the general public would attend in person. The Board further noted that notice of the time, date and 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 October 19, 2020 Special Meeting.

Following discussion, upon motion duly made by Director Norman, seconded by Director Hansen and, upon vote, unanimously carried, the Minutes of the October 19, 2020 Special Meeting were approved, as presented.

2021 SDA Conference: Mr. Solin discussed the SDA Conference with the Board, and noted the information concerning the details of the conference will be emailed to them once the information is available.

Annual Administrative Matters:

Director Qualification Affidavits: Attorney Erb discussed with the Board the Director Qualification Affidavits.

Disclosure Matters / Update General Conflict Forms: Attorney Erb discussed with the Board the Disclosure Matters / Update General Conflict Forms.

2021 Annual Administrative Resolution: Attorney Erb discussed with the Board the 2021 Annual Administrative Resolution.

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2021 Annual Administrative Resolution: The Board reviewed the 2021 Annual Administrative Resolution.

Following discussion, upon motion duly made by Director Rinehart, seconded by Director Haase and, upon vote, unanimously carried, the Board adopted the 2021 Annual Administrative Resolution, as amended.

Resolution Regarding Disposal of Personal Identifying Information Data Destruction Policy: The Board reviewed a Resolution Regarding the Disposal of Personal Identifying Information.

Following discussion, upon motion duly made by Director Rumph, seconded by Director Hansen and, upon vote, unanimously carried, the Board adopted the Resolution Regarding PII Data Destruction Policy.

Resolution Providing for the Defense and Indemnification of Directors and Employees of the District: The Board reviewed a Resolution Providing for the Defense and Indemnification of Directors and Employees of the District.

Following discussion, upon motion duly made by Director Hansen, seconded by Director Norman and, upon vote, unanimously carried, the Board adopted the Resolution Providing for the Defense and Indemnification of Directors and Employees of the District.

FINANCIAL MATTERS

Claims: The Board reviewed and considered ratifying approval of the payment of claims for the period ending as follows:

Fund	Period Ending Nov. 6, 2020	Period Ending Dec. 10, 2020	Period Ending Jan. 14, 2021	Period Ending Feb. 9, 2021
General	\$ 4,648.96	\$ 3,289.31	\$ 696.80	\$ 1,818.27
Debt Service	\$ -0-	\$ 400.00	\$ -0-	\$ -0-
Total Claims	\$ 4,648.96	\$ 3,689.31	\$ 696.80	\$ 1,818.27

Fund	Period Ending March 19, 2021	Period Ending April 14, 2021	Period Ending May 11, 2021
General	\$ 1,786.72	\$ 566.54	\$ 9,439.61
Debt Service	\$ -0-	\$ -0-	\$ -0-
Total Claims	\$ 1,786.72	\$ 566.54	\$ 9,439.61

Following discussion, upon motion duly made by Director Rinehart, seconded by Director Hansen, and upon vote, unanimously carried, the board ratified approval of the payment of claims, as presented.

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Financial Statements: Ms. Beard reviewed with the Board, the unaudited financial statements of the District for the period ending March 31, 2021.

Following review and discussion, upon motion duly made by Director Hansen, seconded by Director Haase and, upon vote, unanimously carried, the unaudited financial statements for the period ending March 31, 2021 were accepted, as presented.

2020 Audit: Ms. Johanns reviewed with the Board the draft 2020 Audit.

Following review and discussion, upon motion duly made by Director Rumph, seconded by Director Rinehart, and upon vote, unanimously carried, the Board approved the 2020 Audited Financial Statements and authorized execution of the Representations Letter.

LEGAL MATTERS **Status of Tidrick Property Development:** Director Rumph discussed with the Board the status of the Tidrick Property Development. It was noted that the fifth filing was made in April 2021 with no significant changes to plans. No hearing has been requested with the Planning Commission.

OTHER MATTERS **Legal Review of Tidrick Property Documents:** The Board discussed with Attorney Erb the Tidrick property and review of the history of the project.

Following review and discussion, upon motion duly made by Director Rumph, seconded by Director Norman, and upon vote, unanimously carried, the Board authorized up to \$2,500 for legal review of Tidrick property documents by Attorney Erb.

ADJOURNMENT There being no further business to come before the Board at this time, upon motion duly made by Director Hansen, seconded by Director Rinehart and, upon vote, unanimously carried, the meeting was adjourned at 2:08 p.m.

Respectfully submitted,

By 
Secretary for the Meeting

WHEREAS, § 32-1-903(2), C.R.S., requires that notice of the time and place designated for all regular meetings shall be posted in accordance with § 24-6-402, C.R.S., on a website or other on-line presence of the District which complies with the statutory criteria, or on a physical posting location as designated by the Board and within the limits of the Special District at least 24 hours prior to said meeting; and

WHEREAS, § 32-1-1001(2)(a), C.R.S., requires that at least thirty (30) days' notice be provided to customers within or outside the District receiving domestic water or sanitary sewer services directly from the District, prior to the District considering at a public meeting the fixing or increasing of any fees, rates, tolls, penalties, or charges for domestic water or sanitary sewer services; and

WHEREAS, in accordance with the Colorado Governmental Immunity Act, the Board is given authority to obtain insurance against liability for injuries for which the District may be liable under the Governmental Immunity Act, pursuant to § 24-10-115, C.R.S.; and

WHEREAS, §§ 32-1-901(2) and 32-1-902(2), C.R.S., requires the District to obtain an individual, schedule or blanket surety bond in an amount of no less than \$1,000 per director and \$5,000 for the Board Treasurer, and to file such bond with the District Court and the Division of Local Government at the time of filing of Board members oaths of office; and

WHEREAS, § 32-1-104.8, C.R.S., requires the District to record a special district public disclosure document and a map of the boundaries of the District with the County Clerk and Recorder of each county in which the District is located by December 31, 2014, and at any time thereafter that an order confirming the inclusion of property into the District is recorded; and

WHEREAS, § 32-1-306, C.R.S. requires the District to file a current, accurate map of its boundaries with the Division of Local Government and the Jefferson County Clerk and Recorder and the County Assessor on or before January 1 of each year; and

WHEREAS, § 32-1-104(2), C.R.S., requires the District, on or before January 15, to file a copy of the notice required by § 32-1-809, C.R.S. with the Board of County Commissioners, Assessor, Treasurer, Clerk and Recorder, the governing body of any municipality in which the District is located, and the Division of Local Government, the notice as required by § 32-1-809, C.R.S.; and

WHEREAS, § 32-1-809, C.R.S., requires that on or before January 15 of each year the District will provide a notice to the eligible electors of the District containing the information required by § 32-1-809(1), C.R.S. in the manner set forth in § 32-1-809(2), C.R.S.; and

WHEREAS, the Local Government Budget Law of Colorado, §§ 29-1-101, *et seq.*, C.R.S., requires the Board to hold a public hearing on proposed budgets and amendments thereto, to adopt budgets, and to file copies of the budgets and amendments thereto; and

WHEREAS, in accordance with the Public Securities Information Reporting Act, §§ 11-58-101, *et seq.*, C.R.S., issuers of non-rated public securities must file an annual report with the Department of Local Affairs; and

WHEREAS, in accordance with § 29-1-604(1), C.R.S., if expenditures and revenues of the District are not in excess of \$100,000, the District may file an exemption from audit with the State auditor; or, in accordance with § 29-1-604(2), C.R.S., if expenditures and revenues of the District are at least \$100,000 but not more than \$750,000 the District may, with the approval of the State Auditor, file an exemption from audit with the State Auditor, or in accordance with § 29-1-603, C.R.S., the governing body of the District shall cause to be made an annual audit of the financial statements for each fiscal year; and

WHEREAS, the Unclaimed Property Act, §§ 38-13-101, *et seq.*, C.R.S., requires that governmental subdivisions, if applicable, file an annual report listing unclaimed property with the State Treasurer; and

WHEREAS, elections may be held pursuant to the Special District Act and the Uniform Election Code of 1992, for the purpose of 1) electing members of the District's Board of Directors; 2) to present certain ballot issues to the eligible electors of the District as required by Article X, § 20 of the Colorado Constitution; and 3) to present certain ballot questions to the eligible electors of the District; and

WHEREAS, § 1-1-111(2), C.R.S., states that all powers and authority granted to the governing body of a political subdivision may be exercised by the appointed Designated Election Official; and

WHEREAS, §§ 1-11-103 and 32-1-104(1), C.R.S., require the District to notify the Division of Local Government of the results of any elections held by the District, including business address, telephone number and the contact person; and

WHEREAS, § 32-1-1101.5, C.R.S., requires the District to certify results of any election to incur general obligation indebtedness to the board of county commissioners of each county in which the special district is located or to the governing body of the municipality that has adopted a resolution of approval of the District; and

WHEREAS, § 32-1-1604, C.R.S., requires within 30 days of incurring or authorizing general obligation debt that the District shall record a notice of such debt with the County Clerk and Recorder, on a form prescribed by the Division of Local Government; and

WHEREAS, in accordance with §§ 32-1-1101.5(1.5) and (2), C.R.S., either the board of county commissioners of each county in which the special district is located, or the governing body of the municipality that has adopted a resolution of approval of the District, may require the District to file an application for quinquennial finding of reasonable diligence; and

WHEREAS, special district directors are governed by § 32-1-902(3), C.R.S., which requires such director to disqualify himself or herself from voting on an issue in which he or she has a conflict of interest unless the director has properly disclosed such conflict in compliance with law, and by the provisions of the Colorado Code of Ethics, §§ 24-18-101, *et seq.*, C.R.S., which provide rules of conduct concerning public officials and their fiduciary duties; and

WHEREAS, § 32-1-902, C.R.S., requires the Board to elect officers, including a Chairman of the Board and President of the District, a Treasurer of the Board and District, and a Secretary, who may be a member of the Board; and

WHEREAS, the Board of Directors desires to appoint legal counsel for the District to assist with providing legal services and to assist with the operation of the District; and

WHEREAS, the Board of Directors desires to appoint an accountant for the District to assist with providing financial services and to assist with the financial operations of the District, and who shall also be designated as the budget officer required to prepare and submit to the Board a proposed District budget by October 15, pursuant to §§ 29-1-104 and 29-1-105(3)(d), C.R.S.; and

WHEREAS, pursuant to § 24-71.3-101, *et seq.* C.R.S., The Uniform Electronic Transaction Act, parties may agree to conduct transactions by electronic means relating to business, commercial and governmental affairs, and that for all documents covered by the Act, if a law requires a record to be in writing, an electronic record satisfies the law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF CHIMNEY ROCK METROPOLITAN DISTRICT, JEFFERSON COUNTY, COLORADO AS FOLLOWS:

1. The Board of Directors of the District determines that each director serving a term of office shall receive, as compensation for services as director, the sum of \$100 per meeting attended in an amount not to exceed \$2,400 per annum, subject to availability of funds.

2. The Board designates the Golden Transcript as the newspaper of general circulation within the boundaries of the District, or in the vicinity of the District if none is circulated within the District, and directs that all legal notices shall be published in accordance with applicable statutes.

3. The Board designates the Maintenance Facility at Golf Court, 5500 Will Wood Drive, Morrison, Colorado, which is within the boundaries of the District, as the 24-hour posting place, for meeting notices pursuant to § 32-1-903(2) and § 24-6-402(2)(c), C.R.S.

4. The Board determines to hold regular meetings on the June 7 and October 18, 2021 at 10:00 a.m. at the Office of the District located at 141 Union boulevard, Suite 150, Lakewood, CO 80228.

5. The Board directs Special District Management Services, Inc. to obtain and maintain insurance for the District, to insure the Directors acting within the scope of employment by the Board against all or any part of such liability for an injury; to insure against the expense of defending a claim for injury against the District or its Board. Additionally, the Board directs legal counsel to obtain bonds or equivalent insurance coverage as required by §§ 32-1-901(2) and 32-1-902(2), C.R.S., in an amount of no less than \$1,000 per director and \$5,000 for the Board Treasurer, and to file the bond or certificate of insurance with the District Court and the Division of Local Government.

6. The Board designates David Solin as the District's "Primary Representative" and designates Karen Steggs as the District's "Alternate Representative" to the SDA Insurance Pool so that District insurance coverage may be timely renewed annually and updated as necessary.

7. The Board directs Seter & Vander Wall, P.C. to update the Special District Public Disclosure Document and map with Jefferson County Clerk and Recorder after the initial filing deadline of December 31, 2014, if the District includes additional property and records an Order of Inclusion with the County Clerk and Recorder.

8. The Board directs Special District Management Services, Inc. to file a copy of the transparency notice as described in § 32-1-809, C.R.S. with the Jefferson County Board of County Commissioners, Assessor, Treasurer, Clerk and Recorder, and the Division of Local Government.

9. The Board directs Special District Management Services, Inc. to notify the registered electors in the District of certain specified District information by completing the Special District Transparency Notice as detailed in § 32-1-809, C.R.S. and causing it to be posted to the Special District Association website.

10. The Board designates the District's accountant to serve as the budget officer, and to submit a proposed budget to the Board by October 15th for the following year, and, in cooperation with legal counsel, to schedule a public hearing on the proposed budget; to prepare a final budget, budget resolutions and amendments to the budget, if necessary; to certify the mill levies on or before December 15; and to file the approved budgets and amendments thereto with the proper governmental entities in accordance with the Local Government Budget Law of Colorado.

11. The Board directs the accountant to prepare and file the annual public securities report for nonrated public securities issued by the District, with the Department of Local Affairs on or before March 1st.

12. The Board directs the accountant to prepare or cause to be prepared for filing with the State Auditor either an Audit Exemption and Resolution for approval of Audit Exemption for the prior fiscal year by March 31; or an audit of the financial statements by June 30; further, the Board directs that the Audit be filed with the State Auditor by July 31.

13. The Board directs legal counsel to prepare the Unclaimed Property Act report and forward the report to the State Treasurer by November 1.

14. The Board hereby appoints David Solin as the "Designated Election Official" of the District for any elections to be held during 2021 and any subsequent year. The Board hereby grants all powers and authority for the proper conduct of the election to the Designated Election Official, including but not limited to appointing election judges, appointing a canvass board and cancellation, if applicable, of the election.

15. The District directs the Designated Election Official to notify the Division of Local Government of the results of any elections held by the District, including business address, telephone number and the contact person.

16. The District directs the Designated Election Official to certify results of any election to incur general obligation indebtedness to the Jefferson County Commissioners.

17. Whenever the District authorizes or incurs general obligation debt, the Board directs the Designated Election Official to record a notice of such debt with the Jefferson County Clerk and Recorder, within 30 days of authorizing or incurring the debt, on a form prescribed by the Division of Local Government.

18. The Board directs legal counsel to prepare and file with the Board of County Commissioners of each County in which the special district is located, or to the governing body of the municipality that has adopted a resolution of approval of the District, if requested, the quinquennial finding of reasonable diligence in accordance with §§ 32-1-1101.5(1.5) and (2), C.R.S.

19. The District hereby directs each present and future member of the Board to execute an Affidavit of Qualification of Director, to be retained in the District's files.

20. The District hereby elects the following officers for the District:

President/Chair of the Board – Telfer “Woody” Norman
Treasurer – Charles Hansen
Asst. Secretary – John “Marc” Rinehart
Asst. Secretary – Kenneth “Delmar” Rumph
Asst. Secretary – Charles Haase

21. The Board directs legal counsel to file conflict of interest disclosures provided by Board members with the Secretary of State 72 hours prior to each meeting of the Board. In addition, written disclosures provided by Board members required to be filed with the governing body in accordance with § 18-8-308, C.R.S., shall be deemed filed with the Board of Directors of the District when filed with the Secretary of State.

22. The Board extends the current indemnification resolution to allow the resolution to continue in effect as written.

23. The Board extends the current disposal of personal identifying information resolution to allow the resolution to continue in effect as written.

24. The Board of Directors appoints the law firm of Seter & Vander Wall, P.C. as legal counsel for the District.

25. The Board of Directors appoints Darcy Beard to serve as the District's accountant and to provide accounting services for the District.

26. The Board of Directors appoints David Solin, Special District Management Services, Inc. to serve as the District's Manager.

27. The Board authorizes its consultants to conduct transactions by electronic means to the extent allowed by the Uniform Electronic Transactions Act.

Wherefore, the motion was seconded by Director Hasse, and upon vote, unanimously carried. The Chair declared the motion carried and so ordered.

ADOPTED AND APPROVED THIS 9TH DAY OF JUNE, 2021.

CHIMNEY ROCK METROPOLITAN DISTRICT

By: T. W. Norman
Chair

ATTEST:

By: 
Secretary/Director

CERTIFICATION

I, David Solin, Secretary/Asst. Secretary of the Board of the Chimney Rock Metropolitan District, do hereby certify that the attached and foregoing Resolution is a true copy from the records of the proceedings of the Board of said District, on file with Seter & Vander Wall, P.C., legal counsel to the District.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the District, at Jefferson County, Colorado, this 9th day of June 2021.



Secretary/Asst. Secretary

[S E A L]

**RESOLUTION OF THE BOARD OF DIRECTORS
OF
CHIMNEY ROCK METROPOLITAN DISTRICT**

Disposal of Personal Identifying Information

WHEREAS, Chimney Rock Metropolitan District (the “**District**”) is quasi-municipal corporation and political subdivision of the State of Colorado located in the County of Jefferson, Colorado; and

WHEREAS, as a government entity and political subdivision of the State of Colorado, the District is subject to and required to comply with Colorado Revised Statutes, Section 24-73-101 (“**Personal Information Statute**”); and

WHEREAS, the Personal Information Statute requires the adoption of a written policy explaining the District’s disposal practices for documents containing personal identifying information of citizens of the State of Colorado; and

NOW THEREFORE, be it resolved by the Board of Directors for the Chimney Rock Metropolitan District that the “Policy Regarding Disposal of Data Containing Personal Identifying Information” attached as **Exhibit A** to this resolution (“**PII Data Disposal Policy**”), is approved.

Effective as of this 9th day of June, 2021.

CHIMNEY ROCK METROPOLITAN DISTRICT

T. W. Norman

President

Attest:



Secretary/Assistant Secretary

Exhibit A

POLICY REGARDING DISPOSAL OF DATA CONTAINING PERSONAL IDENTIFYING INFORMATION

During the course of its activities, the District may receive personal identifying information of its employees, contractors, directors, and/or constituents. Personal identifying information is classified under the Colorado Revised Statutes, Section 24-73-101(4)(b) as the following:

- Social security number;
- Personal identification number;
- Passwords;
- Passcodes;
- Official state or government-issued driver's license or identification card number;
- Government passport number;
- Biometric data (i.e. finger print or retina scan);
- Employer, student, or military identification number;
- Financial transaction devices (i.e. credit cards, debit cards, banking cards, electronic fund transfer cards, guaranteed check cards, and financial account numbers).

When paper or electronic documentation containing personal identifying information is no longer needed, the District shall destroy or arrange for the destruction of such paper and electronic documents within its custody or control that contain personal identifying information by shredding, erasing, or otherwise modifying the personal identifying information in the paper or electronic documents to make the personal identifying information unreadable or indecipherable through any means.

**RESOLUTION OF THE
BOARD OF DIRECTORS
OF**

CHIMNEY ROCK METROPOLITAN DISTRICT

A RESOLUTION PROVIDING FOR THE DEFENSE AND INDEMNIFICATION
OF DIRECTORS AND EMPLOYEES OF THE DISTRICT

WHEREAS, past and present directors and employees of Chimney Rock Metropolitan District (“District”) may be subject to claims arising from acts or omissions occurring during the performance of their governmental duties; and

WHEREAS, the District desires to encourage persons to serve on its Board of Directors and accept employment with the District, by defending and indemnifying such persons against liability for acts or omissions occurring during the performance of their governmental duties; and

WHEREAS, it is in the best interest of the District and its inhabitants to defend and indemnify its directors and employees against liability for acts and omissions which occur within their Scope of Employment and for which such defense and indemnification is not otherwise provided by Colorado law.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CHIMNEY ROCK METROPOLITAN DISTRICT THAT:

1. Definitions. For purposes of this resolution, the terms below shall be defined as follows:

a. Director: includes current and former directors of the District, from the date of organization, and directors who are appointed or elected to the board hereafter, who are sued for acts or omissions occurring during their term as a director of the District.

b. Employee: includes current and former employees of the District, from the date of organization, and employees employed in the future, who are sued for acts or omissions occurring during their employment with the District.

c. Scope of Employment: an act or omission of a director or employee of the District is within the “scope of employment” if it reasonably relates to the business or affairs of the District and the director acted in good faith and in a manner a reasonable person would have believed to be in the best interests of the District. In addition to other acts or omissions which are not within the Scope of Employment, all acts or omissions which are a violation of law shall be deemed not to be within the Scope of Employment.

2. Tort Actions Governed by the Colorado Governmental Immunity Act.

a. The District shall pay, in accordance with §§ 24-10-110, et seq. C.R.S., as amended from time to time (the “Governmental Immunity Act”), the costs of defense of and settlements and judgments against a director or employee of the District, including reasonable attorney fees, where the action lies or could lie in tort, including any such action brought pursuant to federal law in any court of this State. As a prerequisite to such payment, the director or employee must furnish the District with an affidavit stating that: (1) the action against him/her is not purely personal, and (2) to his/her reasonable belief, the act or omission upon which the claim is based occurred within the Scope of Employment. The director or employee shall also be required to comply with all relevant provisions of the Governmental Immunity Act, including but not limited to, provision of timely notice to the District of claims in accordance with such Act. However, the District shall not pay such judgments and shall seek reimbursement from the director or employee for the reasonable costs of his/her defense, including reasonable attorney fees, where it is determined by a court of competent jurisdiction that the injuries did not arise out of an act or omission of the director or employee occurring during his/her term or employment with the District and within the Scope of Employment.

b. The District does not waive the notice requirements of its directors and employees as set forth in § 24-10-110(2), C.R.S.

3. Other Actions Except Criminal. The District hereby agrees to pay the costs of defense and settlements and judgments against its directors and employees, including reasonable attorneys’ fees and costs, for all other actions, including but not limited to, actions which lie or could lie in contract, or arise under state or federal laws and is not governed by § 24-10-110, C.R.S., except for criminal actions. As a prerequisite to such payment, the director or employee must furnish the District with an affidavit stating that: (1) the action against him/her is not purely personal, and (2) to his/her reasonable belief, the act or omission upon which the claim is based occurred within the Scope of Employment. The District shall not pay such judgments and shall be reimbursed by the director or employee for the reasonable costs of his/her defense, including reasonable attorney fees, where it is determined by a court of competent jurisdiction that the injuries did not arise out of an act or omission of the director or employee occurring during his/her term or employment with the District and within the Scope of Employment.

4. Criminal Actions. The District hereby agrees to pay the costs of defense, including reasonable attorneys’ fees and costs, and any fines or penalties assessed, where a criminal action is brought against its directors or employees for acts or omissions occurring during their term or employment with the District and within the Scope of Employment. As a prerequisite to such payment, the director or employee must furnish the District with an affidavit stating that: (1) the action against him/her is not purely personal, (2) to his/her reasonable belief, the act or omission upon which the claim is based occurred within the Scope of Employment, and (3) he/she had no reasonable cause to believe his/her conduct was unlawful. However, the District shall not pay such fines or penalties and shall be reimbursed by the director or employee for the reasonable costs of his/her defense, including reasonable attorney fees, where it is determined by a court of competent jurisdiction that:

a. The injuries did not arise out of an act or omission of the director or employee occurring during his/her term or employment with the District and within the Scope of Employment; or

b. The employee or director had reasonable cause to believe his/her conduct was unlawful.

5. Additional Provisions. The following provisions shall apply to any of the actions discussed in Sections 2, 3 and 4 above:

a. Consent to Compromise or Settlement. The District shall pay no judgment or settlement of claims against its director or employee where the latter has compromised or settled the claim without the District's written consent.

b. Legal Representation of the Director or Employee. The District's legal counsel shall serve as counsel to the director or employee, unless it appears to such counsel that the interests of the District and the director or employee may be adverse. In the latter event, the director or employee may select separate counsel to be approved in writing by the District. The director or employee shall cooperate with the District and its legal counsel in this defense.

c. Director's or Employee's Costs. The District shall not be responsible for costs to its directors or employees associated with time spent in giving depositions, testifying or otherwise cooperating with their defense.

6. No Waiver of Sovereign Immunity. By the adoption of this Resolution, the District does not waive its defense of sovereign immunity as to any action.

7. No Waiver of Insurance Coverage. The approval and adoption of this Resolution shall not constitute a waiver by the District of insurance coverage with respect to any liability covered by this Resolution. The Resolution shall render the District secondarily liable in the event the District's insurance does cover such liability and the conditions of this Resolution are met.

8. Liberal Construction. The purpose of this Resolution is to protect directors and employees of the District against personal liability for their actions taken on behalf of the District and reasonably believed to be in the best interest of the District. Therefore, it is the intent of the District that this Resolution be liberally construed in favor of protection of such directors and employees.

9. Invalidation. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase or word herein, or the application thereof in any given circumstance, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

10. Renewal of Indemnifications. All obligations of the District described in this Resolution automatically renew each January 1st and are subject to annual appropriation of the District.

ADOPTED AND APPROVED THIS 9TH DAY OF JUNE, 2021.

CHIMNEY ROCK METROPOLITAN DISTRICT

T. W. Norman

President

ATTEST:

By: _____
Secretary