

# HAMILTON CREEK METROPOLITAN DISTRICT

## 2002 Debt Service Fund Budget

	2000 Actual	2001 Budget	2001 11 mo YTD	20010 1 mo Estimate	2001 Projected	2002 Budget
<b>BEGINNING FUND BALANCE</b>	174,373	48,015	48,015		48,015	29
<b>REVENUES</b>						
Property tax	217,110	216,505	215,638	867	216,505	269,953
Specific ownership tax	19,616	18,000	18,202	1,750	19,952	18,000
Development fees	5,000	5,000	10,000	0	10,000	5,000
Water tap fees	16,800	8,800	8,800	0	8,800	4,500
Water project loan / grant	0	400,000	0	0	0	500,000
<b>TOTAL REVENUES</b>	258,526	648,305	252,640	2,617	255,257	797,453
<b>EXPENDITURES</b>						
Bond interest	10,000	0	0	0	0	0
Bond principal	1,000	1,000	1,000	0	1,000	1,000
Treasurer fees	10,881	10,825	10,796	44	10,840	13,498
Bond administration	29,625	10,000	23,750	0	23,750	15,000
Bond attorney	79,583	75,000	52,003	0	52,003	75,000
Bond miscellaneous	13,156	5,000	663	0	663	5,000
Transfer to general fund	240,639	562,050	207,692	7,295	214,987	655,350
<b>SUBTOTAL</b>	384,884	663,875	295,904	7,339	303,243	764,848
<b>INCREASE (DECREASE) RESERVES</b>	(126,358)	(15,570)			(47,986)	32,605
<b>INCREASE (DECREASE) EMERGENCY</b>	0	0			0	0
<b>ACCUMULATED RESERVES</b>	44,615	29,045			(3,371)	29,234
<b>ACCUMULATED EMERGENCY</b>	3,400	3,400			0	0
<b>ENDING FUND BALANCE</b>	48,015	32,445			29	32,634

This document is a true and accurate copy of the budget for the Hamilton Creek Metropolitan District adopted for 2002 by the Board of Directors on December 10, 2001.

HAMILTON CREEK METROPOLITAN DISTRICT

SEAL

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Kolbjorn Tenfjord, President

# HAMILTON CREEK METROPOLITAN DISTRICT

## 2002 General Fund Budget

	2000 Actual	2001 Budget	2001 11 mo YTD	2001 1 mo Estimate	2001 Projected	2002 Budget
<b>BEGINNING FUND BALANCE</b>	0	0			0	0
<b>REVENUES</b>						
User fees	37,122	39,000	40,919	0	40,919	41,000
Interest	8,310	3,500	1,471	30	1,501	500
Connect fees	0	0	0	0	0	0
Miscellaneous	0	0	0	0	0	0
Transfer from debt fund	240,639	562,050	207,692	7,295	214,987	655,350
<b>TOTAL REVENUES</b>	286,071	604,550	250,082	7,325	257,407	696,850
<b>EXPENDITURES</b>						
Road maintenance	23,702	75,000	68,060	2,400	70,460	41,500
Water system maintenance	202,380	450,000	128,053	2,000	130,053	569,500
Forest maintenance	10,580	25,000	7,063	0	7,063	25,000
Utilities	1,551	1,750	1,468	125	1,593	1,750
Septic system cleaning	10,764	13,500	13,661	0	13,661	15,500
Administration	24,738	24,000	22,000	2,000	24,000	26,400
Audit	5,200	3,500	700	0	700	3,500
Director fees	750	1,500	900	225	1,125	1,500
Insurance	1,245	1,500	1,387	0	1,387	2,000
Legal	789	5,000	2,583	250	2,833	5,000
Office supplies and postage	956	1,250	1,572	250	1,822	2,000
Membership dues	806	850	816	0	816	1,000
Telephone	1,022	1,200	801	75	876	1,200
Miscellaneous	1,588	500	1,018	0	1,018	1,000
Capital - road	0	0	0	0	0	0
Capital - water system	0	0	0	0	0	0
Capital - other	0	0	0	0	0	0
<b>TOTAL EXPENDITURES</b>	286,071	604,550	250,082	7,325	257,407	696,850
<b>NET INCOME</b>	0	0	0	0	0	0
<b>ENDING FUND BALANCE</b>	0	0			0	0

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HAMILTON CREEK METROPOLITAN DISTRICT

SEAL

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Kolbjorn Tenfjord, President

## **HAMILTON CREEK METROPOLITAN DISTRICT**

### **2002 Budget Note**

The Hamilton Creek Metropolitan District operates under a court approved bankruptcy plan agreed to by all bondholders in January 1990 and effective on February 1, 1990. Under the Plan, all revenues collected from ad valorem taxes, water taps, user fees, development fees and interest income go toward the payment of interest on the "New Bonds" after the District has first paid its operating expenses, bond principal and contribution to capital reserves. The District is obligated to make interest payments of 11.25% to the bondholders on June 1 and December 1 of each year only to the extent Debt Service Funds are available.

The District takes the position that the Tabor Amendment is a retrospective law and is not retroactive on the District's Amended Plan for Adjustment of Debt. It is the District's understanding that the spirit and intent of the Tabor Amendment is to prevent governmental entities from unnecessarily raising taxes and creating excessive and unwarranted burdens upon taxpayers. The District shares this philosophy. The District wishes to continue to provide service to its taxpayers in the most efficient and cost effective way possible without placing an unnecessary burden on them. The only viable means of promoting the health and welfare of the District is to proceed under the terms of the Plan.

Services to be delivered. The Hamilton Creek Metropolitan District is organized as a special district. The 2002 budget includes funding to provide water service, septic system pumping, forest management, road maintenance and snow plowing.

System of accounting. The District utilizes a modified accrual basis of accounting. Under the modified accrual basis of accounting, revenues are recognized when they are susceptible to accrual, i.e., both measurable and available. Available means collectable within the current period or soon enough thereafter to be used to pay liabilities of the current period. Expenditures are generally recognized under the modified accrual basis of accounting when the related liability is incurred, if measurable.

Fund accounting. The District uses Fund Accounting to segregate monies based on designated uses. The funds are the General Fund for operations, the Debt Fund for bond principal and interest payments, and the Capital Fund for capital improvements as authorized by the bankruptcy ruling. Primary revenues for the General Fund and Capital Fund are transferred as needed to pay operation costs from the Debt Fund.

Presentation of the budget consolidates the General and Capital Funds to a single page to provide a better overall view of the District operations.

Property taxes. The mill levy for 2002 is 40 mills, the maximum allowed by the 1990-bankruptcy ruling. District revenues will still not cover the full interest obligation to bond holders, however the 1990 bankruptcy ruling limited the mill levies to specific levels. The District's position is that the Tabor Amendment regarding mill levy and revenue restrictions is not retroactive to the court approved Plan.

The assessed valuation of the District is \$6,748,820. Based on the mill levy this will realize \$269,953 in tax revenue. The Summit County Treasurer collection fee of 5% will be \$13,498.

Development fees. A fee of \$5,000 is collected on the original sale of property from the developer. A \$5,000 fee is also collected on any property on which an assessory unit (as defined and/or approved by Summit County) is built. There currently are 2 remaining lots to be sold by the developer. The 2002 budget estimates the sale of one lot. Two developer lots were sold in 2001.

Water tap fees. Tap fees are collected prior to authorizing a building permit. The budget projects one tap fee at \$4,500 to be sold in 2002. There currently are 44 unimproved lots. The District cannot assume all of these properties will be built on as owners may abandon lot lines (subject to approval by Summit County Government), or not build on lots to provide more open space around their property. There were two water tap fees sold in 2001.

Bond interest and principal. The District is required to pay \$1,000 in principal each December 1st. The District is also required to pay \$238,050 in interest in two installments due June 1st and December 1st. The principal of the bonds, due December 1, 2004, is secured by US Treasury Strips that will fund the payoff. The 1990 bankruptcy ruling allows the District to first pay operating expenses, bond principal and reserve a capital fund amount prior to any interest payment. The District is allowed to partially pay the interest due in any year to the extent that funds are available after the above allocations. Interest not paid to the bondholders is referred to as accrued interest and is paid prior to any current interest payments. District worksheets reflect, as of December 1, 2001 the amount of accrued interest due bondholders is \$5,963,042.19. The District presented bondholders with a repurchase plan in 1996 which was accepted by 99 out of 110 bondholders. The District filed in Federal Bankruptcy Court to have the repurchase plan approved as a settlement for all bondholders. The Bankruptcy Court ruled on September 19, 1996 that the District was not able to utilize a Chapter 9 filing for this approval. The ruling of the Bankruptcy Court was appealed to Federal District Court that did not reverse the Bankruptcy Court ruling. The 10<sup>th</sup> Circuit Court of Appeals issued an opinion on May 15, 1998 that held the District would not be able to utilize the Bankruptcy Court as it was not in default. As the 1990 bankruptcy ruling allows the District to operate on a "cash flow" basis, the 10<sup>th</sup> Circuit held the District would never be in default as long as it operated in accordance with the plan. Language in the opinion stated the debt was perpetually escapable from contingencies in the Plan. The 10<sup>th</sup> Circuit found the District to date had operated in accordance with the plan.

In 1997 the District was issued an enforcement order by the State of Colorado Health Department to bring fluoride in the water of the District below the 4.0 mg/l maximum contaminant action level. In 1998 the District filed a legal action in Colorado District Court for a declaratory ruling addressing if funds used to meet the statutory regulations were an operating expense and available prior to the payment of interest to Bondholders. In November 1999 the District, in a mediation hearing required by the Court, offered a settlement to the Bondholders of either \$250,000 per year for five years or one million dollars in 2000 as a full payment of interest due. The principal scheduled for payment in 2004 would be paid as scheduled. The settlement would have removed the District from bankruptcy and the District would then have been responsible for the cost of the water repair. The Bondholders, represented by one holder at the

hearing, rejected the proposal. The District made a settlement with the State of Colorado agreeing to meet the statutory requirements for fluoride within 18 months of a decision in this action. A two day trial was held February 22<sup>nd</sup> and 23<sup>rd</sup>, 2000. The Court ruled, on June 22, 2000, that the cost of repairing the water system to meet statutory regulations was an operating expense payable prior to interest to the Bondholders per the Plan. The ruling of the Colorado District Court was appealed to the Colorado Court of Appeals. The Colorado Court of Appeals, on August 9, 2001, affirmed in part, reversed in part and remanded the case back to the District Court. The Appeals Court transmitted this ruling on October 15, 2001 to the District Court. The District Court has not issued any procedural instructions at this time regarding the rehearing of this case. The District continued with engineering corrections to the water system and partially constructed water repairs in 2001. Completion of the water repair work is anticipated in 2002, pending permitting from Federal and State agencies. As a result of the expense for the water repair, the District does not anticipate having available cash flow for interest payments in 2002 to bondholders.

User fees. District customers in 2002 will be billed a flat rate of \$125 per quarter which includes water usage up to 15,000 gallons per quarter and the pumping of the individual septic system on a regularly scheduled basis. Water usage in excess of the 15,000 gallons is billed at \$3 per 1,000 gallons. The District will provide service to 79 homes that is projected to realize \$41,000 in user fees for 2002.

Interest and connection fees. The District projects substantially reduced interest income in 2002 due to the expenditures of funds for water repairs and low interest rates. All District funds are held in interest bearing accounts. Funds are transferred to a non-interest-bearing checking account as payment checks are issued.

Road maintenance. The District contracts for snow removal on the roads and paved driveways within the District. The contract for the upcoming winter season is based on a hourly rate of \$95 per hour. A minimum of \$750 per month is payable from November through April 15th. There is an additional fee for any sand used on the roads.

The basis of the road maintenance budget is:

Snow removal	\$ 25,000
Road repairs	5,000
Road signs	7,500
Guardrail repairs	<u>4,000</u>
 TOTAL	 \$ 41,500

Water maintenance. The District contracts operation of the water system to a licensed water operator. The contracts include routine water testing as required by the State of Colorado and overall supervision of the operation of the District's wells, water tank and distribution system. Specialized water testing, semi-annual operations maintenance, line inspections and maintenance requests from the District are billed separately. The District anticipates completion of the repairs of the water system in 2002 to meet the statutory requirement for fluoride. The budgeted repairs

cost is based on installation of a micro filtration plant in a temporary structure at a site near the existing pump house. Water tests conducted indicate the suitability of surface water from Hamilton Creek. Allocation of the water maintenance budget is:

Operations contract	\$ 12,000
Routine maintenance & repair labor	25,000
Chemicals, testing and supplies	7,500
System repairs (fluoride problem)	<u>525,000</u>
 TOTAL	 569,500

During 1997 the District received an enforcement order from the Colorado Department of Health due to the District's water supply exceeding the 4.0 mg/l level for fluoride. All testing since 1997 of fluoride levels in the water provided by the District reflected levels in excess of 4.0 mg/l. The District has had engineering studies done by several firms since 1997 to determine the best solution available. Testimony in the Colorado District Court action in February 2000 by Rothberg, Tamburini, Winsor estimated the cost to exceed one million dollars. Subsequent design work indicated the expense could exceed two million dollars. The District has considered at least five different solutions utilizing water sources within and outside the District. The District constructed an access road and drilled a well in Hamilton Creek in the summer of 2001. The well did not produce water. The District proceeded with the alternate plan to utilize surface water from Hamilton Creek. Construction was halted in the fall of 2001 pending final permitting from the Army Corp of Engineers and the United State Forest Service. Previously the District had estimated the cost of providing equipment to treat surface water at \$1.5 million. Value engineering utilizing microfiltration equipment housed in a temporary building has substantially reduced the current projected cost.

Forest Maintenance. Substantial portions of the area served by the Metropolitan District are forested. The values of property within the District would be strongly affected by loss of forested areas. The District charter directed forest management as part of the activities to be provided. The District in 1998 had an investigation of the forested areas by a forest management company. They indicated the forest presently was in good condition and there was currently no evidence of pine beetle infestation. The report recommended the District instigate a long-term forest management program including selective thinning, spruce tree seedling planting and selective chemical treatment of diseased trees. The forest management company is currently preparing a long-term maintenance report and schedule for the District. The District continued pickup of dead trees and slash from the forest in 2001. The 2002 budget reflects continuing the collection of dead tress from the forested areas and work on the long-term forest maintenance plan.

Utilities. The utility billing is for the cost of electricity to run the well pump and heat the pump house. The cost will fluctuate based on the water volume used by the District and the season.

Septic pumping. The District is following a schedule of pumping individual septic systems on a three-year cycle. It is anticipated this schedule may be modified in the future to reflect the year round occupancy of some District residents. A total of 24 septic systems were pumped in 2001. There are 26 systems scheduled for pumping in 2002.

Administration. Services provided by the administrator include billing, financial statements, financial management, budget preparation and the general supervision of District operations.

Audit. The CPA firm of Hiratsuka & Schaus, L.L.P. prepared the 2000 audit for the District. They are contracted for the 2001 audits. Hiratsuka & Schaus specializes in governmental audits and are considered experts in government accounting.

Director fees. The District compensates directors \$75 for each board meeting attended. There are five directors and quarterly meetings.

Insurance. The District is a member of the Special District insurance pool that provides competitive rates on property, content, liability and public officer insurance.

Office supplies and postage. Costs are for billing, correspondence postage, Consumer Confidence Report preparation, web site maintenance and office supplies. The District web site has public information available including budgets, board minutes and the annual audit.

Membership dues. The District belongs to the Special Districts Association of Colorado. The Association provides newsletters, seminars and lobbying efforts on behalf of special districts. Also, the insurance for the District is through a liability pool organized by the Special District Association. Membership cost is based on the District budget. The District also belongs to the Rural Water Association. This Association provides specialized information for small public water suppliers, training seminars and an annual trade show attended by representatives of the District.

Miscellaneous expenses. Bank fees and other minor expenses not allocated to other areas.

Capital fund. No capital expenditures are included for 2002. The funding for capital projects is from the capital reserve fund as designated by the bankruptcy ruling. The District has prepared a separate summary of the capital reserves funding and allocation. 1996 was the last year of funding the capital reserve fund under the bankruptcy agreement. The reconciliation of the funds by the District indicates a \$55,000 balance at the end of 2001.

The District in 1993 made bond interest payments in excess of the available cash after the allocation to the capital reserve fund. Future year bondholder interest payments would need to be reduced by this amount to fully fund the capital reserves. A separate summary of the bond interest allocation has been prepared.

Bond attorney and administration fees. Legal fees and bond administration fees are budgeted for 2002 as the Colorado Court of Appeals has referred the issue regarding repairs to the water system back to the District Court. The District anticipates the court action to occur in 2002. It is possible the District Court action may continue to higher courts.