

RESOLUTION NO. 2021-04-01

**AMENDED AND RESTATED
FACILITIES FEE RESOLUTION**

A. Second Creek Farm Metropolitan District No. 3 (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado and operates pursuant to its Service Plan approved by the City of Commerce City on September 19, 2005 (the “**Service Plan**”).

B. 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**”).

C. The District is authorized under its Service Plan to provide for the design, acquisition, construction, installation, perpetual maintenance, and financing of certain public improvements within the District (the “**Public Improvements**”).

D. The District’s Board of Directors (the “**Board of Directors**”) has determined that it is in the best interest of its inhabitants and taxpayers to provide the Public Improvements.

E. The adoption of services and facilities rates in the form of a “**Facilities Fee**” will serve a public purpose and promote the health, safety and general welfare of the District by providing for the orderly payment of the District’s costs of the Public Improvements.

F. The Board of Directors finds that such a Facilities Fee is authorized by Section 32-1-1001(1)(j), C.R.S.

G. The Board of Directors previously adopted that certain Resolution No. 2019-01-01, Facilities Fee Resolution, effective as of January 4, 2019 (the “**Original Fee Resolution**”).

H. The Board of Directors desires to amend and restate the Original Fee Resolution in its entirety to update the legal description of the Property.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SECOND CREEK FARM METROPOLITAN DISTRICT NO. 3, ADAMS COUNTY, COLORADO:

1. The Board of Directors hereby amends and restates in its entirety the Original Fee Resolution.

2. The Board of Directors hereby finds, determines and declares the necessity of providing for the orderly payment of the District’s costs of capital in order to ensure the full satisfaction of the District’s financial obligations incurred for the construction of the Public Improvements, all to ensure the health, safety and welfare of the inhabitants of the District.

3. The following words and phrases used herein shall have the following meaning:

(a) Dwelling Unit means a residential building located on the Property, intended for occupancy by one or more individuals and consisting of one self-contained living unit whether attached or detached, as reasonably determined by the District.

(b) Facilities Fee means the payment made or to be made by the owner(s) of the Property to the District.

4. There shall be assessed and charged a Facilities Fee pursuant to Section 32-1-1001(1)(j), C.R.S., for use of the Public Improvements. The owners of all land within the District, other than governmental owners, shall be subject to the Facilities Fee.

5. The Facilities Fee for Dwelling Units shall be as follows:

(a) Two Thousand Five Hundred Dollars (\$2,500) per single-family detached Dwelling Unit.

(b) One Thousand Five Hundred Dollars (\$1,500) per attached single-family attached Dwelling Unit.

6. The Board of Directors reserves the right to adjust the rates of the Facilities Fee from time to time at its discretion. The Board of Directors may establish a rate of Facilities Fees for commercial property pursuant to a resolution.

7. The Facilities Fee is due with respect to any Dwelling Unit on or before the date of issuance of a building permit by the City of Commerce City or Adams County (the "**County**"), as the case may be, for such Dwelling Unit.

8. The Facilities Fee shall be a perpetual charge and lien upon the Property in the District, from the date the same becomes due and payable until paid, 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. The lien shall be perpetual in nature as defined by the laws of the State of Colorado and shall run with the land. This Resolution shall be recorded in the offices of the Clerk and Recorder of the County.

9. Failure to make payment of the Facilities Fees due hereunder shall constitute a default in the payment of such Facilities Fees. Upon a default, interest shall accrue on such total amount of Facilities Fees due at the rate authorized by statute, and 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 property owner shall pay all costs, including attorneys' fees, incurred by the District in connection with the foregoing. In foreclosing its lien, the District will enforce the lien only to the extent necessary to collect unpaid Facilities Fees, accrued interest thereon and costs of collection (including, but not limited to, reasonable attorneys' fees).

10. 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 circumstances, 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.

11. Any inquiries pertaining to the Facilities Fee may be directed to the District's General Counsel at: 450 E. 17th Avenue, Suite 400, Denver, Colorado 80203-1254; (303) 592-4380.

12. The Facilities Fee set forth herein is hereby approved and adopted by resolution of the Board of Directors of Second Creek Farm Metropolitan District No. 3 effective as of February 25, 2021.

**SECOND CREEK FARM
METROPOLITAN DISTRICT NO. 3**

By: Joel Farkas
President

Attest:

By: Jon Dene
Secretary

EXHIBIT A

Legal Description of the District

LOTS 5 THROUGH 8, INCLUSIVE, BLOCK 12,
LOTS 11 THROUGH 30, INCLUSIVE, BLOCK 13,
LOTS 10 THROUGH 48, INCLUSIVE, BLOCK 14,
LOTS 1 THROUGH 32, INCLUSIVE, BLOCK 15,
LOTS 1 THROUGH 20, INCLUSIVE, BLOCK 16,
LOTS 1 THROUGH 11, INCLUSIVE, BLOCK 17,
LOTS 1 THROUGH 20, INCLUSIVE, BLOCK 18,
LOTS 1 THROUGH 22, INCLUSIVE, BLOCK 19,
LOTS 1 THROUGH 12, INCLUSIVE, BLOCK 20,
LOTS 1 THROUGH 20, INCLUSIVE, BLOCK 21,
LOTS 1 THROUGH 20, INCLUSIVE, BLOCK 22,
LOTS 1 THROUGH 20, INCLUSIVE, BLOCK 23,
LOTS 1 THROUGH 17, INCLUSIVE, BLOCK 24,
LOTS 1 THROUGH 18, INCLUSIVE, BLOCK 25,
LOTS 1 THROUGH 14, INCLUSIVE, BLOCK 26,
LOTS 1 THROUGH 14, INCLUSIVE, BLOCK 27,
LOTS 1 THROUGH 14, INCLUSIVE, BLOCK 28,
LOTS 1 THROUGH 14, INCLUSIVE, BLOCK 29,
LOTS 1 THROUGH 14, INCLUSIVE, BLOCK 30,
LOTS 1 THROUGH 13, INCLUSIVE, BLOCK 31,
LOTS 1 THROUGH 18, INCLUSIVE, BLOCK 32,
LOTS 1 THROUGH 10, INCLUSIVE, BLOCK 33,
LOTS 1 THROUGH 18, INCLUSIVE, BLOCK 34,
LOTS 1 THROUGH 18, INCLUSIVE, BLOCK 35,
LOTS 1 THROUGH 18, INCLUSIVE, BLOCK 36,
LOTS 1 THROUGH 18, INCLUSIVE, BLOCK 37,
LOTS 1 THROUGH 36, INCLUSIVE, BLOCK 38,
LOTS 1 THROUGH 17, INCLUSIVE, BLOCK 39,
TRACTS N, P, Q, R, S, T, U, V, W, X, Y, AA, BB, CC, DD, EE, FF, GG, HH, AND JJ,
SECOND CREEK FARM FILING NO. 3, LOCATED IN THE EAST HALF OF SECTION 21,
TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, ACCORDING
TO THE PLAT THEREOF RECORDED MAY 25, 2021 AT RECEPTION NO. 2021000062961,
COUNTY OF ADAMS, STATE OF COLORADO.