

RESOLUTION NO. 2021-04-02

**SECOND AMENDED AND RESTATED
FACILITIES FEE RESOLUTION**

A. Second Creek Farm Metropolitan District No. 1 (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado and operates pursuant to its Amended and Restated 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. 2018-03-01, Resolution of Second Creek Farm Metropolitan District No. 1 Regarding the Imposition of Facilities Fees, effective as of March 14, 2018 (the “**Fee Resolution**”) and that certain Resolution No. 2019-01-01 Amended and Restated Facilities Fee Resolution effective as of January 4, 2019 (the “**A&R Fee Resolution**” and with the Fee Resolution, the “**Original Fee Resolution**”)

H. The Board of Directors desires to amend and restate the Original Fee Resolution in its entirety to amend the legal description of the Property due to the inclusion or exclusion of certain property into and from the District boundaries and to impose the Facilities Fee on Commercial Land (as defined herein) on the Property.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE SECOND CREEK FARM METROPOLITAN DISTRICT NO. 1, 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) Commercial Land means any portion of the Property that is zoned or subdivided for and use(s) other than residential uses.

(c) 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 Facilities Fee for Commercial Land shall be as follows:

(a) Thirty Cents (\$0.30) per square foot of Commercial Land.

7. The Board of Directors reserves the right to adjust the rates of the Facilities Fee from time to time at its discretion.

8. The Facilities Fee is due with respect to any Dwelling Unit or Commercial Land 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 or Commercial Land.

9. 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.

10. 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).

11. 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.

12. 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.

13. 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. 1 effective as of April 14, 2021.

**SECOND CREEK FARM
METROPOLITAN DISTRICT NO. 1**

By: Joel Farkas
President

Attest:

By: Jon Dene
Secretary

EXHIBIT A

Legal Description of the District

TRACTS D AND E,
SECOND CREEK FARM FILING NO. 1 AMENDMENT NO. 1, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 21 AND THE EAST HALF OF SECTION 28, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 30, 2019 AT RECEPTION NO. 2019000071790, COUNTY OF ADAMS, STATE OF COLORADO.

EXCEPT PART OF TRACT D, SECOND CREEK FARM FILING NO. 1 AMENDMENT NO. 1, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 21, TOWNSHIP 2 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 30, 2019 AT RECEPTION NO. 2019000071790, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 8, SECOND CREEK FARM FILING NO. 1 AMENDMENT NO. 1 AND CONSIDERING THE WEST LINE OF SAID LOT 1 TO BEAR SOUTH 00°38'37" EAST, WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE NORTH 00°38'37" WEST, ALONG THE WESTERLY LINE OF SAID TRACT D, A DISTANCE OF 37.59 FEET;

THENCE NORTH 89°21'23" EAST, A DISTANCE OF 75.17 FEET;

THENCE SOUTH 00°38'37" EAST, A DISTANCE OF 37.59 FEET TO THE NORTHEAST CORNER OF SAID LOT 1;

THENCE SOUTH 89°21'23" WEST, ALONG THE NORTHERLY LINE OF SAID LOT 1, A DISTANCE OF 75.17 FEET TO THE POINT OF **BEGINNING**.

TOGETHER WITH;

TRACTS Z, AND KK,
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.

EXCEPT PART OF TRACT KK, 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, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTH QUARTER CORNER OF SECTION 21, AND CONSIDERING THE NORTH LINE OF SAID EAST HALF OF SECTION 21 TO BEAR SOUTH 89°59'51" EAST, WITH ALL BEARINGS CONTAINED HEREIN BEING RELATIVE THERETO;

THENCE SOUTH 24°27'53" EAST, A DISTANCE OF 4501.93 FEET TO THE **POINT OF BEGINNING**;

THENCE NORTH 05°19'53" EAST, A DISTANCE OF 50.00 FEET;

THENCE SOUTH 84°40'07" EAST, A DISTANCE OF 100.00 FEET;

THENCE SOUTH 05°19'53" WEST, A DISTANCE OF 50.00 FEET;

THENCE NORTH 84°40'07" WEST, A DISTANCE OF 100.00 FEET TO THE **POINT OF BEGINNING**.