

## **RESOLUTION NO. 08 12 01**

**A RESOLUTION APPROVING THE COST OF THE PUBLIC IMPROVEMENTS MADE WITHIN RIVERVIEW COMMONS GENERAL IMPROVEMENT DISTRICT, FORT MORGAN, COLORADO SPECIAL IMPROVEMENT DISTRICT NO. 1 (PHASE 2); APPROVING AND CONFIRMING THE APPORTIONMENT OF 100% OF SAID COST TO THE REAL PROPERTY THEREIN AND SPECIALLY BENEFITED THEREBY; AND PRESCRIBING THE MANNER FOR THE COLLECTION AND PAYMENT OF SAID ASSESSMENTS.**

WHEREAS, the board of directors (the "Board") of Riverview Commons General Improvement District, Fort Morgan, Colorado (the "District"), has heretofore created Special Improvement District No. 1 (the "SID") and authorized the acquisition, construction and installation of street improvements, water system improvements, sanitary sewer system improvements, storm drainage improvements and public utility improvements (collectively, the "Improvements") in accordance with § 31-25-611.5 and part 5 of article 25 of title 31, Colorado Revised Statutes, as amended (collectively, the "Act") and which Improvements have been acquired in phases with proceeds of different series of bonds, being Phase 1 ("Phase 1") and Phase 2 ("Phase 2"); and

WHEREAS, the total cost of such public improvements in Phase 2 of the SID has been definitely ascertained, and a statement of the proposed apportionment of costs on the real property specially benefited has been prepared and filed in the offices of the GID; and

WHEREAS, due notice was given that the Board would meet to hear and consider written complaints and objections to such apportionment on this date, and that any such written complaints and objections filed with the GID on or prior to the date of the hearing would be heard and determined by the Board before the passage of any Resolution assessing the cost of said improvements; and

WHEREAS, no written complaints and objections to the proposed apportionment were received timely by the GID; and

WHEREAS, a public hearing was held by the Board for the purpose of hearing complaints and objections but there were none; and

WHEREAS, from the statement filed with the GID it appears that the total cost of the improvements is \$921,300, that \$-0- thereof is to be paid by the GID, and that the portion thereof which should be assessed against the real property specially benefited and included within Phase 2 of the SID is the entire \$921,300; and

WHEREAS, the Board has apportioned 100% of the cost to the following described real property located within Phase 2 of the SID:

A PORTION OF THE PICKETT ANNEXATION TO THE CITY OF FORT MORGAN, COLORADO FILED IN THE OFFICE OF THE MORGAN COUNTY, COLORADO CLERK AND RECORDER'S OFFICE UNDER RECEPTION NUMBER 799290 AND A PARCEL DESCRIBED BY DEED IN THE RECORDS OF THE MORGAN COUNTY, COLORADO CLERK AND RECORDER'S OFFICE IN BOOK 1139 PAGE 686 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 57 WEST OF THE 6TH PRINCIPAL MERIDIAN AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 32 TO BEAR SOUTH 89°37'00" WEST WITH ALL BEARINGS HEREIN RELATIVE THERETO: THENCE SOUTH 89°37'00" WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4 A DISTANCE OF 381.33 FEET; THENCE ALONG THE EAST BOUNDARY OF A PARCEL FILED UNDER RECEPTION NUMBER 717339, NORTH 00°55'45" EAST, 142.63 FEET TO THE CENTERLINE OF THE UPPER PLATTE AND BEAVER CANAL; THENCE ALONG THE CENTERLINE OF SAID CANAL ALSO BEING THE NORTHERLY BOUNDARY LINE OF THE PARCEL FILED UNDER RECEPTION NUMBER 717339 BY THE FOLLOWING TWO COURSES:

1. NORTH 79°50'53" WEST 114.40 FEET;
2. NORTH 83°42'31" WEST 107.12 FEET TO A POINT ON THE WEST LINE OF THE PICKETT ANNEXATION;

THENCE NORTH 00°51'11" EAST 417.64 FEET TO A POINT ON THE SOUTH ROW LINE OF INTERSTATE HIGHWAY 76, ALSO BEING THE NORTHWEST CORNER OF THE PICKETT ANNEXATION; THENCE NORTH 88°45'28" EAST ALONG THE SOUTH ROW LINE OF INTERSTATE HIGHWAY 76, A DISTANCE OF 1411.41 FEET; THENCE SOUTH 00°00'00" EAST, 361.74 FEET; TO A POINT ON THE SOUTH LINE OF THE PICKETT ANNEXATION; THENCE SOUTH 00°10'25" EAST 164.74 FEET TO A POINT ON THE NORTH ROW LINE OF RIVERVIEW AVENUE; THENCE ALONG SAID ROW LINE SOUTH 89°49'35" WEST, 80.00 FEET; THENCE NORTH 00°10'25" WEST, 164.77 TO A POINT ON THE SOUTH LINE OF THE PICKETT ANNEXATION; THENCE ALONG SAID SOUTH LINE 89°51'02" WEST, 527.41 FEET; THENCE SOUTH 00°00'00" EAST, 195.00 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 32; THENCE SOUTH 89°49'35" WEST ALONG SAID SOUTH LINE, 211.80 FEET TO THE SOUTH 1/4 CORNER OF SECTION 32 AND BEING THE TRUE POINT OF BEGINNING.

TOGETHER WITH LOT B, RIVERVIEW COMMONS, ACCORDING TO THE PLAT IN BOOK 10 AT PAGE 114-116, COUNTY OF MORGAN, STATE OF COLORADO.

LESS AND EXCEPT A PARCEL OF LAND LOCATED WITHIN RIVERVIEW COMMONS FILING NO. 1, FORT MORGAN COLORADO AS FILED IN THE RECORDS OF MORGAN COUNTY, COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 57 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORGAN COUNTY, COLORADO AND CONSIDERING THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 32 TO BEAR NORTH 89°49'41" EAST WITH ALL BEARINGS HEREIN RELATIVE THERETO;

THENCE NORTH 89°49'41" EAST ALONG SAID SOUTH LINE, 211.80 FEET; THENCE NORTH 00°00'00" EAST, 195.00 FEET; THENCE NORTH 89°51'02" EAST 527.41 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 89°51'02" EAST, 80.00 FEET; THENCE SOUTH 00°10'25" EAST, 164.73 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF RIVERVIEW AVENUE;

THENCE SOUTH 89°49'35" WEST, ALONG SAID RIGHT-OF-WAY LINE, 80.00 FEET;

THENCE NORTH 00°10'25" WEST, 164.77 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 0.30 ACRES MORE OR LESS.

THE ABOVE PARCEL CONTAINS 19.31 ACRES MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY AS GRANTED OR RESERVED BY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID DESCRIBED PARCEL OF LAND.

in accordance with the special benefits to be received by said property as set forth in Resolution No. 07-3-1 adopted on March 20, 2007, which resolution approved the method of apportionment of the assessments (the "Apportionment Resolution") to be 70% assessed against the residential property in the SID and 30% against the commercial property in the SID, and the Board has prepared the assessment roll, attached hereto as Exhibit A; and

WHEREAS, the Board has determined to assess the cost of the improvements against the above described real property in the amount set forth in the assessment roll and to direct the Treasurer of Morgan County, Colorado to collect the amounts payable in accordance herewith;

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF RIVERVIEW COMMONS GENERAL IMPROVEMENT DISTRICT, FORT MORGAN, COLORADO:

Section 1. Confirmation of Assessment Roll. The whole cost of the improvements and the apportionment of the same as set forth in the assessment roll, is hereby approved and confirmed. Said apportionment is hereby declared to be in accordance with the special benefits which the property in Phase 2 of the SID will receive by reason of the acquisition, construction and installation of said improvements and in accordance with the Apportionment Resolution. One Hundred Percent (100%) of said cost is hereby assessed to and upon:

A PORTION OF THE PICKETT ANNEXATION TO THE CITY OF FORT MORGAN, COLORADO FILED IN THE OFFICE OF THE MORGAN COUNTY, COLORADO CLERK AND RECORDER'S OFFICE UNDER RECEPTION NUMBER 799290 AND A PARCEL DESCRIBED BY DEED IN THE RECORDS OF THE MORGAN COUNTY, COLORADO CLERK AND RECORDER'S OFFICE IN BOOK 1139 PAGE 686 AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 57 WEST OF THE 6TH PRINCIPAL MERIDIAN AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 32 TO BEAR SOUTH 89°37'00" WEST WITH ALL BEARINGS HEREIN RELATIVE THERETO: THENCE SOUTH 89°37'00" WEST ALONG THE SOUTH LINE OF SAID SOUTHWEST 1/4 A DISTANCE OF 381.33 FEET; THENCE ALONG THE EAST BOUNDARY OF A PARCEL FILED UNDER RECEPTION NUMBER 717339, NORTH 00°55'45" EAST, 142.63 FEET TO THE CENTERLINE OF THE UPPER PLATTE AND BEAVER CANAL; THENCE ALONG THE CENTERLINE OF SAID CANAL ALSO BEING THE NORTHERLY BOUNDARY LINE OF THE PARCEL FILED UNDER RECEPTION NUMBER 717339 BY THE FOLLOWING TWO COURSES:

1. NORTH 79°50'53" WEST 114.40 FEET;
2. NORTH 83°42'31" WEST 107.12 FEET TO A POINT ON THE WEST LINE OF THE PICKETT ANNEXATION;

THENCE NORTH 00°51'11" EAST 417.64 FEET TO A POINT ON THE SOUTH ROW LINE OF INTERSTATE HIGHWAY 76, ALSO BEING THE NORTHWEST CORNER OF THE PICKETT ANNEXATION; THENCE NORTH 88°45'28" EAST ALONG THE SOUTH ROW LINE OF INTERSTATE HIGHWAY 76, A DISTANCE OF 1411.41 FEET; THENCE SOUTH 00°00'00" EAST, 361.74 FEET; TO A POINT ON THE SOUTH LINE OF THE PICKETT ANNEXATION; THENCE SOUTH 00°10'25" EAST 164.74 FEET TO A POINT ON THE NORTH ROW LINE OF RIVERVIEW AVENUE; THENCE ALONG SAID ROW LINE SOUTH 89°49'35" WEST, 80.00 FEET; THENCE NORTH 00°10'25" WEST, 164.77 TO A POINT ON THE SOUTH LINE OF THE PICKETT ANNEXATION; THENCE ALONG SAID SOUTH LINE 89°51'02" WEST, 527.41 FEET; THENCE SOUTH 00°00'00" EAST, 195.00 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SECTION 32; THENCE SOUTH 89°49'35" WEST ALONG SAID SOUTH LINE, 211.80 FEET TO THE SOUTH 1/4 CORNER OF SECTION 32 AND BEING THE TRUE POINT OF BEGINNING.

TOGETHER WITH LOT B, RIVERVIEW COMMONS, ACCORDING TO THE PLAT IN BOOK 10 AT PAGE 114-116, COUNTY OF MORGAN, STATE OF COLORADO.

LESS AND EXCEPT A PARCEL OF LAND LOCATED WITHIN RIVERVIEW COMMONS FILING NO. 1, FORT MORGAN COLORADO AS FILED IN THE RECORDS OF MORGAN COUNTY, COLORADO AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SECTION 32, TOWNSHIP 4 NORTH, RANGE 57 WEST OF THE 6TH PRINCIPAL MERIDIAN, MORGAN COUNTY, COLORADO AND CONSIDERING THE SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 32 TO BEAR NORTH 89°49'41" EAST WITH ALL BEARINGS HEREIN RELATIVE THERETO;

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THE ABOVE DESCRIBED PARCEL CONTAINS 0.30 ACRES MORE OR LESS.

THE ABOVE PARCEL CONTAINS 19.31 ACRES MORE OR LESS AND IS SUBJECT TO ALL EASEMENTS AND RIGHTS-OF-WAY AS GRANTED OR RESERVED BY INSTRUMENTS OF RECORD OR AS NOW EXISTING ON SAID DESCRIBED PARCEL OF LAND.

More particularly, Seventy Percent (70%) of said cost is hereby assessed to and upon the residential property within the SID which is now legally described as follows:

Lots 1-12 in Block 1, Lots 1-24 in Block 2 and Lots 1-48 in Block 3, in the Final Plat of Riverview Commons in the City of Fort Morgan, County Morgan, State of Colorado and Lots 1-20 in Block 4 and Lots 1-40 in Block 5 in the Final Plat of Riverview Commons Phase 2 being a Replat of Lot A of the Final Plat of River Commons; and

Thirty Percent (30%) of said cost is hereby assessed to and upon Lots 1 and 2 Riverview Commercial Subdivision being a Replat of Lot B, of the Final Plat of Riverview Commons.

The specific assessments are set forth in the assessment roll, which assessment roll is attached hereto as Exhibit A and incorporated herein by this reference.

**Section 2. Payment of Assessments.** The Board hereby directs the Treasurer of Morgan County, Colorado (the "County Treasurer") to collect any amount payable as an assessment under this Resolution pursuant to Section 31-25-526(1), C.R.S.. The assessments shall be due and payable at the Morgan County Treasurer's Office located at 231 Ensign Street, Fort Morgan, Colorado 80701 within thirty (30) days after the adoption of this Resolution, without demand. However, at the election of the property owner, all such assessments may be paid in installments, with interest as hereinafter set forth.

Failure to pay the whole assessment within said period of thirty (30) days shall conclusively be considered to be an election on the part of all persons interested, whether under disability or otherwise, to pay in installments. All persons so electing to pay in installments shall conclusively be considered to have consented to said improvements. Such election shall conclusively be considered to be a waiver of any right to question the power or jurisdiction of the GID to construct, acquire or install the improvements, the quality of the work, the regularity or sufficiency of the proceedings, the validity or the correctness of the assessments, or the validity of the lien thereof.

In the event of such election to pay in installments, the assessments, together with interest thereon at the rate of 6.50% per annum, shall be payable in fifteen (15) equal annual installments of principal and interest beginning in 2008, to be collected by the GID's Treasurer who shall have the authority to delegate the performance of such collection function to the County Treasurer; provided, however, the times of payment of the installments shall be the same as the times of payment of installments of property taxes as specified in Section 39-10-104.5(2), C.R.S. The last installment shall be due and payable in full no later than June 15, 2023. The owner of any property not in default as to payment of any installment or portion thereof may at any time pay the whole of the unpaid principal with the interest accruing to the maturity of the next installment.

**Section 3. Penalty for Default of Non-Payment.** Failure to pay the whole amount of any installment when due also shall cause the whole of the unpaid principal of and interest on the assessment amount to become due and collectible immediately.

The whole amount of any such unpaid principal and the accrued interest thereon shall, after such property sale or such failure to pay an installment, draw interest at the rate established pursuant to Section 5-12-106(2) and (3), C.R.S., until the date of foreclosure sale or tax sale. In the case of failure to pay any installment or portion thereof, at any time prior to the date of foreclosure sale or tax sale the owner may pay the amount of all unpaid installments with interest at said penalty rate per month or fraction of a month and all other penalties and costs of collection accrued, and shall be restored to the right thereafter to pay in installments in the same manner as if the default had not been suffered.

Section 4. Assessment Lien. All Assessments levied against the real property in Phase 2 of the SID, together with all interest thereon and penalties for default in payment thereof, and all costs in collecting the same, shall constitute, from the date of adoption of this Resolution, a perpetual lien in the amount assessed against the above described property. Such lien shall have priority over all other liens except general tax liens, and shall be enforced in accordance with the laws of the State of Colorado.

Section 5. Assessments Against Divided and Subdivided Tracts. As to any further subdivision of any land assessed hereunder, the assessment shall in each case be a lien upon all the subdivisions in proportion to their respective areas. In the event of such subdivision, the Board shall divide the assessment against such land in the same proportion that the land itself is subdivided, and to certify the revised assessments to the Assessor of Morgan County, Colorado.

Section 6. Notice of Payment of Assessments. The GID shall cause a notice of assessments due to be mailed to the owners of the property in Phase 2 of the SID, on or about the same day as the effective date of this Resolution. Such notice shall set forth the place of payment, the amount of the whole assessment if paid within the thirty-day payment period, and the time for such thirty-day period to close and shall be in substantially the form as attached to Exhibit B hereto.

Section 7. Severability. If any one or more sections or parts of this Resolution shall be adjudged unenforceable or invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Resolution, it being the intention that the various provisions hereof are severable.

Section 8. Repealer. All acts, orders, resolutions, or parts thereof, in conflict with this Resolution are hereby repealed.

Section 9. Effective Date. This Resolution shall be effective, in accordance with state law, upon its adoption by the Board.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 2nd day of December, 2008, the vote upon roll call being as follows:

Ayes: President Darnell; Directors Deal, McAlister, Powers, Schafer, and Simmons

Nays: None.

Abstain: Director Shaver

THE BOARD OF THE GENERAL IMPROVEMENT DISTRICT OF THE CITY OF FORT MORGAN, COLORADO



BY: Jack Darnell  
President

ATTEST:

Andrea Strand  
Secretary

STATE OF COLORADO )  
COUNTY OF MORGAN ) ss.  
CITY OF FORT MORGAN )

**CERTIFICATE**

I, ANDREA STRAND, Secretary, do hereby certify and attest that the foregoing **Resolution** is a true, perfect and complete copy of the **Resolution** adopted by the Council of Fort Morgan, Colorado, sitting as the Board of Directors for the Riverview Commons General Improvement District, and is identical to the original thereof appearing in the official records of the City of Fort Morgan, Colorado, and that the same has not been, since its adoption, in any respect, rescinded or amended.

IN TESTIMONY WHEREOF, I have hereunto set my hand and have affixed the seal of the City of Fort Morgan this 2nd day of December 2008.

Andrea Strand  
Andrea Strand, Secretary

## EXHIBIT A

<u>Property</u>	<u>Assessment</u>
Residential Lots 1-12 in Block 1, and Lots 1-24 in Block 2, and Lots 1-48 in Block 3, Riverview Commons, in the City of Fort Morgan, County of Morgan, State of Colorado recorded January 20, 2004 at Reception No. 1500086, Book 10, Pages 114, 115, and 116.	\$4,479.00 per residential lot
Residential Lots 1-20 in Block 4 and Lots 1-40 in Block 5, Riverview Commons Phase 2, an approved re-plat of Lot A of said Riverview Commons, in the City of Fort Morgan, County of Morgan, State of Colorado recorded January 20, 2004 at Reception No. 1500086, Book 10, Pages 114, 115 and 116.	\$4,479.00 per residential lot
87,120 square feet of commercial property being more particularly described as Lot 1 of Riverview Commercial Subdivision, an approved re-plat of Lot B of said Riverview Commons Subdivision, in the City of Fort Morgan, County of Morgan, State of Colorado recorded January 20, 2004 at Reception No. 1500086, Book 10, Pages 114, 115 and 116.	\$132,667.00
94,525 square feet of commercial property being more particularly described as Lot 2 of Riverview Commercial Subdivision, an approved re-plat of Lot B of said Riverview Commons, in the City of Fort Morgan, County of Morgan, State of Colorado Recorded January 20, 2004 at Reception No. 1500086, Book 10, Pages 114, 115 and 116.	\$143,723.00

**EXHIBIT B**

**NOTICE OF ASSESSMENTS DUE FOR IMPROVEMENTS  
WITHIN RIVERVIEW COMMONS GENERAL  
IMPROVEMENT DISTRICT, FORT MORGAN, COLORADO  
SPECIAL IMPROVEMENT DISTRICT NO. 1 (PHASE 2)**

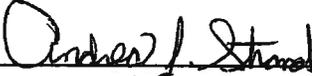
PUBLIC NOTICE IS HEREBY GIVEN that the assessments levied against property within Riverview Commons General Improvement District, Fort Morgan, Colorado ( the "GID") Special Improvement District No. 1 (Phase 2) are due and payable at the Morgan County Treasurer's Office at any time on or before 5:00 p.m., the 2nd day of January, 2009 which is not less than thirty (30) days after adoption of the assessment resolution by the Board of Directors of the GID.

Failure to pay the whole assessment within said period of thirty (30) days shall be conclusively considered to be an election to pay in installments and shall constitute the consent and waiver provided by Section 31-25-529, Colorado Revised Statutes.

In the event of an election to pay in installments, the assessments may be paid in fifteen (15) annual installments of principal and interest beginning in 2009, each being assessed at the rate of 6.75% per annum, accruing from the effective date of the assessment resolution (December 2, 2008). Each installment shall be due and payable at the same time as the real property taxes are due and payable on the property, i.e., one-half on or before February 28 of each year with the remaining one-half due on or before June 15 of each year beginning in 2009 and continuing until 2023. In the alternative, each annual installment may be paid in one lump sum of principal and interest due on or before April 30 of each year beginning in 2009 and continuing until 2023 when the final installment shall be due and payable. The owner of any property not in default as to any installment or payment may at any time pay the whole of the unpaid principal with the interest accruing to the maturity of the next installment. The installments of assessments are payable at the Morgan County Treasurer's Office located at 231 Ensign Street, Fort Morgan, Colorado 80701. The Treasurer's mailing address is: Morgan County Treasurer, P.O. Box 593, Fort Morgan, Colorado 80701.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of Riverview Commons General Improvement District, Fort Morgan, Colorado, as of the 2nd day of December, 2008.



  
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Andrea J. Strand, Secretary