

## RESOLUTION NO. 09 09 07

### AUTHORIZING THE MAYOR TO EXECUTE THE FULL AND FINAL RELEASE AND SETTLEMENT AGREEMENT BETWEEN THE CITY OF FORT MORGAN AND BARBARA AND GARY FRIHAUF.

**WHEREAS**, Article I, Sec. 2(b) of the *Charter of the City of Fort Morgan* empowers the City to sue, defend, and plead matters within the City; and

**WHEREAS**, Barbara and Gary Frihauf, Plaintiffs, by and through their attorney of record, John A. Meininger, filed a **Complaint** in Case No. 08 CV 163, against the City of Fort Morgan for damages sustained to the Plaintiffs' property that occurred on September 28, 2007; and,

**WHEREAS**, the parties, by and through attorney of record John A. Meininger on behalf of the Plaintiffs' and CIRSA on behalf of the City, had previously entered into settlement discussions regarding the claim and a disposition of the suit; and,

**WHEREAS**, due to these discussions, the parties have reached a desirable agreement as set forth in the **Full and Final Release and Settlement Agreement**; and,

**WHEREAS**, CIRSA has recommended that the City execute the Agreement to dispose of this matter in its entirety; and,

**WHEREAS**, pursuant to Article IV, Section 2(d) of the *Charter of the City of Fort Morgan*, the signature of the Mayor is required on all warrants, contracts, bonds or other instruments of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FORT MORGAN, COLORADO:**

**SECTION 1:** The City Council hereby authorized the Mayor to execute the **Full and Final Release and Settlement Agreement** related to Case No. 08 CV 163 in the form attached hereto and incorporated herein by this reference.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 15<sup>th</sup> day of September 2009, the vote upon roll call being as follows:

Ayes: Mayor Darnell; Councilmembers Deal, Forstedt, McAlister, Powers, Shaver and Simmons

Nays: None.

Absent /Abstain: None.

THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

[ SEAL ]

BY:   
Mayor Jack Darnell

ATTEST:

  
Andrea Strand, City Clerk

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

**CERTIFICATE**

I, Andrea Strand, City Clerk of the City of Fort Morgan, Colorado, do hereby certify that the above and foregoing **Resolution** is a true, perfect and complete copy of the **Resolution** adopted by the City Council 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 affixed the seal of the City of Fort Morgan this 16<sup>th</sup> day of September, 2009.

  
Andrea Strand, City Clerk