

## RESOLUTION NO. 2021-09-02

### A RESOLUTION APPROVING THE SERVICE PLAN FOR THE BIJOU METROPOLITAN DISTRICT

**WHEREAS**, Acadia Farms, LLC, a Colorado limited liability company (the "Petitioners"), the potential developer of The Bijou project within the City of Fort Morgan, Colorado ("City") has proposed the organization of The Bijou Metropolitan District (the "District") to provide certain public improvements for the project in accordance with the plans described in the Service Plan for The Bijou Metropolitan District (the "Service Plan"); and

**WHEREAS**, pursuant to the requirements of the Special District Act, Colorado Revised Statutes ("C.R.S.") § 32-1-101, et seq., a service plan for the special district consists of a financial and jurisdictional analysis demonstrating how the proposed facilities and services of the proposed special districts will be constructed and financed; and

**WHEREAS**, C.R.S. § 32-1-204.5 provides that no special district, including a metropolitan district, shall be organized if its boundaries are wholly contained within the boundaries of a municipality, except upon adoption of a resolution of approval by the governing body of such municipality; and

**WHEREAS**, the territory of the proposed District is located wholly within the boundaries of the City and therefore the Service Plan is subject to review and approval of the Fort Morgan City Council ("City Council") by resolution; and

**WHEREAS**, C.R.S. § 32-1-204.5 sets forth the information required for the Service Plan and the criteria applicable to such approval; and

**WHEREAS**, the City Council held a public hearing on the Service Plan (the "Hearing") on September 7, 2021; and

**WHEREAS**, notice of the Hearing was published in *The Fort Morgan Times*, a newspaper of general circulation within the boundaries of the District, on August 21, 2021; and

**WHEREAS**, the Council has considered the Service Plan and, in light of the evidence presented to it at the Hearing, hereby finds that the Service Plan should be approved.

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

**Section 1.** The City Council has authority to approve the Service Plan pursuant to the provisions of § 32-1-204.5, C.R.S.

**Section 2.** The Service Plan contains the information required by § 32-1-202(2), C.R.S.

**Section 3.** Evidence satisfactory to the City Council of each of the following was presented, and in accordance with § 32-1-203(2), C.R.S., the City Council hereby finds that:

- a. There is sufficient existing and projected need for organized service in the area to be serviced by the proposed District;
- b. The existing service in the area to be served by the proposed District is inadequate for present and projected needs;
- c. The proposed District is capable of providing economical and sufficient service to the area within their proposed boundaries; and
- d. The area to be included within the proposed District has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

**Section 4.** The Service Plan for the proposed District is hereby approved. Nothing herein is a waiver or a limitation upon any power which the City Council is legally permitted to exercise with respect to the District, the property within the District, or the improvements to be constructed by the District. As stated above, the City Council's findings are based solely upon the Service Plan and information presented to it related thereto during the public meeting, and the City has not conducted any independent investigation of the evidence. The City makes no guarantee as to the financial viability of the District or the achievability of the results.

**Section 5.** Should any one or more sections or provisions of this Resolution be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution, the intention being that the various sections and provisions are severable. The City Council hereby declares that it would have passed this Resolution including each part, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that one or more parts, sections, subsections, sentence, clauses or phrases are declared invalid.

**Section 6.** This Resolution shall be filed in the records of the City and a certified copy thereof submitted to the Petitioners for the purpose of filing in the District Court of Morgan County, Colorado for further proceedings concerning the District.

INTRODUCED, PASSED, APPROVED AND ADOPTED this 7<sup>th</sup> day of September, 2021, the vote upon roll call being as follows:

Ayes: Mayor Shaver, Councilmembers Deal, Garcia, Lindell, Kaper, Schossow and Urdiales.

Nays: None

Absent / Abstain: None



THE CITY COUNCIL OF THE CITY OF  
FORT MORGAN, COLORADO

BY:

Ronald Shaver  
Ronald Shaver, Mayor

ATTEST:

John Brennan  
John Brennan, City Clerk  
STATE OF COLORADO )  
COUNTY OF MORGAN ) ss.  
CITY OF FORT MORGAN )

**CERTIFICATE**

I, John Brennan, 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 7<sup>th</sup> day of September, 2021.

John Brennan  
John Brennan, City Clerk