

TOWN OF JOHNSTOWN, COLORADO

RESOLUTION NO. 2018-07

**A RESOLUTION
APPROVING THE CONSOLIDATED SERVICE PLAN FOR
JOHNSTOWN VILLAGE METROPOLITAN DISTRICT NOS. 1-5**

WHEREAS, pursuant to Section 32-1-204.5, C.R.S., Johnstown Village, LLC, a Colorado limited liability company, submitted a Consolidated Service Plan (the "Service Plan") for Johnstown Village Metropolitan Districts Nos. 1-5 (collectively, the "Districts"), a copy of which is attached hereto and incorporated herein by reference as Exhibit A, to the Town Council of the Town of Johnstown for approval; and

WHEREAS, Johnstown Village, LLC is under contract to purchase the property within the proposed boundaries of the Districts from Massey Farms, LLLP, a Colorado limited liability limited partnership; and

WHEREAS, pursuant to the provisions of Title 32, Article 1, Part 2, C.R.S. as amended, the Town Council, following due notice, held a public hearing on the proposed Service Plan on May 21, 2018; and

WHEREAS, the Town Council considered the Service Plan and all other testimony and evidence presented at the hearing; and

WHEREAS, based upon the testimony and evidence presented at the hearing, Town Council finds that the Service Plan for Johnstown Village Metropolitan Districts Nos. 1-5 should be approved, subject to certain conditions set forth below, in accordance with Section 32-1-204.5(1)(c), C.R.S.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF JOHNSTOWN, COLORADO:

1. **Satisfaction of Statutory Requirements as to Filing and Notice.** The Town Council, as the governing body of the Town of Johnstown, Colorado, does hereby determine, based on representations by and on behalf of the proponent of the Districts and other evidence presented at the public hearing, that all of the requirements of Title 32, Article 1, Part 2, C.R.S., as amended, relating to the filing of the proposed Consolidated Service Plan for Johnstown Village Metropolitan Districts Nos. 1-5 have been fulfilled and that notice of the hearing was given.

2. **Jurisdiction.** Based on representations by and on behalf of the proponent of the Districts, the Town Council of the Town of Johnstown, Colorado, has jurisdiction over the subject matter of the proposed Service Plan pursuant to Title 32, Article 1, Part 2, C.R.S., as amended.

3. **Findings.** Pursuant to Section 32-1-204.5, C.R.S., Section 32-1-202(2), C.R.S., and Section 32-1-203(2), C.R.S., the Town Council of the Town of Johnstown, Colorado, does hereby find and determine, based on the Service Plan, the representations by and on behalf of the proponent of the Districts and other evidence presented at the public hearing, that:

- (a) There is sufficient existing and projected need for organized service in the area to be serviced by the Districts;
- (b) The existing service in the area to be served by the Districts is inadequate for present and projected needs;
- (c) The Districts are capable of providing economical and sufficient service to the area within their proposed boundaries;
- (d) The area to be included in the Districts has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis;
- (e) Adequate service is not, and will not be, available to the area through the Town or County or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;
- (f) The facility and service standards of the Districts are compatible with the facility and service standards of the Town;
- (g) The proposal is in substantial compliance the Johnstown Area Comprehensive Plan;
- (h) The proposal is in compliance with any duly adopted Town, regional or state long-range water quality management plan for the area;
- (i) The creation of the Districts is in the best interests of the area proposed to be served;
- (j) The creation of the Districts is in the best interests of the residents and future residents of the area proposed to be served; and
- (k) The proposal will not foster urban development that is remote or incapable of being integrated with existing urban areas, and will not place a burden on the Town or adjacent jurisdictions to provide urban services to residents of the Districts.

4. **Service Plan Approved; Conditions and Limitations.** The Town Council hereby approves the Consolidated Service Plan for the Johnstown Village Metropolitan Districts Nos. 1-5, attached as Exhibit A, as may be amended, if at all, as set forth below. This approval is given specifically subject to the following conditions and limitations pursuant to Section 32-1-204.5(1)(c), C.R.S.:

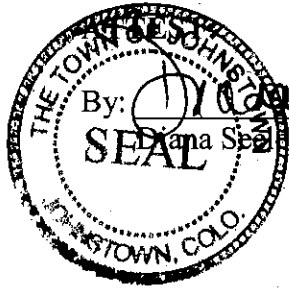
- (a) The Town's approval of the Service Plan shall not relieve Johnstown Village, LLC, the developer of the property within the boundaries of the Districts or any other owner of property in the Districts of any requirement, under the annexation agreement pertaining to the property within the Districts' boundaries or otherwise, to provide financial guarantees for construction of, and dedicate to the Town, all required public improvements.
- (b) Once the Districts have been duly organized, any material modification of the Service Plan shall require an amendment to the Service Plan, which must be approved by the Town.
- (c) At its first meeting after the effective date of this Resolution and in no event later than sixty days after the formation election of the Districts, the Board of Directors of each of the Districts shall execute the Intergovernmental Agreement with the Town ("IGA") and the Districts' Indemnity Letter in the forms set forth as Exhibits to the Service Plan presented to the Town Council at its May 21, 2018 hearing, or in forms otherwise acceptable to the Town Attorney, and shall deliver the fully executed originals of the IGA and Indemnity Letter to the Town.
- (d) The conditions set forth in this Resolution are not intended and shall not be construed to enlarge, diminish or otherwise affect any of the requirements, limitations or other provisions of the Service Plan or IGA.
- (e) The Service Plan, attached as Exhibit A, shall be amended, if at all, pursuant to direction of Town Council at the May 21, 2018 hearing. If so directed, the Town Attorney shall modify the Service Plan and provide the finalized version of the Service Plan to the Town Clerk for filing with the records of the Town and to the owners of the property within the proposed boundaries of the Districts for, among other purposes, filing with the Weld County District Court.
- (f) Section V.A.21 of the Service Plan, entitled Eminent Domain Limitation, shall be revised to read as follows: "Absent the prior written approval of the Town, the Districts shall not exercise their statutory power of eminent domain or dominant eminent domain for the purpose of condemning property outside of the Service Area. Additional approval from the Town shall not be required prior to the Districts' exercise of their statutory power of eminent domain or dominant eminent domain with respect to property within the Service Area. In no event shall the Districts exercise their statutory power of eminent domain to condemn property owned by the Town, whether within or outside of the Service Area." The same change shall be made to Section 21 of the form IGA in Exhibit D to the Service Plan, and the easement maps shall be removed from Exhibit E-1 to the Service Plan. Such changes shall be made prior to the Town Clerk's provision of a certified copy of this resolution to the proponents.

5. **Execution of Town IGA.** The IGA referred to in Section 4(c), above, is hereby approved in essentially the same form as the copy of such IGA set forth as Exhibit D to the Service Plan presented to the Town Council at its May 21, 2018 hearing. The Mayor and Town

Clerk are hereby authorized to execute the IGA on behalf of the Town provided the same has first been executed by the Districts.

6. **Filing of Resolution.** A certified copy of this Resolution, with the attached Service Plan, as may be amended, shall be filed in the records of the Town and submitted to the owners of the property within the proposed boundaries of the Johnstown Village Metropolitan Districts Nos. 1-5 for the purpose of filing in the Weld County District Court.

PASSED, SIGNED, APPROVED, AND ADOPTED this 4th day of June, 2018.



By: [Signature]
Diana Speer, Town Clerk

TOWN OF JOHNSTOWN, COLORADO
By: [Signature]
Scott James, Mayor