



# Town of Johnstown

## TOWN COUNCIL AGENDA COMMUNICATIONS

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**AGENDA DATE:** August 21, 2023

**SUBJECT:** **Public Hearing** – Resolution No. 2023-34 Resolution Approving the Amended and Restated Service Plan for High Plains Metropolitan District No. 4 (Welty Ridge Metropolitan District No. 2)

**ACTION PROPOSED:** Consider Resolution No. 2023-34

**ATTACHMENTS:**

1. Proposed Service Plan
2. Cover Letter from Counsel for the District
3. Letter from Piper Sandler & Co., financial advisor for the District
4. Resolution Approving the Amended and Restated Service Plan for High Plains Metropolitan District No. 4

**PRESENTED BY:** Town Attorney, Avi Rocklin, and Special Counsel, Carolyn Steffl of Dietze and Davis, P.C.

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### **AGENDA ITEM DESCRIPTION:**

An application for approval of an Amended and Restated Service Plan (“Service Plan”) was submitted by the Board of Directors of High Plains Metropolitan District No. 4 (“District”), pursuant to the requirements of the Special District Control Act, Title 32, Article 1, Part 2, C.R.S. The Service Plan was submitted in connection with a development known as Welty Ridge, generally located west of Interstate 25 and south of Larimer County Road 48 (“Property”). The Property is subject to an existing service plan that was approved by the Town Council on or about March 17, 2008. Subsequent to approval of the Service Plan, if approved, the Board of Directors of the District intends to change the name of the District to “Welty Ridge Metropolitan District No. 2” to be consistent with the name of the underlying development.

To satisfy the statutory requirements, the Service Plan includes: (1) a description of the proposed services, (2) a financial plan as to how the services are to be financed, (3) a preliminary engineering or architectural survey showing how the proposed services are to be provided, (4) a map of the District boundaries and future inclusion boundaries, (5) an estimate of the population and valuation

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for assessment of the District, (6) a description of the facilities to be constructed and the standards for construction, (7) a general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the District, and (8) a proposed intergovernmental agreement.

The District's service area consists of approximately 56.15 acres. The daytime population of the District at build-out is estimated to be approximately 950 people. The District is only for commercial (non-residential) uses.

The Service Plan is generally consistent with the Model Service Plan adopted by the Town Council on February 22, 2017. The maximum debt mill levy is 50 mills, which is typical for commercial service plans approved by the Town. The maximum operations and maintenance mill levy is 10 mills. Notwithstanding the maximum limitations, when a majority of the Board of Directors of the District is composed of end users (any owner, tenant or occupant of any taxable commercial property), the Board of Directors may eliminate the maximum operations and maintenance mill levy. The maximum mill levies are subject to an assessed valuation adjustment, meaning, primarily, that if the commercial assessment rate is changed (the ratio of assessed valuation to actual valuation), the mill levy may be increased above the cap so that the rate change is revenue neutral to the District.

The maximum term for imposition of a debt mill levy is twenty years for developer debt from the initial imposition of an ad valorem property tax by the District, unless the Town approves a longer term by intergovernmental agreement, and forty years for any mill levies imposed on residential property only, except that, if a majority of the Board of Directors of the District is composed of end users, the Board may approve a longer term for a refinancing.

The capital plan, attached as Exhibit E to the Service Plan, estimates public improvement project costs of approximately \$19,024,246. The capital plan was reviewed by Greg Weeks, the Town's Engineer, who found that the total preliminary estimate of costs is probably reasonable, given the stage of the development approval. The capital costs are expected to be revised and refined throughout the development review process.

The financial plan, attached as Exhibit F to the Service Plan, provides that the District will have the ability to issue debt in the approximate par amount of \$24,271,000. The maximum debt authorization under the Service Plan is \$27,911,650, which is 15% over the debt capacity in the Financial Plan to allow for flexibility in case the assessed valuation for the homes are higher than estimated.

Prior to the issuance of any debt, the District is required to submit the District's resolution approving the debt issuance, setting forth the parameters of the issuance, to the Town. Subsequent

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to issuance of the debt, the District is required to provide the Town with bond counsel’s opinion letter, a certification from the District that the debt issuance complies with the terms of the Service Plan and a copy of the marketing documents associated with the debt.

The District will establish and maintain a public website, and will timely post a copy of all of the following documents: a) call for nominations, b) the transparency notice, c) the recorded declaration of covenants if the District provides Covenant Enforcement and Design Review Services, d) a copy of this Service Plan and all amendments thereto, e) all approved budgets, audits, meeting minutes, Board orders and resolutions, f) any Rules and Regulations adopted by the Board, g) all meeting agendas, and h) any other requirements pursuant to law. The District will also e-mail calls for nominations to any email address maintained by the county or otherwise provide notice as required by law.

The primary differences between the Amended and Restated Service Plan and the original Service Plan approved on March 17, 2008 are as follows:

<b>Original Service Plan</b>	<b>Amended and Restated Service Plan</b>
Multiple-district structure for High Plains District Nos.1-5, with District 1 as coordinating district	Stand-alone district
Property Use: Mixed Use	Property Use: Non-residential only
Developer was Johnstown Land Partners II, Ltd	Platte Land & Water, LLC
Expected build out by 2017	Expected build out by 2026
Estimated Public Improvement Cost: \$7,256,879.07	Estimated Public Improvement Cost: \$19,024,246
Aggregate Debt Limit for Districts 2-4: \$45,700,000	Debt Limit for this District only: \$27,911,650
Bonds limited to 30-year term; All debt must be repaid within 40 years from first building permit and not later than 2058	Developer debt limited to 20 years from first mill levy imposition
Maximum Aggregate Mill Levy: 40 Mills	Maximum for Debt: 50 Mills, plus Maximum for O&M: 10 Mills
One time fee: \$1,000 per single family home or non-residential property	None.

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Certain parcels had to annex by June 2008, construction of public improvements had to begin by 2011, any developer advances not repaid by 2040 were cancelled.	Removes those limitations. Adds provisions and protections of current model service plan.
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**LEGAL ADVICE:**

The Town Attorney and the Town’s special counsel have reviewed the proposed Service Plan. The criteria for Town Council approval of a Service Plan are:

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

**FINANCIAL ADVICE:** The Town has not engaged an outside financial consultant to review the Financial Plan, but it has been reviewed by Special Counsel, Carolyn Steffl. In addition, applicant’s consultant, Piper Sandler & Co., has attached a letter stating that, subject to certain assumptions, the Financial Plan shows the District’s ability to discharge the proposed indebtedness consistent with the limitations contained in the Service Plan.

**RECOMMENDED ACTION:** Approve Resolution No. 2023-34

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**SUGGESTED MOTIONS:**

**For Approval:** I move to approve Resolution No. 2023-34 a Resolution Approving the Amended and Restated Service Plan for High Plains Metropolitan District No. 4 (Welty Ridge Metropolitan District No. 2).

**For Approval with Conditions:** I move to approve Resolution No. 2023-34 a Resolution Approving the Amended and Restated Service Plan for High Plains Metropolitan District No. 4 (Welty Ridge Metropolitan District No. 2), with the following modifications to the proposed Service Plan, \_\_\_\_\_ and direct the Town Attorney to revise the Service Plan accordingly.

**For Denial:** I move to deny approval of Resolution No. 2023-34 a Resolution Approving the Amended and Restated Service Plan for High Plains Metropolitan District No. 4 (Welty Ridge Metropolitan District No. 2).

*Reviewed and Approved for Presentation,*

A handwritten signature in blue ink, appearing to be 'WJL', is written above a horizontal line.

Town Manager

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