

**TOWN OF JOHNSTOWN, COLORADO
RESOLUTION NO. 2020-28**

**RESOLUTION APPROVING THE SERVICE PLAN FOR
JOHNSTOWN FARMS EAST METROPOLITAN DISTRICT**

WHEREAS, the Town of Johnstown, Colorado (“Town”) is a Colorado home rule municipality, duly organized and existing under the laws of the State of Colorado and the Town’s Home Rule Charter; and

WHEREAS, the Town Council is vested with authority to administer the affairs of the Town; and

WHEREAS, pursuant to Section 32-1-204.5, C.R.S., a service plan for Johnstown Farms East Metropolitan District, a copy of which is attached hereto and incorporated herein by reference as Exhibit A (“Service Plan”), was submitted to the Town Council for approval; and

WHEREAS, TF Johnstown Farms, L.P., a Delaware limited partnership, the owner of the property within the proposed boundaries of the Johnstown Farms East Metropolitan District, has requested approval of the Service Plan; and

WHEREAS, pursuant to the provisions of Title 32, Article 1, Part 2, C.R.S. as amended, on September 21, 2020, the Town Council, following due notice, held a public hearing on the proposed Service Plan for Johnstown Farms East Metropolitan District; 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, the Town Council finds that the Service Plan for Johnstown Farms East Metropolitan District should be approved, subject to the 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, THAT:

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 proponents of the Johnstown Farms East Metropolitan District (“District”), including TF Johnstown Farms, L.P., a Delaware limited partnership, the owner of the property (the “Owner”), that all of the requirements of Title 32, Article 1, Part 2, C.R.S., as amended, relating to the filing of the proposed Service Plan for the District (the “Service Plan”) have been fulfilled and that notice of the hearing was given.

2. **Jurisdiction**. Based on representations by and on behalf of the proponents of the District, the Town Council 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 does hereby find and determine, based on the Service Plan, the representations by and on behalf of the proponents of the District, including the Owner, 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 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.

4. **Service Plan Approved; Conditions and Limitations.** The Town Council hereby approves the Service Plan for Johnstown Farms East Metropolitan District, attached as Exhibit A, as may be revised, if at all, as set forth per section 4(e) 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 the Owner, a developer or any other owner of property in the District of: (i) any requirement under the annexation agreement pertaining to the property within the District's boundaries or any other such binding agreement(s); and (ii) the requirement to provide financial guarantees for construction of, and dedicate to the Town, all required public improvements.
- (b) Once the District has been duly organized, any material modification of the Service Plan shall require an amendment to the Service Plan, which must be approved by Town Council.
- (c) At its first meeting after the effective date of this Resolution and in no event later than sixty (60) days after the formation election of the District, the Board of Directors of the District shall execute the Intergovernmental Agreement with the Town ("IGA") and the District's Indemnity Letter in the forms set forth as exhibits to the Service Plan presented to the Town Council at its September 21, 2020, public 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 within ten (10) days of the District's organizational meeting.
- (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 the IGA.

- (e) The Service Plan shall be revised if required pursuant to an additional condition of approval set forth by Town Council at the September 21, 2020, public 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 District for, among other purposes, filing with the Weld County District Court.

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, which was presented to the Town Council at the September 21, 2020, public 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 District.

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 Farms East Metropolitan District for the purpose of filing in the Weld County District Court.

PASSED, SIGNED, APPROVED, AND ADOPTED this ___ day of _____, 2020.

ATTEST:

TOWN OF JOHNSTOWN, COLORADO

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor