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TOWN COUNCIL AGENDA COMMUNICATIONS

AGENDA DATE: October 7, 2024

SUBJECT: Intergovernmental Agreement Regarding Use of Special Improvement Districts between the Town of Johnstown, Colorado and the Granary Metropolitan District Nos. 1 and 3-9

ACTION PROPOSED: Consider Approval of Intergovernmental Agreement Regarding Use of Special Improvement Districts between the Town of Johnstown, Colorado and the Granary Metropolitan District Nos. 1 and 3-9

ATTACHMENTS:

1. Letter from White, Bear, Ankele, Tanaka and Waldron with Submittal of draft IGA
2. Supplemental Letter from White, Bear, Ankele, Tanaka and Waldron dated September 25, 2024
3. Intergovernmental Agreement Regarding Use of Special Improvement Districts between the Town of Johnstown, Colorado and the Granary Metropolitan District Nos. 1 and 3-9

PRESENTED BY: Avi Rocklin, Town Attorney, and Carolyn Steffl, Special Counsel

AGENDA ITEM DESCRIPTION: On or about September 20, 2021, the Town Council approved the Consolidated Service Plan (“Service Plan”) for Granary Metropolitan District Nos. 1-9 (“Districts”).

The Districts desire to organize Special Improvement Districts (“SIDs”) to provide bridge financing to the developer to finance the construction of, among other potential public improvements, completion of the planned roundabout at the intersection of Roosevelt Parkway and County Road 13, completion of County Road 46 at the southern border of the Granary development from County Road 13 to Telep Avenue, completion of the Roosevelt Parkway from County Road 13 to Telep Avenue, completion of Telep Avenue along the eastern border of the development, and construction of the community pool and locker room facilities. Pursuant to the Service Plan, the Districts “shall not be entitled to create a special improvement district pursuant to Section 32-1-1101.7, C.R.S., unless otherwise provided pursuant to an intergovernmental agreement with the Town.” The Districts seek approval from the Town, in the form of the execution of an Intergovernmental Agreement (“IGA”), to organize the SIDs. Granary

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Metropolitan District No. 2 does not plan to organize an SID because it is farther along in the development process than the other Districts.

Section 32-1-1101.7, C.R.S., of the Special District Act authorizes metropolitan districts to organize special improvement districts within their boundaries, if the governing body authorizes special assessments. A special improvement district can be organized within all or a portion of a municipality or special district to finance public improvements specifically benefitting the property within the geographical area of the special improvement district with the powers and limitations set forth in Section 31-25-501, *et seq.*, C.R.S.

The Board of the District sets the special assessments for property within the special improvement district, based on the benefits that the public improvements provide to each lot, so that the cost of the improvements may be divided based on street frontage, size, or other method. The assessment payment obligation is secured by a lien against the property until paid. Metropolitan districts with an SID are also authorized to issue special assessment bonds, which are revenue bonds secured by the future assessment revenue.

In this case, the Districts have requested authorization to organize SIDs, impose special assessments that will be paid by the developer/builders, and issue special assessment bonds, with several conditions to protect future residents and end users. The special assessments will be due before a certificate of occupancy is issued for a property. As such, they will be paid by the developer/builder prior to sale of the homes to residents. The Districts may thus borrow funds now, at tax-exempt interest rates, and the developer will repay those special assessment bonds before a homeowner purchases the property, rather than the developer needing to borrow the costs of the public improvements at the start of the project. The IGA specifically states: “No special assessment levied within an SID may be structured as an obligation of an End User.”

Special assessments were not contemplated under the original Intergovernmental Agreement and, when structured in this manner, are not within the scope of the definition of “Debt” found in the Service Plan. Therefore, Town staff requested that the Districts specifically add several of the requirements for “Debt” as contractual requirements for the special assessments, including: providing sale and authorizing documents to the Town, reporting on special assessments in annual reports, limiting the special assessments to the Debt limit, and limiting the interest rates to the caps for Debt. Town staff also added a requirement providing that the Districts may not use special assessments and Debt to finance the same public improvement unless the Debt is issued to refinance or repay the Special Assessments.

The proposed IGA authorizes the Town Manager (with legal counsel) to approve minor amendments to the IGA. This provides flexibility should any of the provisions pose a problem and need tweaking when the Districts seek to issue special assessment debt.

STRATEGIC PLAN ALIGNMENT:

- Organizational Excellence & Public Trust
 - *Strengthen public trust and confidence*
- Healthy & Resilient Economy
 - *Promote development in the Town*

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LEGAL ADVICE:

The Town attorney and the Town's special counsel have reviewed the proposed IGA.

FINANCIAL ADVICE:

NA

RECOMMENDED ACTION: Approve Intergovernmental Agreement Regarding Use of Special Improvement Districts between the Town of Johnstown, Colorado and the Granary Metropolitan District Nos. 1 and 3-9

SUGGESTED MOTIONS:

For Approval: I move to approve the Intergovernmental Agreement Regarding Use of Special Improvement Districts between the Town of Johnstown, Colorado and the Granary Metropolitan District Nos. 1 and 3-9.

For Denial: I move to deny approval of the Intergovernmental Agreement Regarding Use of Special Improvement Districts between the Town of Johnstown, Colorado and the Granary Metropolitan District Nos. 1 and 3-9.

Reviewed and Approved for Presentation,



Town Manager