

RESOLUTION NO. 15
(Series 2021)

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD,
APPROVING THE AMENDED AND RESTATED CONSOLIDATED SERVICE PLAN
FOR BERTHOUD-HERITAGE METROPOLITAN DISTRICT NOS. 1 - 17**

WHEREAS, the Town of Berthoud, Colorado (the “Town”), is a municipality duly organized and existing under Title 31 of the Colorado Statutes; and

WHEREAS, the members of the Board of Trustees for the Town of Berthoud, Larimer County, Colorado (the “Board”) have been duly elected, chosen and qualified; and

WHEREAS, pursuant to provisions of Section 32-1-204.5, C.R.S., as amended, material modifications to a service plan may be made to the governing body for approval; and

WHEREAS, the Berthoud – Heritage Metropolitan District Nos. 1-9 were formed in 2008 after the Town of Berthoud, Colorado (the “Town”) approved the original Consolidated Service Plan pursuant to Resolution No. 03-08 on February 12, 2008 (the “Original Service Plan”). The Town subsequently approved the First Amendment to the Original Service Plan pursuant to Resolution No. 10-15 on May 26, 2015 (the “First Amendment”), and the Second Amendment to the Original Service Plan pursuant to Resolution No. 2018-32 on October 9, 2018, which allowed for the formation of the Berthoud – Heritage Metropolitan District Nos. 10-17 (the “Second Amendment”), which were subsequently formed in November 2018; and

WHEREAS, the Second Amendment was approved by Resolution No. 2018-32 (the “Conditional Resolution”), subject to the condition that District Nos. 10-17 would not have the ability to issue debt, impose a mill levy or any fee, rate, toll, or charge of any kind on any property, or to undertake construction of any improvements within District Nos. 10-17 until the Districts submitted and the Town approved an amended and restated service plan that consolidated all previously approved amendments with the Original Service Plan; and

WHEREAS, pursuant to the provisions of the “Special District Control Act”, (Section 32-1-101, et seq., of the Colorado Revised Statutes (“C.R.S.”)), representatives of the Berthoud-Heritage Metropolitan Districts Nos. 1-17 (the “Districts”) submitted to the Board of Trustees an Amended and Restated Consolidated Service Plan dated July 13, 2020, which was revised, updated and resubmitted on February 28, 2021 (the “Amended and Restated Service Plan”); and

WHEREAS, this Amended and Restated Service Plan accomplishes that requirement without adversely affecting any currently issued debt by District Nos. 1-9, and maintains the current taxes, mill levies and the same powers, restrictions, and responsibilities of the Districts set forth in the Original Service Plan, the First Amendment, and the Second Amendment and updates the Exhibits to the Service Plan, the District boundaries and consolidates all prior Service Plan and Amendments into one document as required by the Conditional Resolution; and



WHEREAS, pursuant to Sections 32-1-202(2), 32-1-203(2), 32-1-204.5 and 32-1-207 C.R.S., as amended, the Amended and Restated Service Plan has been reviewed and recommended for approval, subject to the requirements set forth in this Resolution, by the Town Attorney, Town Administrator, and Town Planning Department, and has now been submitted to the Board of Trustees for its final approval; and

WHEREAS, the Board will hold a public hearing on March 23, 2021, following publication of notice of the date, time and location and purpose of the hearing therefor, to consider the Amended and Restated Service Plan; and

WHEREAS, notice of the date, time and location and purpose of the hearing was published in agenda of the Town of Berthoud and duly posted by the Town as required by the Town Code; and

WHEREAS, the District Nos. 1-17 lie wholly within the corporate limits of the Town; and

WHEREAS, prior to taking final action on this Resolution, the Board of Trustees did on March 23, 2021 permit public comments on this Resolution, considered the Amended and Restated Service Plan and all other testimony and evidence presented at the hearing, and held a vote to adopt this Resolution and take such other action as it deems appropriate; and

WHEREAS, the Board of Trustees' approval of the Amended and Restated Service Plan is subject to and based upon those conditions and limitations contained in this Resolution, if any; and

WHEREAS, the Board of Trustees further finds that it is in the best interests of the citizens of the Town of Berthoud to authorize the appropriate Town officials to enter into any revised Intergovernmental Agreement with the District Nos. 1-17, as necessary to relative rights and responsibilities between the Town and District Nos. 1-17 with respect to certain functions, operations, and obligations of the District Nos. 1-17.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, COLORADO, AS FOLLOWS:

1. **THAT**, the above and foregoing recitals are incorporated herein by reference and are adopted as findings and determinations of the Board of Trustees.

2. **THAT**, pursuant to Section 32-1-204.5(1), C.R.S., evidence satisfactory to the Board of Trustees further finds and determines that all of the jurisdictional and other requirements of Section 32-1-202(2), 32-1-204.5(1), 32-1-207 C.R.S., the proposed Resolution, and the Town Code have been fulfilled, including those relating to the filing and form of the Amended and Restated Consolidated Service Plan and that notice of the public meeting on this Resolution was given in the time and manner required by law and the Town Code.

3. **THAT**, pursuant to Section 32-1-204.5(1), C.R.S., evidence satisfactory to the Board of each of the following criteria, as provided in Section 32-1-203(2), C.R.S., was presented:

a. There is sufficient existing and projected need for organized service in the area to be served by the Districts; and

b. The existing service in the area to be served by the Districts is inadequate for present and projected needs; and

c. The Districts are capable of providing economical and sufficient service to the area within their proposed boundaries; and

d. The area to be included in the Districts does have, and will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

4. **THAT**, the Board of Trustees further determines that all pertinent facts, matters and issues were submitted at the public hearing regarding this Resolution; that the conditions established in the Second Amendment have been satisfied and the conditions are hereby rescinded and shall be of no further force and effect, and that all interested parties were heard or had the opportunity to be heard; and that evidence satisfactory to the Board of Trustees was presented.

5. **THAT**, the Amended and Restated Service Plan is hereby approved in substantially the form as attached hereto, subject to technical or otherwise non-substantive modifications as deemed necessary by the Town Manager in consultation with the Town Planner, Engineer, Legal Counsel and other applicable staff or consultants.

6. **THAT**, the Town Clerk is hereby directed to file a certified copy of this Resolution in the records of the Town and submit a certified copy of this Resolution to the representatives of the District Nos. 1-17 for filing in the District Court of Larimer County, Colorado.

7. **THAT**, all acts, orders, resolutions, or parts thereof, of the Town that are inconsistent or in conflict with this Resolution, are hereby repealed to the extent only of such inconsistency or conflict.

8. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

9. This Resolution shall be in full force and effect upon its passage and approval.



THIS RESOLUTION WAS INTRODUCED, MOVED, AND ADOPTED BY THE TOWN BOARD OF THE TOWN OF BERTHOUD, COLORADO, UPON A MOTION DULY MADE, SECONDED AND PASSED AT ITS MEETING HELD ON THE 23rd DAY OF MARCH 2021.

By: Dianne Jasper
Mayor

I hereby certify that the above Resolution was introduced to the Board of Trustees of the Town of Berthoud at its meeting of March 23, 2021, and approved in accordance with the Town Code on March 23, 2021.

SEAL



ATTEST:

By: Karen B. Jee
Town Clerk

