

**TOWN OF BERTHOUD
LARIMER COUNTY, COLORADO**

RESOLUTION NO. 1-16

A RESOLUTION OF THE TOWN OF BERTHOUD APPROVING THE CONSOLIDATED SERVICE PLAN AND ORGANIZATION OF HAMMOND FARM METROPOLITAN DISTRICT NO. 1, NO. 2, NO. 3 AND NO. 4 AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN AND THE DISTRICTS

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 of Trustees") have been duly elected, chosen and qualified; and

WHEREAS, pursuant to the provisions of the "Special District Control Act", Part 2 of Article 1, Title 32, of the Colorado Revised Statutes, the representatives of Hammond Farm Metropolitan District Nos. 1, No. 2, No. 3 and No. 4 (the "Districts") submitted to the Town of Berthoud (the "Town") a Service Plan for Hammond Farm Metropolitan District Nos. 1-4 dated September 18, 2015 (the "Service Plan") which outlines the terms and conditions under which the Districts will be authorized to exist; and

WHEREAS, Section 32-1-204.5 of the Colorado Revised Statutes, provides that no special district shall be organized if wholly within the boundaries of a municipality, except upon adoption of a resolution approving the service plan of the proposed special district; and

WHEREAS, pursuant to Sections 32-1-203 and 204.5, C.R.S., as amended, the Service Plan for the Districts has been reviewed and recommended for approval by the Town Attorney, Town Administrator and Town Planning Department, and has now been submitted to the Board of Trustees for the Town of Berthoud, Larimer County, Colorado for consideration of its approval; and

WHEREAS, pursuant to the provisions of Title 32, Article 1, C.R.S., as amended, the Board of Trustees scheduled and held a public hearing on the Service Plan on January 26, 2016 at which hearing all interested parties were afforded an opportunity to be heard and all other testimony and evidence was presented; 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 territory of the proposed Districts is located wholly within the corporate limits of the Town; and

WHEREAS, the members of the Board of Trustees of the Town have been duly elected, chosen and qualified; and

WHEREAS, Board of Trustee's approval of the Service Plan is subject to and based upon these conditions and limitations contained in the Service Plan and attached to this Resolution, if any; and

WHEREAS, prior to taking final action on this Resolution, the Board of Trustees did on January 26, 2016 permit public comments on this Resolution, considered the Service Plan for the Districts 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, pursuant to Section 32-1-204.5 (1)(c), C.R.S., the Town Board of Trustees may conditionally approve the Service Plan at this time, subject to the Town Board's final approval of the Service Plan without condition at a subsequent time after compliance with the Town of Berthoud Municipal Code, in order to allow the proponents of the Districts to immediately file their petition for organization of the Districts with the District Court, pursuant to Section 32-1-301, C.R.S.; and

WHEREAS, the Board of Trustees further finds that it is in the best interest of the citizens of the Town to enter into an Intergovernmental Agreement with the Districts at the time of their formation for the purpose of assigning the relative rights and responsibilities between the Town and the Districts with respect to certain functions, operations and obligations of the Districts.

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

SECTION 1. The above and foregoing recitals are incorporated herein by reference and are adopted as findings and determinations of the Board of Trustees.

SECTION 2. The Board of Trustees further finds that all of the jurisdictional and other requirements of Section 32-1-202(2) and 32-1-204.5(1), C.R.S., have been fulfilled, including those relating to the filing and form of the Service Plan for the Districts and that notice of the public hearing before the Board of Trustees was given in the time and manner required by the laws of the State of Colorado.

SECTION 3. The Board of Trustees further finds and determines that all pertinent facts, matters and issues were submitted at the public hearing; that all interested parties were heard or had the opportunity to be heard; and that evidence satisfactory to the Board of Trustees of each of the following was presented:

- a. Adequate service is not, and will not, be available to the area to be served by the Districts through the Town or other existing special districts within a reasonable time and on a comparable basis;

- b. The facility and service standards of the proposed District are compatible with the facility and service standards of the Town;
- c. There is sufficient existing and projected need for organized service in the area to be served by the proposed Districts;
- d. The existing service in the area to be served by the proposed Districts is not adequate for present and projected needs;
- e. The proposed Districts are capable of providing economic and sufficient service to the area within their proposed boundaries;
- f. The area to be included in the proposed Districts has or will have the financial ability to discharge the proposed indebtedness on a reasonable basis;
- g. The proposal is in substantial compliance with any duly adopted master plans;
- h. The proposal is in compliance with any duly adopted county, regional, or state long range water quality management plan for the area; and
- i. The creation of the proposed Districts will be in the best interests of the area to be served.

SECTION 4. The Board of Trustees of the Town of Berthoud, Colorado hereby approves the Service Plan for Hammond Farm Metropolitan Districts No. 1, No. 2, No. 3 and No. 4 in substantially the form presented at this hearing with such conditions, if any, attached hereto.

SECTION 5. The officers of the Town are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

SECTION 6. This Resolution shall be in full force and effect upon its passage and approval.

SECTION 7. The Mayor and Town Clerk are hereby authorized to execute, on behalf of the Town of Berthoud, the Intergovernmental Agreement between the Town of Berthoud, Colorado and Hammond Farm Metropolitan District Nos. 1, 2, 3 and 4 (the "Town IGA") in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the Town Attorney may deem necessary or appropriate and not inconsistent with this Resolution.

SECTION 8. A certified copy of this Resolution shall be filed in the records of the Town and submitted to the petitioners for the purpose of filing in the District Court of Larimer County, Colorado.

SECTION 9. 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.

SECTION 10. If any section, paragraph, clause or provision of this Resolution shall for any reason to be held 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.

SECTION 11. The Town Board of Trustees hereby determines that upon consideration of the Service Plan, and all evidence disclosed at the public hearing on the for the Hammond Farm Metropolitan District Nos. 1-4 shall be and the same is hereby approved, and the proponents of the proposed Districts may immediately proceed to file their petition for organization of the Districts with the District Court attaching this Resolution thereto, pursuant to Section 32-1-301, C.R.S.; provided, however, that before any order establishing the Districts is entered by the District Court, pursuant to Section 32-1-305(7), C.R.S., the Town Board of Trustees shall first have adopted a final resolution of approval of the Service Plan without condition, which resolution shall also be filed with the District Court.


INTRODUCED, READ, 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 9th DAY OF February 2016.

By: 
David Gregg, Mayor

I hereby certify that the above Resolution was introduced to the Board of Trustees of the Town of Berthoud at its meeting of Feb. 9th, 2016, and approved in accordance with the Town Code on Feb. 9th, 2016.

ATTEST:

SEAL

By: 
Alisa R. Darrow, Town Clerk