

**TOWN OF BERTHOUD
LARIMER COUNTY, COLORADO**

RESOLUTION NO. 10-15

**A RESOLUTION APPROVING THE FIRST AMENDMENT TO THE
CONSOLIDATED SERVICE PLAN FOR BERTHOUD-HERITAGE
METROPOLITAN DISTRICT NOS. 1 - 9**

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, C.R.S., the representatives of the Berthoud-Heritage Metropolitan Districts No. 1, No. 2, No. 3, No. 4, No. 5, No. 6, No. 7, No. 8 and No. 9 (collectively the "Districts") submitted to the Board of Trustees a Consolidated Service Plan dated November 7, 2007, which was revised and resubmitted February 6, 2008 ("Service Plan") which outlined the terms and conditions under which the Districts would be authorized to exist and was approved by the Town by Resolution No. 3-08 on February 12, 2008; and

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

WHEREAS, the Districts desire to submit to the Board of Trustees a First Amendment to the Consolidated Service Plan for Berthoud-Heritage Metropolitan District Nos. 1-9 for approval (the "First Amendment") which modifies the Service Plan previously approved by the Board of Trustees; and

WHEREAS, pursuant to Sections 32-1-204.5 and 32-1-207 C.R.S., as amended, the First Amendment 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 its final approval; and

WHEREAS, pursuant to the provisions of Title 32, Article 1, C.R.S., as amended, the Town introduced and considered the approval of this Resolution at a public hearing of the Board of Trustees held on May 26, 2015, regarding the First Amendment filed in the office of the Town Clerk on or about February 24, 2015 as revised and resubmitted on or about May 7, 2015, a true copy of which are attached to this Resolution as Exhibit A; 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 Districts lie wholly within the corporate limits of the Town; and

WHEREAS, Sections 32-1-204.5(1), 32-1-205(1) and 32-1-207(2)(a), C.R.S. require that any material modification to a service plan of a special district, pursuant to the Act, which is confined exclusively within the boundaries of any municipality, shall be approved by the governing body of the municipality, which approval will be based upon the presentation of the modification of the service plan defining the powers and authorities of the Districts; and

WHEREAS, prior to taking final action on this Resolution, the Board of Trustees did on April 28, 2015 permit public comments on this Resolution, considered the First Amendment 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, Board of Trustees' approval of the First Amendment is subject to and based upon those conditions and limitations contained in the First Amendment attached to 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 Districts, as necessary to 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, AS FOLLOWS:

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

2. The Board of Trustees further finds and determines that all of the jurisdictional and other requirements of Section 32-1-202(2) and 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 First Amendment 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. The Board of Trustees further determines that all pertinent facts, matters and issues were submitted at the public hearing regarding this Resolution; that all interested parties were heard or had the opportunity to be heard; and that evidence satisfactory to the Board of Trustees was presented.

4. The Board of Trustees hereby grants and approves by this Resolution the First Amendment for the Districts, in the form attached hereto as Exhibit A.

5. 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 Districts for the purpose of filing in the District Court of Larimer County, Colorado.

6. 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.

7. 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.

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

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 26th DAY OF May 2015.

By:



Jan Dowker, Mayor Pro-Tem

I hereby certify that the above Resolution was introduced to the Board of Trustees of the Town of Berthoud at its meeting of May 26, 2015, and approved in accordance with the Town Code on May 26, 2015.

ATTEST:

SEAL

By:



Mary K. Cowdin, Town Clerk