

**TOWN OF MEAD, COLORADO
RESOLUTION NO. 64-R-2023**

**A RESOLUTION OF THE TOWN OF MEAD, COLORADO,
APPROVING WITH CONDITIONS THE FIRST AMENDMENT TO SERVICE PLAN
FOR 34 9.5 METROPOLITAN DISTRICT, AND AUTHORIZING EXECUTION OF THE
FIRST AMENDMENT TO THE INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN AND THE DISTRICT**

WHEREAS, the Board of Trustees conditionally approved the Service Plan for 34 9.5 Metropolitan District (“District”) by and through Resolution No. 65-R-2020 dated July 27, 2020; and

WHEREAS, the District was subsequently organized pursuant to a court order and decree of the Weld County District Court dated January 6, 2021, a copy of which was recorded on January 19, 2021, at Reception No. 4672769 in the Weld County property records; and

WHEREAS, the Town has received a request to review and approve the First Amendment to the Service Plan for the District (the “First Amendment”); and

WHEREAS, specifically, the First Amendment was originally submitted by the Board of Directors of the District to the Town on June 28, 2023, in accordance with the provisions of Section 12-3-10(d) and Article II of Chapter 12 of the Mead Municipal Code (“MMC”), and was revised and resubmitted on August 22, 2023, and September 6, 2023; and

WHEREAS, pursuant to Section 12-3-10(d) of the MMC, service plan amendments are required to be processed substantially in accordance with Article II of Chapter 12 of the MMC; and

WHEREAS, a copy of the First Amendment is attached to this Resolution as ATTACHMENT A; and

WHEREAS, the First Amendment contains the information required by Chapter 12 of the MMC, as applicable; and

WHEREAS, the District submitted a Letter of Intent dated July 24, 2023 (“Letter of Intent”), as required by MMC Section 12-2-10(e); and

WHEREAS, in accordance with MMC Section 12-2-40, the District has caused notice of the date, time, location and purpose of the public hearing regarding the First Amendment to be duly published in the *Longmont Times Call*, a newspaper of general circulation, on August 30, 2023; has caused such notice to be provided to the Division of Local Government in the Department of Local Affairs; has caused notice to be provided to the governing body of each municipality and of each special district which has levied an *ad valorem* tax within the next preceding tax year and which has boundaries within a radius of three (3) miles of the District, and has complied with other applicable notice provisions set forth in the MMC; and

WHEREAS, the District has filed a publisher’s affidavit and certificate of mailing regarding the aforementioned public notices to be filed with the Town Clerk; and

WHEREAS, the Board of Trustees has reviewed the First Amendment and Letter of Intent and has considered other evidence in support of the approval or conditional approval of the First Amendment; and

WHEREAS, the Board of Trustees desires to approve the First Amendment subject to the conditions set forth in this Resolution.

THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Mead, Colorado as follows:

Section 1. The Board of Trustees has authority to approve the First Amendment without condition or modification, deny the First Amendment, or conditionally approve the First Amendment subject to the submission of additional information relating to, or the modification of, the First Amendment or by agreement with the District, as authorized by MMC Sections 12-2-50 and 12-3-10(d), and C.R.S. § 32-1-204.5(1)(c).

Section 2. Based on the contents of the First Amendment and other evidence presented at the public hearing of the Board of Trustees held on September 25, 2023, and in accordance with MMC Section 12-2-50, the Board of Trustees hereby finds and determines as follows:

- a. Pursuant to state statute and the MMC, the Board of Trustees has authority to review the First Amendment and Letter of Intent.
- b. The First Amendment meets the Town’s approval criteria, as set forth in Section 32-1-203(2), C.R.S. and Chapter 12 of the MMC.
- c. The First Amendment contains the information required in Section 12-2-20 of the MMC.
- d. The First Amendment is in substantial compliance with Chapter 12 of the MMC, including but not limited to substantial compliance with applicable provisions of the model service plan referenced in Section 12-2-20 of the MMC.

Section 3. The First Amendment for the District is hereby approved, subject to the following conditions:

- a. The District’s Board of Directors shall approve and execute the First Amendment to Intergovernmental Agreement (in substantially the form attached to the First Amendment as EXHIBIT C) (“IGA Amendment”) within sixty (60) days of the effective date of this Resolution and shall file executed duplicate originals of such executed IGA Amendment with the Town Clerk within ten (10) days of the date of execution.
- b. The District shall not be authorized to issue Debt until the District has:
 1. Reimbursed the Town for all outstanding charges and fees incurred for legal/consultant review relating to their review of the First Amendment; and
 2. Filed an updated/revised Capital Plan (“Updated Capital Plan”) with the Town in a form acceptable to the Town Manager and Town Attorney in order to further break down the public improvements referenced in the Capital Plan by improvement and phase. Once Updated Capital Plan has been reviewed and accepted by the Town, the Town Attorney shall notify the District regarding satisfaction of this condition in writing, with a copy to District counsel of record.

The Updated Capital Plan, when finalized, shall be EXHIBIT A of the First Amendment.

- c. Following approval of this Resolution (conditionally approving the First Amendment), counsel for the District shall proceed to file a copy of the First Amendment with the Weld County District Court and the Division of Local Government (in the Department of Local Affairs).

Section 4. The Board of Trustees hereby approves the IGA Amendment in substantially the form attached as EXHIBIT C to the First Amendment, and: (a) authorizes the Mayor or Town Manager, in consultation with the Town Attorney, to make such other changes as may be needed to the IGA Amendment in order to correct any nonmaterial errors or language; and (b) authorizes the Mayor to execute the IGA Amendment on behalf of the Town following approval as to form by the Town Attorney and following the date on which the District's Board of Directors have caused executed duplicate originals of the IGA Amendment be filed of record with the Town Clerk.

Section 5. Approval of this Resolution is not a waiver of, nor a limitation upon any power that the Town is legally permitted to exercise with respect to the District or the property located within the boundaries of the District.

Section 6. The Town Clerk shall certify to the passage of this Resolution and make not less than one copy of the adopted Resolution available for inspection during regular business hours.

Section 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 such section, paragraph, clause or provision shall not affect any of the remaining issues of this Resolution.

Section 8. Effective Date. This Resolution shall take effect upon its approval by the Board of Trustees.

INTRODUCED, READ, PASSED AND ADOPTED THIS 25TH DAY OF SEPTEMBER, 2023.

ATTEST:

TOWN OF MEAD:

By:  _____
Mary E. Strutt, MMC Town Clerk

By:  _____
Colleen G. Whitlow, Mayor



ATTACHMENT A

FIRST AMENDMENT TO SERVICE PLAN FOR 34 9.5 METROPOLITAN DISTRICT

[Attached.]