

**TOWN OF TIMNATH, COLORADO
RESOLUTION NO. 44, SERIES 2015**

**AN AMENDED AND RESTATED
RESOLUTION APPROVING THE AMENDED AND RESTATED SERVICE PLAN
FOR WILDWING METROPOLITAN DISTRICT NOS. 1-5**

WHEREAS, the Town Council of the Town of Timnath (the "Town"), pursuant to the provisions of its Charter and the Colorado Revised Statutes, has the power to adopt resolutions and policies; and

WHEREAS, on August 8, 2007, following due notice, the Town Council held a public hearing on the proposed Service Plans for Wildwing Metropolitan District Nos. 1 and 2 (the "Service Plans"); and

WHEREAS, on December 9, 2014, following due notice, the Town Council held a public hearing on the proposed Amended and Restated Service Plan for Wildwing Metropolitan District Nos. 1-5 (the "Amended Plan"); and

WHEREAS, at the request of the Town, supplemental information was added to the Exhibits of the Amended Plan which resulted in the final approved Amended Plan being certified by the Town on April 28, 2015, however, the Resolution of Approval 68-2014 contained conditional language that was unintentionally included; and

WHEREAS, the Town Council desires to amend, restate and supersede Resolution 68, Series 2014 to remove those conditions and approve the Amended and Restated Service Plan for Wildwing Metropolitan District Nos. 1-5 (the "Amended Service Plan") attached hereto as Exhibit A; and

WHEREAS, the Town Council is familiar with the Amended Service Plan and finds its terms to be in the best interest of the Town, the residents within its boundaries, and the general public; and

WHEREAS, the boundaries of the Wildwing Metropolitan District Nos. 1-5 ("Districts") are wholly within the corporate limits of the Town; and

WHEREAS, the Town Council has conducted a public hearing on December 9, 2014, regarding the Amended Service Plan; and

WHEREAS, the Special District Act requires that any service plan submitted to the District Court for the creation of a special district must first be approved by resolution of the governing body of the municipality within which the Districts lie; and

WHEREAS, an Intergovernmental Agreement between the Town and the Districts has been prepared in accordance with the terms, provisions, and limitations contained in the Amended Service Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO as follows:

1. The Town Council determines that the Amended Service Plan satisfies the requirements of §§ 32-1-201, 32-1-202(2), 32-1-203(2) and 32-1-204.5, C.R.S., as amended, relating to the filing of the Amended Service Plan and that the notice of the hearing was given in the time and manner required by law.

2. The Town Council determines that the Town's notification requirements have been complied with regarding the public hearing on the Amended Service Plan.

3. The Town Council determines that, based on representations by and on behalf of the Developer and the Districts, the Town Council has jurisdiction over the subject matter of the Amended Service Plan pursuant to §§32-1-201, *et seq.*, C.R.S., as amended.

4. In accordance with the requirements of §§ 32-1-202(2), 32-1-203(2) and 32-1-204.5, C.R.S, the Town Council hereby finds that:

- a. There is sufficient existing and projected need for organized service in the area to be served by the Districts.
- b. The existing service in the area to be serviced by the Districts is inadequate for present and projected needs.
- c. The Districts are capable of providing economical and sufficient service to the area within their proposed boundaries.
- d. The area included within the Districts has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

4. The Town Council's findings are based solely upon the Amended Service Plan and evidence presented at the public hearing and the Town has not conducted any independent investigation of the evidence. The Town makes no guarantee as to the financial viability of the Districts' financial plan or the achievability of the results.

5. The Town of Timnath hereby conditionally approves the Amended Service Plan subject to the condition that the Developer agrees that, within fifteen (15) days following presentment by the Town of an invoice, all fees and expenses that have been submitted to the Developer in connection with the Town's review and processing of the Amended Service Plan for payment by or on behalf of the Town or its attorneys or financial or other advisors shall be paid in full, and the Developer shall also promptly pay all such fees and expenses submitted thereafter.

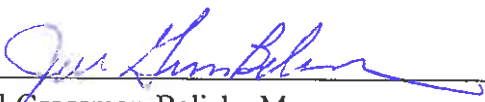
6. The terms, provisions, and limitations of the Amended Service Plan have been incorporated in the Intergovernmental Agreement attached to the Amended Service Plan. The Intergovernmental Agreement is incorporated herein by this reference and is hereby approved, but shall not be effective until executed by the Town and the Districts. The Districts are not authorized to issue any debt, impose mill levies or fees until the time that the Intergovernmental Agreement is executed. The Town Manager is authorized to sign, and the Town Clerk to attest, the attached Intergovernmental Agreement once it has been executed by the Districts.

7. The Town Council's approval of the Amended Service Plan and the Intergovernmental Agreement is not a waiver or a limitation upon any power, which the Town Council is legally permitted to exercise with respect to the property within the Districts.

8. Resolution 68-2014 is hereby amended, restated and superseded by this Amended and Restated Resolution of Approval 68, Series 2014 as of the date referenced below.

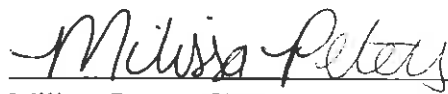
INTRODUCED, MOVED, AND ADOPTED ON JULY 14, 2015,

TOWN OF TIMNATH



Jill Grossman-Belisle, Mayor

ATTEST:



Milissa Peters, CMC
Town Clerk



EXHIBIT A
AMENDED SERVICE PLAN

**TOWN OF TIMNATH
RESOLUTION NO. 68, SERIES 2014**

**A RESOLUTION APPROVING THE AMENDED AND RESTATED SERVICE PLAN
FOR WILDWING METROPOLITAN DISTRICT NOS. 1-5**

WHEREAS, the Town Council of the Town of Timnath (the "Town"), pursuant to the provisions of its Charter and the Colorado Revised Statutes, has the power to adopt resolutions and policies; and

WHEREAS, on August 8, 2007, following due notice and a public hearing, the Town Council approved, with conditions, the Service Plans for Wildwing Metropolitan District Nos. 1 and 2 (the "Service Plans"); and

WHEREAS, on December 9, 2014, following due notice, the Town Council held a public hearing on the proposed Amended and Restated Service Plan for Wildwing Metropolitan District Nos. 1-5 (the "Amended Plan"); and

WHEREAS, the Town Council has considered the Amended Plan and all other testimony and evidence presented at the hearing; and

WHEREAS, based upon the testimony and evidence presented at the hearing, it appears that the Amended Plan should be approved by the Town Council, subject to certain conditions set forth below, in accordance with § 32-1-204.5(1)(c), C.R.S.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF TIMNATH, COLORADO as follows:

1. The Town Council determines, based on representations by and on behalf of WW Development, LLC, a Colorado limited liability company (the "Developer") and the Wildwing Metropolitan District Nos. 1-5 (the "Districts"), that the Amended Plan satisfies the requirements of §§ 32-1-201, *et seq.*, C.R.S., as amended, relating to the filing of the Amended Plan and that the notice of the hearing was given in the time and manner required by law.

2. The Town Council determines that, based on representations by and on behalf of the Developer and the Districts, the Town Council has jurisdiction over the subject matter of the Amended Plan pursuant to §§32-1-201, *et seq.*, C.R.S., as amended.

3. In accordance with the requirements of §§ 32-1-202(2), 32-1-203(2) and 32-1-204.5, C.R.S, the Town Council hereby finds that:

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

inadequate for present and projected needs.

- c. The Districts are capable of providing economical and sufficient service to the area within their proposed boundaries.
- d. The area included within the Districts has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.
- e. Adequate service is not, or will not be, available to the areas through the Town, Larimer County, or other existing municipal or quasi-municipal corporations, including other existing title 32 districts, within a reasonable time and on a comparable basis.
- f. The facility and service standards of the Districts are compatible with the facility and service standards of the Town.
- g. The proposed Amended Plan is in substantial compliance with the comprehensive plan of the Town as adopted pursuant to the Town Code.
- h. The proposed Amended Plan is in compliance with any duly adopted Town, regional, or state long range water quality management plan for the area.
- i. The Amended Plan will be in the best interests of the area proposed to be served.

4. The Town Council's findings are based solely upon the Amended Plan and evidence presented at the public hearing and the Town has not conducted any independent investigation of the evidence. The Town makes no guarantee as to the financial viability of the Districts' financial plan or the achievability of the results.

5. The Town of Timnath hereby conditionally approves the Amended Plan, as attached hereto as Exhibit A, subject to the following conditions:

a. The Developer agrees that, within fifteen (15) days following presentment by the Town of an invoice, all fees and expenses that have been submitted to the Developer for payment by or on behalf of the Town or its attorneys or financial or other advisors shall be paid in full, and the Developer shall also promptly pay all such fees and expenses submitted thereafter.

b. Each and every provision of the Amended Plan is an integral part of the whole and in the event any court of competent jurisdiction finds any material provision hereof to be unenforceable, invalid, or otherwise not binding on the Districts in any manner, such shall constitute a failure of the conditional approval of the Town so that immediately upon the entry of such order, without requirement of any action on the part of the Town, all powers and authority of the Districts contained in the First Amendment shall be deemed suspended until such time as the Districts submit to the Town a new amended service plan and obtain approval thereof which may be denied in the Town's sole and absolute discretion.

c. This conditional approval shall be made an express condition of any court order and decree and shall be fully set forth therein. In the event this Amended Plan postdates the issuance of any order and decree regarding the Districts, the Districts shall file a motion with the court seeking an amendment to the order and decree to include the conditional approval thereof as stated in this Section 5. Prior to submitting a proposed order and decree or amended order and decree to the court the Districts shall submit it to the Town for review and approval.

d. Any violation of this Section 5 shall constitute a failure of the conditional approval of the Amended Plan unless the Districts obtain a waiver of the consequences of such violation executed by the Town Manager.

6. The Town Council's approval of the Amended Plan is not a waiver or a limitation upon any power, which the Town Council is legally permitted to exercise with respect to the property subject to the Districts.

INTRODUCED, MOVED, AND ADOPTED ON DECEMBER 9, 2014,

TOWN OF TIMNATH



Jill Grossman-Belisle, Mayor

ATTEST:



Milissa Peters, Clerk

