



## ICENOGLE SEAVER POGUE

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August 29, 2023

Division of Local Government  
1313 Sherman Street, Room 521  
Denver, Colorado 80203  
*Via E-Filing*

Adams County Clerk & Recorder  
4430 S. Adams County Pkwy., Ste. E2400  
Brighton, Colorado 80601  
*Via E-Mail: clerk@adcogov.org*

State of Colorado  
Office of the State Auditor  
1525 Sherman St., 7<sup>th</sup> Floor  
Denver, Colorado 80203  
*Via E-Filing*

**Re: First Amendment to Service Plan for Section 27 Metropolitan District**

To Whom It May Concern:

Enclosed for your files on Section 27 Metropolitan District, Town of Bennett, Adams County, Colorado, is a First Amendment to Service Plan for Section 27 Metropolitan District, approved by the Board of Trustees of the Town of Bennett on August 22, 2023.

Should you have further questions or need additional information, please contact our office.

Sincerely,

ICENOGLE SEAVER POGUE  
A Professional Corporation

*Kayla Enriquez*

Kayla M. Enriquez

cc: Jennifer L. Ivey  
Alicia J. Corley  
Noel Nail

**RESOLUTION NO. 982-23**

**A RESOLUTION OF THE TOWN OF BENNETT APPROVING THE  
FIRST AMENDMENT TO SERVICE PLAN FOR  
SECTION 27 METROPOLITAN DISTRICT**

**WHEREAS**, the Town of Bennett (the “**Town**”), pursuant to Title 32, Article 1, of the Colorado Revised Statutes (the “**Special District Act**”), and Chapter 16, Article 5, Division 8 (Sections 16-5-805 *et seq.*) of the Town of Bennett Municipal Code (the “**Special District Code**”), has the authority to approve service plans for metropolitan districts that are organized within the Town’s boundaries; and

**WHEREAS**, Section 27 Metropolitan District (the “**District**”) is a special district organized pursuant to the Special District Act, Section 32-1-101, *et seq.*, C.R.S., and is located wholly within the boundaries of the Town; and

**WHEREAS**, the Town’s Board of Trustees approved a Service Plan for Section 27 Metropolitan District (the “**Service Plan**”) on August 28, 2018 via Resolution No. 722-18; and

**WHEREAS**, pursuant to Section 32-1-207(1), C.R.S., the District shall conform so far as practicable to the approved Service Plan; and

**WHEREAS**, pursuant to Section 32-1-207(2)(a), C.R.S., “material modifications” of the Service Plan must be petitioned to and approved by the Town in substantially the same manner as is provided in the Special District Act for the approval of the original Service Plan; and

**WHEREAS**, pursuant to Section 32-1-207(2)(a), C.R.S., “material modifications” are changes of a “basic or essential nature,” including but not limited to changes to the type and level of services provided by the District, a decrease in the District’s financial ability to discharge debt, and a decrease in the District’s service area; and

**WHEREAS**, pursuant to Section 32-1-207(2)(a), C.R.S., changes to the Service Plan “necessary only for the execution of the original Service Plan” do not require such approval; and

**WHEREAS**, Section V.A.1 of the Service Plan states that “[t]he District shall dedicate the Public Improvements to the Town or other appropriate jurisdiction or owners association in a manner consistent with the Approved Development Plan, the Intergovernmental Agreement, and other rules and regulations of the Town and applicable provisions of the Town Code”; and

**WHEREAS**, Section V.A.18 of the Service Plan requires the District to form the “Alley Subdistrict” for the operations and maintenance of alleyways benefitting the “Alley Loading Units” (as those terms are defined therein); and

**WHEREAS**, the Approved Development Plan, the Final Plat for Bennett Village approved on April 13, 2021 and recorded at reception number 2021000069814 on June 9, 2021 in the records of the Adams County Clerk and Recorder, identifies the alleyways as Tracts B, F, H, L, P, O, and Q and states that all tracts will be owned by the District or a Homeowners' Association; and

**WHEREAS**, Declaration of Covenants, Conditions and Restrictions for Bennett Village recorded at reception number 2023000030986 on June 2, 2023 in the records of the Adams County Clerk and Recorder identify these alleyways as being among the "Common Areas" (as that term is defined therein) that are intended to be owned, operated and maintained by the Bennett Village Community Association, Inc.

**WHEREAS**, it is the intent of the Service Plan to provide the authorization of the District to create the Alley Subdistrict as a means by which operations and maintenance for the alleyways may be provided in the event that the District were to own, operate, and maintain the alleyways but not to require the formation of the Alley Subdistrict in the event the District does not own, operate, and maintain the alleyways or deems the ownership, operation, and maintenance of the alleyways unnecessary; and

**WHEREAS**, Section V.A.23 of the Service Plan provides that actions of the District which violate the terms of Section V.A. shall be deemed material departures from the Service Plan; and

**WHEREAS**, amending the mandated subdistrict provision of Section V.A.18 is not a material modification for purposes of Section 32-1-207(2)(a), C.R.S., as such amendment is not a change of a basic or essential nature; therefore, pursuant to Section 32-1-207(2)(a), petition to and approval by the Town for such amendment in substantially the same manner as is provided in the Special District Act for the approval of the original Service Plan is not required; and

**WHEREAS**, the Town finds that amending the mandated subdistrict provision in Section V.A.18 of the Service Plan is in the best interest of the residents, property owners, and taxpayers of the District.

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

1. Section V.A.18. The first sentence of Section V.A.18 of the Service Plan is hereby deleted in its entirety and replaced with the following: "Pursuant to Section 32-1-1101, C.R.S., the District is authorized to and *may* create the Section 27 Metropolitan District Subdistrict consisting of the Alley Loading Units (the "Alley Subdistrict") to fund the District's and/or Alley Subdistrict's ownership, operation and/or maintenance of alleyways benefitting the Alley Loading Units."

2. Intergovernmental Agreement. The Board hereby approves an amendment to that certain Intergovernmental Agreement between the Town and the District regarding the Service Plan (the “IGA”) to delete the first sentence of Paragraph 3 of the IGA in its entirety and replace it with the following: “Pursuant to Section 32-1-1101, C.R.S., the District is authorized to and *may* create the Section 27 Metropolitan District Subdistrict consisting of the Alley Loading Units (the “Alley Subdistrict”) to fund the District’s and/or Alley Subdistrict’s ownership, operation and/or maintenance of alleyways benefitting the Alley Loading Units.”

3. Effect of First Amendment. Except as specifically amended as set forth in Section 1 herein, all other provisions of the Service Plan shall remain in full force and effect. Except as specifically amended as set forth in Section 2 herein, all other provisions of the IGA shall remain in full force and effect. To the extent there are any inconsistencies with this First Amendment and the Service Plan or the IGA, this First Amendment shall control.

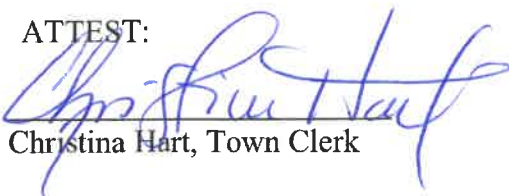
4. Compliance with Special District Act. The Board finds that the amendments made herein do not constitute a material modification of the Service Plan for purposes of Section 32-1-207(a)(2), C.R.S., and therefore the amendments may be approved by this Resolution instead of in the same manner as is provided in the Special District Act for the approval of the original Service Plan.

**INTRODUCED, READ AND ADOPTED THIS 22<sup>ND</sup> DAY OF AUGUST 2023.**

TOWN OF BENNETT, COLORADO

By:   
Royce D. Pindell, Mayor

ATTEST:

  
Christina Hart, Town Clerk

