



Legislation Text

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*Department of Community Development*

Reference: Agreement Regarding Roadway Improvements (45<sup>th</sup> Avenue and Longs Peak Street)

**To: Mayor Kenneth J. Kreutzer and Members of City Council**

**Through: Philip Rodriguez, City Manager**

**Marv Falconburg, AICP, Assistant City Manager**

**Holly Prather, AICP, Community Development Director**

**Prepared By: Mike Tylka, Associate City Planner**

**Date Prepared: February 27, 2018**

PURPOSE / BACKGROUND

Per the City's adopted Model Service Plan for Metropolitan Districts, an Intergovernmental Agreement ("IGA") and a Financial Plan shall be submitted and agreed to by City Council prior to the final approval of the Service Plan. The Brighton Crossing Metropolitan Districts Nos. 5-8 Service Plan, the IGA (Exhibit F to the Service Plan) and the Financial Plan (Exhibit D to the Service Plan) address, among things, the design, construction and maintenance obligations for the adjacent roadways.

In addition to Final Approval of the Service Plan at the March 6, 2018 City Council meeting, the City Council is being presented with a separate agreement between the City and Brookfield Residential (the "Developer") that outlines the timing of the design and construction of two of the roadways referenced in the IGA and Financial Plan: the remaining unbuilt portions of 45<sup>th</sup> Avenue and Longs Peak Street adjacent to the Districts.

CRITERIA BY WHICH COUNCIL MUST CONSIDER THE ITEM

Typical roadway specifics in terms of design and construction are usually worked out and agreed to in a Development Agreement that is approved with a Final Plat. As the area in the Districts adjacent to the unbuilt portions of 45<sup>th</sup> Avenue and Longs Peak Street is unplatted (east of 45<sup>th</sup> Avenue, south of Longs Peak Street, north of Bridge Street, and west of 50<sup>th</sup> Avenue), this *Agreement Regarding Roadway Improvements* is being proposed so that the community has a clear understanding of the timeframe for the design and construction of these roadways.

When reviewing this Agreement, the City Council should consider what the developer is bringing to the City, as well as, what the City is doing for the developer to work with them to assist them in developing their remaining areas in Brighton.

The Community Development Director, the City Attorney, Assistant City Attorney, the Streets and Fleet Director, the Assistant City Manager, City Manager, and the City's Special Metro District/Bond Counsel have agreed to the attached Agreement Regarding Roadway Improvements and have determined that its approval is in the best interest of the City. Additionally, the Developer has given its consent to the Agreement as drafted.

PUBLIC NOTICE AND INQUIRY

As this item does not require a public hearing, no notice was published other than that of the general meeting agenda. Planning staff has received no formal comments on the matter as of the date of this report.

## **SUMMARY OF FINDINGS**

The significant provisions of this draft Agreement include:

1. Within fifteen (15) days of the City approval of the Service Plan and certain Plat amendments for Filing 2, the Developer will submit preliminary cost estimates for constructing the two roadways to the City for review, after which within forty-five (45) days of the City's acceptance of the cost estimates, the Developer shall provide payment and performance bonds or other financial guaranties in an amount no less than 115% of the initial cost estimates approved by the City, securing the Developer's obligation to design and construction the roadway improvements.
2. The Developer must submit its Initial Plat for the development as well as the plans for the road improvements no later than December 31, 2018, and either increase or decrease the surety to 115% of the final cost estimates. If the Initial Plat and final cost estimates are not timely filed, the City may call on the surety bond for the design costs associated with the roadway improvements.
3. City and the Developer agree to use good faith efforts to work cooperatively in reviewing the Initial Plat so that it can be presented to City Council within six (6) to eight (8) months after the date it was submitted.
4. Upon City Council's approval of the Initial Plat, the Developer will secure bids for the construction of the roadway improvements and will begin construction in accordance of the approved plans. In the event that the Developer has not initiated physical of construction of the two roadway sections within ninety (90) days of the approval of the Initial Plat, the City may call upon the Surety to complete the construction of the roadway improvements.
5. The Developer shall use good faith efforts to substantially complete the construction of the roadway improvements within eighteen (18) months following the City's approval of the Initial Plat.

In summary, the Agreement establishes the funding of and the timeframe for construction for the District adjacent portions of 45<sup>th</sup> Avenue and Longs Peak Street with the expectation that the subject roadway improvements will be substantially completed no later than December 31, 2020.

## **FINANCIAL IMPACT**

In this case, development is paying its way forward. The City is not contributing any funds. In the event the Developer defaults, the City will be able to call on the Surety to complete the construction and the City is not subsidizing new development.

## **STAFF RECOMMENDATION**

Staff is recommending adoption of the resolution as drafted granting approval of the Agreement Regarding Roadway Improvements.

## **OPTIONS FOR COUNCIL CONSIDERATION**

The City Council has four options when reviewing this Agreement:

- 1) To approve the item as presented via resolution;
- 2) To approve the item with changes or conditions via resolution;
- 3) To deny the item; or
- 4) To continue the item to be heard at a later specified date.

## **ATTACHMENTS**

- Resolution (*Draft*)
- Proposed Agreement Regarding Roadway Improvements
- Subject Roadway Area Maps