



Legislation Text

File #: ID-281-21, **Version:** 1

Department of Community Development

Reference: Partial Assignment and Assumption of Bromley Park Filing No. 103 Development Agreement

To: Mayor Gregory Mills and Members of City Council

Through: Jane Bais DiSessa, City Manager

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Date Prepared: September 27, 2021

PURPOSE

The purpose of this agenda item is for the City Council to review and consider approving and authorizing the Mayor to sign a "Partial Assignment and Assumption of Bromley Park Filing No. 103 Development Agreement" ("Assignment").

STRATEGIC FOCUS AREAS

- Recognizable and Well-Planned Community
- Financially Responsible
- Supportive, Sustainable Infrastructure

BACKGROUND / REVIEW CRITERIA / SUMMARY OF FINDINGS

In January 2010, the City Council approved the Final Plat and Development Agreement for the Bromley Park Filing No. 103 Subdivision ("Development Agreement"). Bromley Park Filing No. 103 is an industrial subdivision comprised of two (2) lots: Lot 1, Block 1 and Lot 2, Block 1. The Developers of Filing No. 103 are King Paul 1, LLC, Jacobs Colorado, LLC, and IVE Colorado, LLC (collectively, "Developer").

The Developer recently sold Lot 2 to Bromley Owner, LP ("Owner") for the purposes of an industrial development.

In connection with the transfer of Lot 2 to the Owner, the Developer has requested an assignment of certain obligations under the Development Agreement applicable to Lot 2. Section 9.4 of the Development Agreement permits such an assignment, provided that the new owner / developer expressly assumes such obligations. The Owner has agreed to assume and perform all remaining obligations of the Development Agreement as to Lot 2 (see attached).

Western United Electric Supply Company ("WUESC") occupies abutting industrial land and facilities to the west, including Lot 1. In July 2010, the City, the Developer, and WUESC entered into a Limited Assignment of the Developer's Rights and Obligations and Bridge Street Improvement Agreement (see attached) that assigned certain obligations to WUESC as the new owner of Lot 1. In July 2019, WUESC and the City entered into a First (1st) Amendment to the Bromley Park, Filing No. 103 Development Agreement ("First Amendment") that further clarified the timing of improvements related to Bridge Street (see attached).

If the Assignment is approved and Lot 2 is to develop before Lot 1 is improved further, the Owner will construct the

necessary improvements/upgrades to Bridge Street adjacent to Lots 1 and 2.

PUBLIC NOTICE AND INQUIRY

No public notice is required for this item outside of its inclusion with the agenda and packet for the City Council meeting where it is to be considered, but City staff posted additional notice on the City's website and to social media.

STAFF ANALYSIS / FINANCIAL IMPACT / STAFF RECOMMENDATION

City Staff is of the position that the terms and provisions of the attached Assignment are consistent with the Development Agreement and are fair and reasonable to the City. Specifically, as to Lot 2 and Bridge Street construction, the Developer shall be released and its obligations assigned and transferred to the Owner. All other terms and provisions of the Development Agreement and First Amendment remain intact, and there is no financial impact to the City under the Assignment. City staff recommends approval.

OPTIONS FOR COUNCIL CONSIDERATION

City Council now has the following four (4) options, to:

- Approve the Resolution as drafted;
- Approve the Resolution with changes;
- Deny the Resolution as drafted; or
- Continue the item to a date certain.

ATTACHMENTS

- Resolution for Approval
- Proposed Assignment Agreement
- Bromley Park Filing No. 103 Development Agreement
- First Amendment to the Bromley Park Filing No. 103 Development Agreement
- Partial Assignment of the Bromley Park Filing No. 103 Development Agreement to WUESC
- Draft Staff Presentation