

COUNCIL COMMUNICATION

Meeting Date: August 31, 2010	1 st Reading _____ 2 nd Reading _____	Legal Review:	Work Plan #	Agenda Location: Public Hearing	Agenda Item: 9B
Subject: A RESOLUTION APPROVING THE SERVICE PLANS FOR BRAMMING FARM METROPOLITAN DISTRICT NOS. 1 AND 2 AND THE INTERGOVERNMENTAL AGREEMENTS BETWEEN THE CITY OF THORNTON AND BRAMMING FARM METROPOLITAN DISTRICT NOS. 1 AND 2 REGARDING THE SERVICE PLANS FOR THE DISTRICTS.					
Prepared by: Karen Widomski		Approved by: Jack Ethredge		Ordinance previously introduced by: _____	
Reviewed by: Jeff Coder		Presented by: Glenda Lainis Policy Planning Manager			

KEY CONSIDERATIONS:

- Bramming Farm Investors, LLC has submitted an application consisting of two Service Plans and related documents to create Bramming Farm Metropolitan District Nos. 1 and 2 (collectively “the Districts”). Council is required by State law to approve the Service Plans before the organization of the Districts can be voted on at the November 2010 election.
- At the August 17, 2010 City Council meeting, City Council approved a motion to continue the public hearing for the Districts until August 31, 2010 due to an error in the public hearing notices.

I. SERVICE PLAN

- Description of the Districts:
 - Boundaries:
 - The initial boundaries of each District contain 1,600 square feet. The Service Plans identify an Inclusion Area which the Districts will expand into that would total 49.537 acres. The Districts are located entirely within the City of Thornton, and are generally located on the southwest corner of East 128th Avenue & Holly Street.
 - The Districts are being organized to finance the public improvements required by the approved Conceptual Site Plan/Overall Development Plan for the project known as Bramming Farm. The types of public improvements permitted to be financed by the Districts are described in the Colorado State Statutes, subject to the limitations described in the Service Plans.
 - The Districts will work in cooperation to serve the Bramming Farm project. District No. 1 will generally include commercial, retail and office properties and District No. 2 will generally include residential properties. All of the public improvements funded by the Districts are necessary for the development of the residential properties.
 - The estimated build-out population for the total service area is approximately 1,000 people. The approved Conceptual Site Plan/Overall Development Plan indicates a maximum of 400 dwelling units and 132,000 square feet of commercial space.
 - The Districts’ total aggregate debt issuance limitation is \$10,000,000, with the exception that revenue sharing between and among the Districts is not included in the calculation of the Total Debt Issuance Limitation as explained in further detail below. Estimated District costs include:

Public Improvements costs	\$7,072,671
Administration, organization and initial operations	\$ 25,000
First year operating budget	\$ 25,000

- The Service Plans are substantially in the form of the City's model service plan for metropolitan districts, with the following exceptions:
 - Section V.A.1: Operations and Maintenance Limitation has been reworded to indicate that the Districts are not required to operate and maintain park and recreation improvements that are being operated and maintained by an owners' association. If there is no owners' association operating and maintaining these improvements, the Districts are required to operate and maintain the park and recreation improvements.
 - Language has been added to Section V.A.14: Overlap Limitation to specify that the boundaries of District 1 and District 2 can only overlap if the aggregate mill levy does not at any time exceed the Maximum Debt Mill Levy of the District.
 - Language has been added to Section V.A.16: Total Debt Issuance Limitation to indicate that the Districts shall not issue Debt in excess of \$10,000,000, provided that none of the following shall be included within, or be counted towards or against, the Total Debt Issuance Limitation: (a) pledges of revenue between and among the Districts supporting the repayment of Debt, the cost sharing of the funding of improvements, and/or the operations and maintenance of improvements; (b) agreements, guarantees and similar obligations entered into by any of the Districts that underlie the provision of credit enhancement with regard to the issuance of Debt; and (c) any refunding of any Bond, Bonds or Debt. The applicant requested the qualifying language because it is anticipated that the Districts will work together through intergovernmental agreements to share revenue for cost sharing of improvements, operations and maintenance and for repayment of debt.
 - A new paragraph has been added, Section VI.F: Direct Payment for Public Improvements, which indicates that if any other governmental or quasi-governmental entity pays directly the costs of planning, designing, acquiring, constructing, installing, relocating and/or redeveloping any of the Public Improvements, the amounts of such direct payments will not be included in any Debt issued by the District. This was added to address the anticipated City-provided financial incentive for the underground conversion of electric distribution lines along Holly Street within the project. The City will be using money from its "1% fund" with Xcel Energy for this improvement and therefore the District should not be eligible to issue debt for these costs.

II. INTERGOVERNMENTAL AGREEMENT

- Intergovernmental Agreements (IGA/IGAs) between the City and each District have been prepared for City Council's consideration.
- The IGAs conform to the City's model IGA form with the following exceptions:
 - Paragraph No.1: Operations and Maintenance contains the same language as in Section V.A.1 of the Service Plans, explained above.
 - Paragraph No.14: Overlap Limitation contains the same language as in Section V.A.14 of the Service Plans, explained above.
 - Paragraph No. 16: Total Debt Issuance refers to the definition for Total Debt Issuance Limitation described in Section V.A.16 of the Service Plans, as explained above.
 - Paragraph No. 17: Direct Payment for Public Improvements contains the same language as in Section VI.F of the Service Plans, explained above.
- The IGAs will not take effect until signed by the Districts in the form approved by City Council at the first meeting of the Districts' Board of Directors after their organizational election.

BUDGET/STAFF IMPLICATIONS:

- The Districts are exempt from sales and use taxes but have stated in the Service Plans that they will not exercise this provision when purchasing materials and services within the City.

RECOMMENDATION:

- Staff recommends approval of the Service Plans for the creation of the Bramming Farm Metropolitan District Nos. 1 and 2 and the IGAs because the application conforms to the form and content of the model service plan and model IGA, the criteria of Chapter 66 of the City Code, Colorado State law, and the City's Metropolitan District Policy Guidelines.

HISTORY:

- The public hearing notice for the request to create these metropolitan districts was published in the Northglenn-Thornton Sentinel on August 5, 2010, and notices were sent by first class mail on August 6, 2010, to property owners within the proposed service area of the Districts and to surrounding taxing entities.
- The service area of the Districts was annexed into the City by Ordinance No. 842 on November 13, 1978.
- Bramming Farm was zoned Planned Development (PD) by Ordinance No. 3124 on February 23, 2010. The accompanying PD Overall Development Plan/Conceptual Site Plan was approved with this ordinance.

RESOLUTION

A RESOLUTION APPROVING THE SERVICE PLANS FOR BRAMMING FARM METROPOLITAN DISTRICT NOS. 1 AND 2 AND THE INTERGOVERNMENTAL AGREEMENTS BETWEEN THE CITY OF THORNTON AND BRAMMING FARM METROPOLITAN DISTRICT NOS. 1 AND 2 REGARDING THE SERVICE PLANS FOR THE DISTRICTS.

WHEREAS, pursuant to the provisions of Chapter 66 of the Thornton City Code and the Special District Act, Part 2 of Article 1, Title 32, C.R.S., a Service Plan and an Intergovernmental Agreement has been submitted to the City of Thornton ("City") for the creation of Bramming Farm Metropolitan District No. 1 ("District 1") and a separate Service Plan and an Intergovernmental Agreement has been submitted to the City for the creation of Bramming Farm Metropolitan District No. 2 ("District 2"). Collectively, District 1 and District 2 will be referred to as the "Districts". The Districts' boundaries are wholly within the corporate limits of the City; and

WHEREAS, the Service Plans submitted to the City outline the terms and conditions under which the Districts will be authorized to exist; and

WHEREAS, the Service Plans provide that the Districts will construct infrastructure improvements which are in the best interest of the health, safety and welfare of the City; and

WHEREAS, the City Council of the City of Thornton ("City Council") has conducted a public hearing on August 31, 2010, regarding the Service Plans; 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 District lies; and

WHEREAS, the Intergovernmental Agreements between the City and the Districts have been prepared in accordance with the terms, provisions, and limitations contained in the Service Plans and identify the powers granted to the Districts.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. The City Council determines that the requirements of Chapter 66 and the requirements of Sections 32-1-202(2), 32-1-203(2) and 32-1-204.5, C.R.S. have been satisfied by the Service Plans and Intergovernmental Agreements for Bramming Farm District Nos. 1 and 2.
2. The City Council determines that the City's notification requirements have been complied with regarding the public hearing on the Service Plans.

3. In accordance with the requirements of Chapter 66 of the City Code, the City 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 the 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. In accordance with the requirements of Chapter 66 of the City Code, the City Council also finds that:
 - a. The service standards of the Districts are compatible with the service standards of the City.
 - b. The creation of the Districts will be in the best interests of the area proposed to be served.
5. The City Council's findings are based solely upon the evidence in the Service Plans as presented at the public hearing and the City has not conducted any independent investigation of the evidence. The City makes no guarantee as to the financial viability of the Districts or the achievability of the results.
6. The Bramming Farm Metropolitan District No. 1 Service Plan and the Bramming Farm Metropolitan District No. 2 Service Plan are hereby approved. The terms, provisions, and limitations of the Service Plans have been incorporated in the Intergovernmental Agreements.
7. The Intergovernmental Agreement for Bramming Farm Metropolitan District No. 1 and the Intergovernmental Agreement for Bramming Farm Metropolitan District No. 2 attached hereto and incorporated herein by this reference are hereby approved, but shall not be effective until executed by the City and the Districts. Neither District is authorized to issue any debt until the time that its Intergovernmental Agreement is executed.
8. The City Council's approval of the Service Plans and Intergovernmental Agreements is not a waiver or a limitation upon any power, which the City Council is legally permitted to exercise with respect to the property subject to the Districts.
9. The City Manager is authorized to sign, and the City Clerk to attest the Intergovernmental Agreements.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Thornton, Colorado, on _____, 2010.

CITY OF THORNTON, COLORADO

Erik Hansen, Mayor

ATTEST:

Nancy A. Vincent, City Clerk