



# MAYOR & COUNCIL COMMUNICATION

**DATE:** May 19, 2015  
**REGULAR**  
**ITEM #** 20

**AGENDA ITEM:** InWood (Phase 1) Developer’s Agreement

**SUBMITTED BY:** Kyle Klatt, Community Development Director

**THROUGH:** Dean Zuleger, City Administrator

**REVIEWED BY:** Jack Griffin, City Engineer  
Dave Synder, City Attorney  
Cathy Bendel, Finance Director  
Nick Johnson, City Planner

**SUGGESTED ORDER OF BUSINESS:**

- Introduction of Item .....Community Development Director
- Report/Presentation.....Community Development Director
- Questions from Council to Staff ..... Mayor Facilitates
- Call for Motion ..... Mayor & City Council
- Discussion ..... Mayor & City Council
- Action on Motion ..... Mayor Facilitates

**POLICY RECCOMENDER:** Staff is recommending that the City Council approve a developer’s agreement associated with the first phase of the InWood development. The agreement has been drafted based on a model agreement previously reviewed by the Council.

**FISCAL IMPACT:** Direct Payments to Developer – None: there are no City payments for oversizing of utilities or for other reasons included in the agreement. Future financial impacts include maintenance of streets, trails, sanitary sewer mains, watermains and other public infrastructure, maintenance of storm water ponding areas (after three years), monthly lease payments for street lights, and other public financial responsibilities typically associated with a new development. The agreement requires a contribution from the developer for future signalization of 5<sup>th</sup> Street at Inwood Avenue.

**SUMMARY AND ACTION REQUESTED:** The City Council is being asked to authorize execution of a developer’s agreement for the first phase of the InWood Planned Unit Development. The attached agreement has been reviewed by the City Staff, and all recommend changes specific to the InWood project have been incorporated into the document as drafted.

This agreement must be executed before any construction activity, outside of the previously authorized grading work, may proceed on the site. The recommended motion to take action on the request is as follows:

*“Move to adopt Resolution No. 2015-41 approving the developer’s agreement for InWood”*

**LEGISLATIVE HISTORY/STAFF REPORT:** One of the conditions attached to the resolution approving the InWood Final Plat and Plan specifies that the developer enter into a Developer’s Agreement prior to the execution of the plat by City officials. Staff has drafted such an agreement consistent with the City’s developer’s agreement template, and this document is attached for consideration by the City Council. Please note that the document as drafted contains some modifications to the original template based on some of the unique aspects of the InWood development. The key aspects of the agreement include the following components:

- That all improvements to be completed by July 1, 2016.
- That the developer provide a letter of credit in the amount of \$3,714,873 related to the cost of the proposed improvements.
- That the developer provide a cash deposit of \$335,725 for SAC and WAC charges, engineering administration, one year of street light operating costs and other City fees. These fees include a payment for half of the City’s anticipated costs associated with a future traffic signal at 5<sup>th</sup> Street and InWood Avenue. Under County policy, the City will be required to contribute 1/3 of the overall signalization costs; half of this amount is the 16.5% referenced in the agreement.
- The land dedication for park purposes to be included with the first phase of InWood exceeds the amount required for all of the single-family residential areas of the development. The developer is asking to apply the excess park land dedication to the future multi-family development areas.

The proposed project does not include any specific City payments for utility oversizing or other reasons. The City Engineer has not approved the final construction plans for the project, and no work will be allowed to commence on the site until these plans are approved by the City (this plan review is close to being completed).

**BACKGROUND INFORMATION (SWOT):**

**Strengths:** The developer’s agreement has been drafted to guarantee that the improvements associated with the InWood development plans will installed in accordance with City specifications.

Execution of the developer’s agreement and compliance with all conditions in the agreement will allow the developer to record the Final Plat.

The developer will be constructing all of 5<sup>th</sup> Street that lies within the InWood PUD boundaries. This will provide an immediate connection into Boulder Ponds and will minimize the impact of construction for future homeowners in this area.

**Weaknesses:** The City will assume responsibility for future maintenance of the public improvements.

**Opportunities:** The proposed improvements will provide for infrastructure connections to adjacent properties.

The developer has agreed to pay a portion of the costs that would otherwise be incurred by the City for the future signalization of 5<sup>th</sup> Street and Inwood Avenue.

**Threats:** The City will need to provide construction observation throughout the course of the project (these costs will be covered under an Engineering Administration Escrow).

**RECOMMENDATION:** Based on the above Staff report, Staff is recommending that the City Council approve the Developer's Agreement for InWood and that the Council direct the Mayor and Staff to execute this document. The suggested motion to adopt the Staff recommendation is as follows:

***“Move to adopt Resolution No. 2015-41 approving the developer’s agreement for InWood”***

**ATTACHMENTS:**

1. Resolution No. 2015-41
2. InWood Developer's Agreement – Final Draft