



## Agenda Item Summary

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MEETING DATE: August 26, 2024

SUBJECT: **Resolution No. 63-R-2024** - A Resolution of the Town of Mead, Colorado, Approving the Term Sheet for Improvement Agreement for Construction of High Plains Boulevard (A.K.A. – Weld County Road 9.5) Between Weld County Road 34 and Weld County Road 36, and Authorizing the Town Manager to Negotiate and Execute Improvement Agreement Consistent with the Term Sheet

PRESENTED BY: Helen Migchelbrink, Town Manager

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### SUMMARY

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High Plains Boulevard (HPB) is a planned north-south arterial road on the east side of Interstate 25 (also referred to as Weld County Road 9.5) which, when fully constructed, will run through several jurisdictions in northern Colorado.

On July 29, 2024, the Board of Trustees (the “Board”) for the Town of Mead (the “Town”) approved that certain *Intergovernmental Agreement for Construction of High Plains Boulevard (a.k.a. – Weld County Road 9.5) between Weld County Road 32 and Weld County Road 36* (the “County IGA”). The County IGA addresses the following two discrete segments of HPB:

- an interim section extending Weld County Road (“WCR”) 9.5 from WCR 32 to a point north of WCR 34 (the “County Project”), and
- an interim section beginning north of WCR 34 where the County Project ends and continuing to WCR 36 (as further defined below, the “Developer Project”).

The County IGA sets forth Weld County’s obligations to fund and construction the County Project and to partially fund the Developer Project.

When the County IGA was presented to the Board, the Board was advised that WCR 34 & Hwy 25-220, LLC, a Colorado limited liability company (“W&H”), and Mead Industrial Development, LLC, a Colorado limited liability (“MID”) (together, the “Developers”) would be responsible for constructing the Developer Project, and that the Developer Project would be fully addressed in a separate written agreement between the Town and the Developers (the “Developers’ Improvement Agreement”).

The Town and the Developers have agreed to the terms and conditions for the Developers’ Improvement Agreement. These terms and conditions are set forth in that certain *Term Sheet for Improvement Agreement for Construction of High Plains Boulevard (a.k.a. – Weld County Road 9.5) between Weld County Road 34 and Weld County Road 36* (the “Term Sheet”) attached as **Exhibit A** to the Resolution (and attached with this Agenda Item Summary) for review by the Board.

The Term Sheet defines the Developer Project as (1) an interim cross section of HPB from approximately 300 feet north of WCR 34 to WCR 36 and (2) an interim cross section of WCR 36 from the intersection of WCR 9.5 west to the termination of the WCR 36 Home Depot improvements, as detailed in the engineering and construction plans and specifications approved by the Town in its regulatory capacity and any other governmental or quasi-governmental entity with approval authority.

The Term Sheet memorializes terms and conditions related to the funding, design, and construction of the Developer Project and the Town's, W&H's, and MID's respective roles and responsibilities with respect to the Developer Project. The Term Sheet states that MID's affiliate, Broe Real Estate Services, Inc. will manage the Developer Project under MID's direction, including overseeing the development of the engineering and construction plans and specifications (the "Plans"); obtaining the Town and other applicable governmental/quasi-governmental approvals of the Plans and required permits; conducting the bidding and awarding of a guaranteed maximum price or lump sum construction contract; providing construction contract management, construction inspection, and quality assurance services; and coordinating with public and private utilities and other agencies.

The Term Sheet also states that standard provisions from the Town's form subdivision improvement agreement will be included in the Developers' Improvement Agreement including procedures and requirements for plan and permit approvals, provisions covering the Town's right to receive notices of commencement of construction and construction issues, inspection and testing requirements, workmanship and construction site maintenance requirements, indemnification requirements, and procedures and requirements for conditional and final acceptance.

Resolution No. 63-R-2024 (the "Resolution"): (a) approves the Term Sheet in substantially the form attached as **Exhibit A** to the Resolution; (b) authorizes the Town Attorney in cooperation with the Town Manager to make non-material changes to the Term Sheet that do not increase the Town's obligations; (c) authorizes the Town Manager to execute the Term Sheet on behalf of the Town when in final form; (d) authorizes the Town Manager and Town Attorney to negotiate the Developers' Improvement Agreement with the Developers consistent with the terms and conditions in the Term Sheet; and (e) authorizes the Town Manager to execute the Developers' Improvement Agreement on behalf of the Town when in final form. The Resolution also authorizes the Town Attorney and Town Manager to include in the Developers' Improvement Agreement non-material deviations and modifications from the terms and conditions in the Term Sheet and additional or more detailed terms and conditions than those set forth in the Term Sheet, provided that such deviations, modifications, additions, and details do not materially increase the Town's obligations.

Town Staff recommends approval of the Resolution.

## FINANCIAL CONSIDERATIONS

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The Term Sheet establishes a maximum project cost of six million dollars (\$6,000,000.00). The Developer Project will be funded by the following contributions. If there are any cost savings, these will be distributed to Weld County.

- Consistent with the County IGA, Weld County shall contribute Three Million and No/100 Dollars (\$3,000,000.00).
- The Town shall contribute One Million and No/100 Dollars (\$1,000,000.00).
- W&H shall contribute One Million and No/100 Dollars (\$1,000,000.00).
- MID shall contribute One Million and No/100 Dollars (\$1,000,000.00).

The six million dollars (\$6,000,000.00) will be deposited in a Project Account to be controlled by the Town. The Term Sheet allows MID to request a one-time advance payment from the Project Account in

the amount of one-million dollars (\$1,000,000.00). All other disbursements from the Project Account to MID will be on a reimbursement basis in accordance with the disbursement process set forth in the Term Sheet. Reimbursement requests may be submitted no more than once monthly and, upon Town staff approval, will be included on the Board's consent agenda with other Town payables.

The Town may reimburse itself from the Project Account for costs and expenses incurred by the Town on the Project (including engineering, inspection, legal, and other consultant costs).

The Town Contribution of \$1,000,000 is available in the approved 2024 budget, specifically in the Transportation Fund (budget line item 14-40-5592, Segment 5 I-25 Enhancements).

#### STAFF RECOMMENDATION/ACTION REQUIRED

Staff recommends that the Board of Trustees approve the Resolution (authorizing the Town Manager to execute the Term Sheet and to negotiate and execute the Developers' Improvement Agreement when in final form).

Suggested Motion:

"I move to adopt Resolution No. 63-R-2024 – A Resolution of the Town of Mead, Colorado, Approving the Term Sheet for Improvement Agreement for Construction of High Plains Boulevard (A.K.A. – Weld County Road 9.5) Between Weld County Road 34 and Weld County Road 36, and Authorizing the Town Manager to Negotiate and Execute Improvement Agreement Consistent with the Term Sheet."

#### ATTACHMENTS

Resolution No. 63-R-2024

**Exhibit A – Term Sheet** (*Term Sheet for Improvement Agreement for Construction of High Plains Boulevard (a.k.a. – Weld County Road 9.5) between Weld County Road 34 and Weld County Road 36*)