

**RESOLUTION CONDITIONALLY APPROVING CHANGE ORDER TO TOWER
ROAD WIDENING PROJECT FOR REGIONAL DRAINAGE IMPROVEMENTS
PROJECT**

NO. 2017-68

WHEREAS, the City of Commerce City ("City") is engaged in the construction of a public improvement project to widen and improve Tower Road from 103rd Avenue to 80th Avenue as detailed in the bid documents for Project No. PW-02-2014 ("Project");

WHEREAS, by Resolution 2016-02, the City Council approve of the award of the contract for the Project to Flatiron Constructors, Inc. ("Flatiron") following a competitive procurement process and the contract for the work was executed effective May 16, 2016 ("Contract");

WHEREAS, the City has designed certain regional drainage improvements as part of the Project ("T88 Improvements") that can be incorporated into the Project by change order and such T88 Improvements will directly benefit the Project and properties within the City and will lead to increased economic development in the City;

WHEREAS, Flatiron has proposed a price of \$8,892,937.00 to construct the T88 Improvements as part of the Project, provided such price may be negotiated further to the benefit of the City on terms to be set forth more fully in a change order ("Change Order");

WHEREAS, Flatiron proposed pricing is contingent on execution of a change order by July 21, 2017, and the issuance of a notice to proceed by July 31, 2017;

WHEREAS, the City's ability to construct the T88 Improvements is dependent on the contribution of property owners whose properties will be benefitted by the drainage improvements, and the City and such property owners are negotiating the terms of such contributions;

WHEREAS, the cost of the T88 Improvements will exceed \$250,000.00, and, pursuant to the City's procurement policies and the City Manager's commitment to the City Council, the City Council must approve any procurement in excess of \$250,000.00; and

WHEREAS, to meet the schedule identified by Flatiron, the City Council desires to conditionally approve the Change Order, subject to negotiation by the City Manager and the execution of appropriate agreements from the property owners benefitted by the T88 Improvements;

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

1. Subject to the conditions established in this resolution, the Change Order is conditionally approved and found and declared to be in the public interest and supported by a public need.

2. Subject to the conditions established in this resolution, the City Manager is authorized to negotiate, finalize, and execute the Change Order with Flatiron on behalf of the City to include the T88 Improvements in the Project, on terms acceptable to the City Manager, provided such Change Order shall not exceed \$9,337,600.00.
3. This resolution shall not constitute an approval of the Change Order or an award of any work unless and until all conditions of this resolution are satisfied.
4. Notwithstanding anything else contained in this resolution, the Change Order shall not be deemed approved, and the City Manager shall not execute the Change Order, unless and until appropriate agreements are executed by and between the City and the property owners benefited by the T88 Improvements on terms acceptable to the City Manager. If such agreements are not executed and received by the City by July 21, 2017, this resolution shall be deemed be automatically revoked.

RESOLVED AND PASSED THIS 17TH DAY OF JULY 2017.

CITY OF COMMERCE CITY

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, MMC, City Clerk