

**FIRST AMENDMENT TO  
PRAIRIE CENTER VILLAGE V SUBDIVISION FILING NO. 1  
DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO PRAIRIE CENTER VILLAGE V SUBDIVISION FILING NO. 1 DEVELOPMENT AGREEMENT (this “**First Amendment**”) is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2019 (the “**Effective Date**”), by and between the CITY OF BRIGHTON, COLORADO, a home rule municipality of the County of Adams, State of Colorado (the “**City**”); PRAIRIE CENTER METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and municipal subdivision of the State of Colorado (the “**District**”); and THF PRAIRIE CENTER DEVELOPMENT, L.L.C., a Colorado limited liability company (“**Developer**”).

**Recitals**

This First Amendment is made with respect to the following facts:

A. The City, the District and Developer previously entered into that certain Prairie Center Village V Subdivision Filing No. 1 Development Agreement dated October 20, 2015, recorded in the real property records of the Clerk and Recorder of Adams County, Colorado (the “**Records**”) on January 6, 2016 at Reception No. 2016000001263 (the “**Agreement**”), in connection with the platting and development of certain real property legally described on the Plat (as defined in the Agreement), which was recorded in the Records on January 6, 2016 at Reception No. 2016000001264 (the “**Property**”); capitalized terms used but not defined in this First Amendment have the meanings given them in the Agreement.

B. The Agreement addresses, among other matters, the timing of trail construction required by the City in connection with the development of the Property and the dedication of the Lutz Parcel to the City.

C. Pursuant to Section 5 of Exhibit G to the Agreement, the trail Public Improvements are to be designed, completed and accepted by the City in two phases, with Phase 2 of the trail Public Improvements to be completed (as evidenced by the City’s grant of construction acceptance therefor) prior to the issuance of the final certificate of occupancy for the second lot of the Plat to develop.

D. Pursuant to Section 2 of Exhibit D to the Agreement, the commencement of the process to dedicate the Lutz Parcel to the City was to occur (and did occur) within 120 days of the City’s approval of the Plat; however, as of the Effective Date, the Lutz Parcel has not been conveyed to the City and Developer and the City desires to defer dedication and acceptance of the Lutz Parcel.

E. The City, the District and Developer now desire to amend the timing and phasing for Developer’s dedication of the trail Public Improvements and desire to amend the timing for dedication of the Lutz Parcel, all as set forth herein.

## **Amendment**

NOW, THEREFORE, in consideration of the mutual agreements and undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** The foregoing recitals are hereby incorporated into and made substantive terms of this First Amendment.

2. **Prairie Center Open Space.** Section 5 of Exhibit G to the Agreement is hereby deleted in its entirety and in its place inserted the following:

**5. Trail Design, Construction, and Maintenance.** Developer or the District shall construct, or cause to be constructed, within Tract C, the trail Public Improvements set forth in **Exhibit B**. The final design of Phase 1 of the trail Public Improvements within Tract C shall be provided to the City for review and approval contemporaneously with final development plan review and approval for the first lot of the Plat. The final design of each section of Phase 2 of the trail Public Improvements within Tract C shall be provided to the City for review and approval contemporaneously with final development plan review and approval for Lot 3 of the Plat (or, if Lot 3 of the Plat has been subdivided prior to the final design of such trail Public Improvements, contemporaneously with final development plan review and approval for the last of such subdivided lots to be developed). Phase 1 of the trail Public Improvements shall be completed (as evidenced by the City's grant of construction acceptance therefor) prior to the issuance of the final certificate of occupancy for the first lot of the Plat to develop. Each section of Phase 2 of the trail Public Improvements shall be completed (as evidenced by the City's grant of construction acceptance therefor) prior to the issuance of the final certificate of occupancy for Lot 3 of the Plat (or, if Lot 3 of the Plat has been subdivided prior to completion of such trail Public Improvements, prior to the issuance of the final certificate of occupancy for the last of such subdivided lots to be developed). The maintenance, repair and replacement of the trail Public Improvements shall be the City's responsibility; however, the District shall repair any damage caused by use by any oil and gas operators within the Development.

3. **Lutz Parcel.** Section 2 of Exhibit D to the Agreement is hereby deleted in its entirety and in its place inserted the following:

**2. Community Park Dedication.** Notwithstanding any contrary provision of the Comprehensive Agreement or the City's ordinances and regulations, the City and Developer agree that the timing of dedication of land in satisfaction of community park requirements in connection with the Development, comprising a portion of Planning Area 7d as generally depicted on the Project PUD (as defined in Section 3 of **Exhibit G**), is not desired at the time of residential development within Village V. In lieu of such dedication, not later than December 31, 2021, Developer shall dedicate to the City, via special warranty deed, the parcel generally depicted as Planning Area 7e on the Project PUD and known as Lutz Reservoir/Prairie Lake Regional Wildlife Sanctuary (the "**Lutz Parcel**"); provided however, it shall be a condition present to Developer's obligation to dedicate, and the City's obligation to accept such dedication of, the Lutz Parcel, that the parties have

mutually agreed upon an ALTA/ACSM Land Title Survey of the Lutz Parcel; a preliminary commitment for title insurance for the Lutz Parcel; and a proposed form of special warranty deed for the Lutz Parcel. Developer and the City shall cooperate in good faith to satisfy such conditions precedent and thereafter finalize and consummate the dedication of the Lutz Parcel as contemplated by this Section 2. At the time of conveyance of the Lutz parcel to the City, Developer shall cause the issuance of a title policy to the City for the Lutz Parcel in form and substance acceptable to the City. For the avoidance of doubt, consistent with the terms of the Comprehensive Agreement, the conveyance and dedication of the Lutz Parcel shall not include any of Developer's or the District's right, title and interest in and to the water storage and detention pond and appurtenances thereto located on and within the Lutz Parcel, including without limitation, any water rights, water storage rights, storm drainage improvements and non-potable water system improvements (collectively, the "**Water/Storm-Related Improvements**"). The parties expressly acknowledge and agree that the Water/Storm-Related Improvements shall continue to be owned, maintained and operated by Developer or the District, as applicable.

4. Effect of Amendment. Except as expressly modified herein, the Agreement has not been amended and the parties hereto hereby ratify and confirm the Agreement as being in full force and effect in accordance with its terms. If there is any inconsistency between the terms of the Agreement and the terms of this First Amendment, the provisions of this First Amendment will govern and control the rights and obligations of the parties.

*[signature pages follow]*

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the Effective Date.

**CITY:**

CITY OF BRIGHTON, COLORADO, a home rule  
municipal corporation

By: \_\_\_\_\_  
Name: GREGORY MILLS  
Title: Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
NATALIE HOEL, City Clerk

\_\_\_\_\_  
JACK D. BAJOREK, City Attorney

**DEVELOPER:**

THF PRAIRIE CENTER DEVELOPMENT, L.L.C.,  
a Colorado limited liability company

By: THF Prairie Center Investors, L.L.C., a  
Missouri limited liability company,  
its Manager

By: Milan Green Management, L.L.C.,  
a Missouri limited liability company,  
its Manager

By: \_\_\_\_\_  
Robert J. Jakubeck, Manager

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Robert J. Jakubeck, as Manager of Milan Green Management, L.L.C., a Missouri limited liability company, as Manager of THF Prairie Center Investors, L.L.C., a Missouri limited liability company, as Manager of THF PRAIRIE CENTER DEVELOPMENT, L.L.C., a Colorado limited liability company.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**DISTRICT:**

PRAIRIE CENTER METROPOLITAN DISTRICT  
NO. 3, a quasi-municipal corporation and political  
subdivision of the State of Colorado

By: \_\_\_\_\_  
Michael Tamblyn, President

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by Michael Tamblyn as President of the Prairie Center Metropolitan District No. 3, a quasi-  
municipal corporation and political subdivision of the State of Colorado.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_