

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

THIS FIRST AMENDMENT TO PRAIRIE CENTER VILLAGE I SUBDIVISION FILING NO. 1 DEVELOPMENT AGREEMENT (this “**First Amendment**”) is made and entered into as of the 17th day of December, 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. 7, a quasi-municipal corporation and municipal subdivision of the State of Colorado (the “**District**”); and GKT BRIGHTON RESIDENTIAL DEVELOPMENT, L.L.C., a Missouri 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 I Subdivision Filing No. 1 Development Agreement dated December 19, 2017, recorded in the real property records of the Clerk and Recorder of Adams County, Colorado (the “**Records**”) on December 28, 2017 at Reception No. 2017000114001 (the “**Agreement**”), in connection with the platting and development of certain real property as more particularly described in Exhibit A attached to the Agreement (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, park land and open space dedications required by the City in connection with the development of the Property, including dedication of the Lutz Parcel.

C. Pursuant to Section 7 of Exhibit G to the Agreement, the Lutz Parcel is to be dedicated by Developer prior to the City’s issuance of the first residential building permit within the Development, excluding building permits for Phase 1A.

D. Pursuant to Section 11 of Exhibit D to the Agreement and Exhibit F to the Agreement, Developer is to convey and dedicate certain water rights relating to Phases 2, 3 and 4 of the Property.

E. The City, the District and Developer now desire to extend the timing for Developer’s dedication of the Lutz Parcel and to provide for dedication of water rights on a phased basis consistent with the anticipated development of the Phases, 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. Open Space Land Dedication. Section 3 of Exhibit D to the Agreement is hereby amended by replacing the definition of “Village V Development Agreement” in such Section 3 with the following: “Prairie Center Village V Subdivision Filing No. 1 Development Agreement entered into by the City, Developer and the District dated October 20, 2015, and recorded in the real property records of the Clerk and Recorder for Adams County at Reception No. 2016000001263, as amended from time to time (the “**Village V Development Agreement**”).”

3. Prairie Center Open Space. Section 7 of Exhibit G to the Agreement is hereby deleted in its entirety.

4. Water Dedication.

(i) Section 11(b) of Exhibit D to the Agreement is hereby deleted in its entirety and in its place inserted the following:

(b) With respect to Phases 2, 3, and 4, the Developer or the applicable Applicant shall (i) pay the Water System Improvement Fee component of the Water Plant Investment Fee; and (ii) convey to the City 145.05 acre-feet of specifically designated acceptable water shares or other form of water rights that meet the City’s established standards and criteria as set forth in the “Code” (as such term is defined in the Comprehensive Agreement), such transfer to be phased as follows: (A) 37.29 acre-feet applicable to Phase 2 of the Property to be dedicated prior to the issuance of any building permits for Phase 2 of the Property; (B) 50.32 acre-feet applicable to Phase 3 of the Property to be dedicated prior to the issuance of any building permits for Phase 3 of the Property; and (C) 57.44 acre-feet applicable to Phase 4 of the Property to be dedicated prior to the issuance of any building permits for Phase 4 of the Property. In connection with each such transfer, the Water Resource Fee shall not be payable and (1) such Applicant and the City shall enter into, if required by the City, the agreement set forth in **Exhibit F** attached to the Agreement and incorporated herein by this reference; and (2) such Applicant shall use good faith efforts to obtain the requisite dry up covenant(s) if requested by the City. The City shall not issue any site construction permits for the applicable Phase prior to satisfaction of the foregoing applicable payment and water dedication requirements, as set forth in **Exhibit F**.

(ii) The first sentence of Section 11(c) of Exhibit D to the Agreement is hereby amended by deleting the phrase “of the date that is four (4) years” and in its place inserting the following phrase “of the date that is six (6) years”.

(iii) Exhibit F of the Agreement is hereby deleted in its entirety and in its place inserted the form of Water Dedication Agreement attached hereto as **Exhibit F** and by this reference made a part hereof.

5. Prairie Center Parks and Open Space Tracking and Summary Chart. A clerical error in connection with recordation of the Agreement resulted in a portion of the Prairie Center Parks & Open Space Tracking and Summary Chart, being a part of Exhibit D to the Agreement, being illegible as recorded. Accordingly, a duplicative copy of such chart is hereby attached to this First Amendment as Exhibit D and by this reference made a part hereof.

6. 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:

GKT BRIGHTON RESIDENTIAL
DEVELOPMENT, L.L.C., a Missouri limited
liability company

By: _____
R. Otto Maly, Manager

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019,
by R. Otto Maly as Manager of GKT BRIGHTON RESIDENTIAL DEVELOPMENT, L.L.C., a
Missouri limited liability company.

Witness my hand and official seal.

Notary Public
My Commission expires:_____

DISTRICT:

PRAIRIE CENTER METROPOLITAN DISTRICT
NO. 7, 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 _____, 2019,
by Michael Tamblyn as President of the Prairie Center Metropolitan District No. 7, a quasi-
municipal corporation and political subdivision of the State of Colorado.

Witness my hand and official seal.

Notary Public
My Commission expires: _____

EXHIBIT D

PRAIRIE CENTER PARKS & OPEN SPACE TRACKING AND SUMMARY CHART

[follows this page]

PRAIRIE CENTER PARKS & OPEN SPACE TRACKING AND SUMMARY CHART

Subdivision Plat	Total D Us	Park Tracts¹	OS Tract(s)	Park Provided (ac./ft²)	Open Space Provided (ac./ft²)	Less: Detention¹ (ac./ft²)	Less: Other¹ (ac./ft²)	Total Parks & OS Provided (ac./ft²)	Parks & OS Required² (ac./ft²)	Excess (Deficit) (ac./ft²)
Prairie Center Village V Subdivision Plat No. 1	288 ³	B	A, C	3.063 133,441	24.807 1,080,556	(5.195) (226,311)	(4.538) ⁴ (197,697)	18.137 789,989	17.902 779,811	0.235 10,178
Prairie Center Regional Wildlife Sanctuary (unplatted) ⁵	0		PUD Parcel 7e	0	53.21 2,317,828	0	0	53.21 2,317,828		53.21 2,317,828
Prairie Center Village I Subdivision Plat No. 1	370	H	A, B, C, D, E, G, I, J, K, L, M, N, O, P, Q, R, S	2.891 125,923	36.301 1,581,306	(14.092) (613,850)	0	25.101 1,093,379	22.999 1,001,836	2.102 91,543
Total										55.547 2,419,549

¹ Detention areas below the 10-year water surface elevation
² Number of dwelling units x 2.96 people per dwelling unit; required 21.0 acres of park and open space per 1000 people
³ 288 dwelling units are on Lot 2 only.
⁴ Oil and gas operations areas within Tract C
⁵ Open space provided is preliminary and based on the PUD Parcel 7e acreage. Final open space provided acreage will be pursuant to the legal description for Parcel 7e as conveyed to the City.

EXHIBIT F

WATER DEDICATION AGREEMENT

THIS AGREEMENT (the “Agreement”) is made and entered into this _____ day of _____, 20____ by and between the CITY OF BRIGHTON, COLORADO, a home rule municipality of the County of Adams, State of Colorado (the “City”) and GKT Brighton Residential Development, L.L.C. [or GKT Brighton Residential Development, L.L.C. ’s successors or assigns as signatory] (the “Developer”).

WHEREAS, Developer is the owner of the property described in **Exhibit A** attached hereto and by this reference made a part hereof (the “Property”); and

WHEREAS, in conjunction with the approval of the Final Plat for the Property, DEVELOPER will execute a development agreement; and

WHEREAS, as agreed to by the Developer at the time of annexation of the Property, and as required by the regulations and laws of the City, as a condition of Final Plat approval, the Developer must either dedicate acceptable water resources or pay the “without water rights” fee for the Property, as determined at the sole discretion of the City; and

WHEREAS, after reviewing its current inventory of water resources, together with other factors relating to the City’s water resource needs, the City has determined that the Developer shall dedicate water resources for Phases 2, 3, and 4 of the Property (including Tract A of the Final Plat for the Property), as more particularly set forth in the Prairie Center Village I Subdivision Filing No. 1 Development Agreement (as may be amended, the “Development Agreement”) and below.

NOW, THEREFORE, in consideration of the recitals and representations set forth herein, together with other good and sufficient consideration, the PARTIES AGREE AS FOLLOWS:

1. With respect to Phases 2, 3, and 4 of the Property (as such phases are described in **Exhibit B** to the Development Agreement), the Developer or the applicable applicant shall transfer to the City water rights in form acceptable to the City Water Attorney and City Water Rights Engineer, in the total amount of 145.05 acre-feet, such transfer to be phased as follows: (i) 37.29 acre-feet applicable to Phase 2 of the Property to be dedicated prior to the issuance of any building permits for Phase 2 of the Property; (ii) 50.32 acre-feet applicable to Phase 3 of the Property to be dedicated prior to the issuance of any building permits for Phase 3 of the Property; and (iii) 57.44 acre-feet applicable to Phase 4 of the Property to be dedicated prior to the issuance of any building permits for Phase 4 of the Property. Said water dedications shall be free and clear of any and all encumbrances unacceptable to the City in its sole discretion and shall satisfy all of the requirements of Resolution No. 01-160, as the same may be amended from time to time.
2. With respect to Tract A of the Final Plat for the Property, the Developer or the applicable applicant shall transfer to the City water rights in form acceptable to the

City Water Attorney and City Water Rights Engineer, in the total amount of 26.28 acre-feet. Such water dedication shall occur on the date of the earlier to occur of (a) the date that is six (6) years after the recording of the Plat for the Project or (b) the date upon which a final plat for any residential portion of Village 2, 3, or 4 of Prairie Center (as depicted in the Prairie Center Mixed-Use PUD) is approved by the City and recorded in the real property records of the clerk and recorder for Adams County, Colorado. Said water dedication shall be free and clear of any and all encumbrances unacceptable to the City in its sole discretion and shall satisfy all of the requirements of Resolution No. 01-160, as the same may be amended from time to time.

3. In addition to the transfer of water rights as set forth in paragraph 2 above, the Developer or applicant will pay at building permit issuance, the Water Plant Investment Fee “with water rights” fee for each water tap for Phases 2, 3, and 4 in the amount as set forth in the City’s Annual Fee Resolution, as the same may be amended from time to time, in effect at the time of building permit issuance.
4. In addition to the transfer of water rights as set forth in paragraph 3 above, the Developer or applicant will pay at the time of such water rights transfer, the Water Plant Investment Fee “with water rights” fee for each water tap for Tract A of the Final Plat for the Property in the amount as set forth in the City’s Annual Fee Resolution, as the same may be amended from time to time, in effect at the time of payment.
5. The parties acknowledge and agree that any replatting or resubdivision of the Property that materially impacts the water rights dedication requirements will, by necessity, require a re-evaluation of the amount of water dedication for which the Developer will be obligated, which may result in an increase or a decrease in the water dedication requirement.
6. This Agreement is may not be assigned or transferred by the Developer without the prior written consent of the City in its sole discretion, and may only be modified or amended in writing, signed by the parties hereto.