

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE *THIRD AMENDMENT TO COMPREHENSIVE FUNDING PLAN, MASTER DEVELOPMENT AGREEMENT, PRE-ANNEXATION AGREEMENT, AND INTERGOVERNMENTAL AGREEMENT FOR PRAIRIE CENTER, BRIGHTON, COLORADO*, AUTHORIZING THE MAYOR TO EXECUTE SAID THIRD AMENDMENT ON BEHALF OF THE CITY AND THE CITY CLERK TO ATTEST THERETO; AND PROVIDING OTHER MATTERS RELATED THERETO.

ORDINANCE NO. 2207

INTRODUCED BY: Martinez

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO:

Section 1. Recitals.

A. The City of Brighton, Colorado (the “City”) is a municipal corporation duly organized and existing under its Home Rule Charter adopted pursuant to Article XX of the Constitution of the State of Colorado.

B. The City has therefore entered into a *Comprehensive Funding Plan, Master Development Agreement, Pre-Annexation Agreement, and Intergovernmental Agreement for Prairie Center, Brighton, Colorado*, dated December 5, 2005, by and among the City, the City of Brighton Water, Sewer and Drainage Enterprise, THF Prairie Center Development, L.L.C., THF Prairie Center Retail One, L.L.C., Prairie Center Metropolitan District No. 1 and Prairie Center Metropolitan District No. 2. The Original Agreement was modified by the *First Amendment to Comprehensive Funding Plan, Master Development Agreement, Pre-Annexation Agreement, and Intergovernmental Agreement for Prairie Center, Brighton, Colorado*, made and entered into as of July 7, 2009 and by the *Second Amendment to Comprehensive Funding Plan, Master Development Agreement, Pre-Annexation Agreement, and Intergovernmental Agreement for Prairie Center, Brighton, Colorado*, made and entered into as of February 8, 2012 (as so amended, the “Comprehensive Agreement”).

C. Prairie Center Metropolitan District No. 1 and Prairie Center Metropolitan District No. 2 previously have assigned all of their right, title and interest in the Comprehensive Agreement to Prairie Center Metropolitan District No. 3 and such District has assumed all such right, title and interest in the Comprehensive Agreement.

D. All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Comprehensive Agreement.

E. A downturn in economic conditions, which commenced in 2008, has impacted certain assumptions underlying the Comprehensive Agreement, including but not limited to the anticipated pace of development within the Project, the anticipated generation of revenues from development within the Project to fund the Public Improvements and other purposes of the Comprehensive Agreement.

F. In response to the changed economic conditions and in order to advance the City's economic development objective of stimulating growth and revenue generation within the Project and within the City generally, the City, the City Utility Enterprise, the Developers and the District desire to enter into a *Third Amendment to Comprehensive Funding Plan, Master Development Agreement, Pre-Annexation Agreement, and Intergovernmental Agreement for Prairie Center, Brighton, Colorado* (the "Third Amendment") to reflect the changed conditions and to otherwise modify certain terms of the Comprehensive Agreement.

G. A copy of the Third Amendment has been filed with the City Clerk of the City and has been distributed to the City Council of the City for its review.

H. The City Council has determined, and hereby determines, that it is necessary and in the best interest of the City and its inhabitants for the City to enter into the Third Amendment.

Section 2. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the City Council, or the officers, agents or employees of the City Council or the City, relating to the Third Amendment is hereby ratified, approved and confirmed.

Section 3. Approval. The Third Amendment in substantially the form presented to this meeting of the City Council, is hereby approved and authorized, and the Mayor and the City Clerk are hereby authorized and directed, for and on behalf of the City and the City Enterprise, to execute and deliver the Third Amendment in substantially the form on file with the City, provided that the Third Amendment may be completed, corrected or revised as deemed necessary by the parties thereto, and as approved by the City Manager, in order to carry out the purposes of this Ordinance. The execution of the Third Amendment by the appropriate officers

of the City herein authorized shall be conclusive evidence of the approval by the City and the City Enterprise of such agreement in accordance with the terms hereof.

Section 4. Authorization of Actions. The Mayor and the City Clerk and all other appropriate officers, agents or employees of the City are authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance and the Third Amendment authorized hereby, including without limiting the generality of the foregoing, executing, attesting, authenticating and delivering for and on behalf of the City any and all necessary documents, instruments or certificates and performing all other acts that they deem necessary or appropriate. It shall be the duty of the proper officers of the City to hereafter take all action necessary for the City to comply with the provisions of this Ordinance, as hereafter amended and supplemented from time to time.

Section 5. Purpose. The purpose of this Ordinance is to provide for the health, safety and welfare of the people.

Section 6. Repealer. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 7. Validity/Severability. If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

Section 8. Interpretation. This Ordinance shall be so interpreted and construed as to effectuate its general purpose.

Section 9. Recording and Authentication; Publication. Immediately after its passage this Ordinance shall be numbered and recorded in the ordinance book of the City kept for that purpose, authenticated by the signatures of the Mayor and City Clerk, and affidavits of publication shall be retained with this Ordinance in the City records. Upon adoption by the City Council upon its initial introduction, this Ordinance shall be published in full as it was adopted. Upon final adoption, this Ordinance shall be published by title only, with notice that copies of this Ordinance are available at the office of the City Clerk.

Section 10. Effective Date. This Ordinance shall take effect five days after publication following final passage.

**INTRODUCED, PASSED ON FIRST READING AND ORDERED
PUBLISHED THIS 19th DAY OF MAY, 2015.**

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, City Attorney

Published in the *Standard Blade*
First Publication Date: May 27, 2015

**PASSED ON SECOND READING AND FINAL READING, WITHOUT
AMENDMENT, AND ORDERED PUBLISHED BY TITLE ONLY THIS 2ND DAY OF
JUNE, 2015.**

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

Published in the *Standard Blade*
Final Publication Date: June 10, 2015