

After Recording, return to:
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**THIRD AMENDMENT TO COMPREHENSIVE FUNDING PLAN,
MASTER DEVELOPMENT AGREEMENT, PRE-ANNEXATION AGREEMENT,
AND INTERGOVERNMENTAL AGREEMENT FOR
PRAIRIE CENTER, BRIGHTON, COLORADO**

THIS THIRD AMENDMENT TO COMPREHENSIVE FUNDING PLAN, MASTER DEVELOPMENT AGREEMENT, PRE-ANNEXATION AGREEMENT, AND INTERGOVERNMENTAL AGREEMENT FOR PRAIRIE CENTER, BRIGHTON, COLORADO (this “Third Amendment”) is made and entered into as of the 16th day of June, 2015 (the “Effective Date of the Third Amendment”) by and between THE CITY OF BRIGHTON, COLORADO, a home-rule municipality of the State of Colorado (the “City”), the CITY OF BRIGHTON WATER, SEWER AND DRAINAGE ENTERPRISE, a government-owned utility enterprise pursuant to Article X, § 20(2) of the Colorado state constitution (the “City Utility Enterprise”), THF PRAIRIE CENTER DEVELOPMENT, L.L.C., a Colorado limited liability company (“THF Development”), THF PRAIRIE CENTER RETAIL ONE, L.L.C., a Missouri limited liability company (“THF Retail One” and together with THF Development, the “Developers”), and PRAIRIE CENTER METROPOLITAN DISTRICT NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”).

RECITALS

This Third Amendment is made with reference to the following facts:

A. The City, the City Utility Enterprise, the Developers, Prairie Center Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado, and Prairie Center Metropolitan District No. 2, a quasi-municipal corporation and political subdivision of the State of Colorado, previously entered into that certain Comprehensive Funding Plan, Master Development Agreement, Pre-Annexation Agreement, and Intergovernmental Agreement for Prairie Center, Brighton, Colorado, dated December 5, 2005, recorded in the real property records of Adams County, Colorado at Reception No. 20051216001378220 (the “Original Agreement”), as 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 recorded in the real property records of Adams County, Colorado at Reception No. 2011000051551 (the “First Amendment”) and as modified 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, and recorded in the real property records of Adams County, Colorado at Reception No. 2012000014188 (the “Second Amendment” and together with the Original Agreement and the First Amendment, the “Comprehensive Agreement” or this “Agreement”). Unless otherwise defined in this Third Amendment, capitalized terms used herein shall have the meanings given them in the Comprehensive Agreement.

B. 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 the District and the District has assumed all such right, title and interest in the Comprehensive Agreement.

C. The Developers acquired the Property with the intent of developing the Project under a coordinated plan of development and financing as contemplated in the Comprehensive Agreement, and it continues to be the Parties' expectation that development of the Project in accordance with the Comprehensive Agreement will provide for orderly growth, ensure reasonable certainty, stability and fairness in the land use planning process, stimulate economic growth and increase tax revenues within the City and Adams County, and foster cooperation between the public and private sectors in the area of land use planning.

D. The Parties desire to continue working cooperatively to provide for development of the Property as a master planned mixed use project known as Prairie Center, which is intended to be a unique, yet fully integrated community within the City.

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 (each a "Party" and collectively, the "Parties") desire to enter into this Third Amendment to reflect the changed conditions referenced herein, and to otherwise modify certain terms of the Comprehensive Agreement, as set forth below.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this Third Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 **DEFINITIONS**

1. **Definitions.** All terms which are defined in the Comprehensive Agreement shall have the same meanings, respectively, in this Third Amendment unless otherwise defined herein or unless the context by clear implication otherwise requires. In addition, the definitions set forth in Article 1 of the Comprehensive Agreement are hereby amended as follows:

(a) A new definition of "Adult Recreation Center" shall be added to Section 1.1 of the Comprehensive Agreement as follows:

Adult Recreation Center. Eagle View Adult Center located at 1150 Prairie Center Parkway, Brighton, Colorado.

(b) A new definition of “Bridge/Crossing Impact Fee” shall be added to Section 1.1 of the Comprehensive Agreement as follows:

Bridge/Crossing Impact Fee. The bridge/crossing impact fee imposed pursuant to Section 3-5-45 of the Brighton Municipal Code in the amount and for the purposes determined by the City Council and as set forth in the City of Brighton Fee Resolution, as the same may be amended from time to time.

(c) A new definition of “Building Permit Fee” shall be added to Section 1.1 of the Comprehensive Agreement as follows:

Building Permit Fee. The Building Permit Fee imposed pursuant to Section 15-4-30 of the Brighton Municipal Code in the amount and for the purposes determined by the City Council and as set forth in the City of Brighton Fee Resolution, as the same may be amended from time to time.

(d) The definition of “Exhibits” shall be amended by the addition of the following Exhibit:

Exhibit J. Map of Prairie Center Residential Village One

(e) The definition of “Park and Rec Primary Public Improvements” in Section 1.1 of the Comprehensive Agreement shall be amended and restated in its entirety as follows:

Park and Rec Primary Public Improvements. Collectively, the Primary Public Improvements set forth in Section 4.3(n)(i) of this Agreement that are payable from one-fifth (1/5) of the Credit PIF Revenues derived from the initial Credit PIF rate of 1.25%, in the aggregate principal amount of \$9,000,000.

(f) A new definition of “Prairie Center Residential Village One” shall be added to Section 1.1 of the Comprehensive Agreement as follows:

Prairie Center Residential Village One. The proposed residential development referred to as Prairie Center Residential Village One consisting of approximately 333 single family homes, as further set forth in Exhibit J attached hereto and by this reference made a part hereof.

(g) A new definition of “Prairie Center Residential Village One Fees” shall be added to Section 1.1 of the Comprehensive Agreement as follows:

Prairie Center Residential Village One Fees. Collectively, the following fees and taxes collected by the City in connection with the application for a building permit or the issuance of a certificate of occupancy for a single

family detached residential home in Prairie Center Residential Village One: (i) the Building Permit Fee, (ii) the Use Taxes, (iii) the Traffic Impact Fee, (iv) the Bridge/ Crossing Impact Fee, and (v) such other fees or taxes hereafter designated by the City Manager as constituting Prairie Center Residential Village One Fees under this Agreement.

(h) The definition of “Primary Public Improvements” shall be amended and restated in its entirety as follows:

Primary Public Improvements has the meaning set forth in Section 4.3(c)(ii) of this Agreement.

(i) A new definition of “Rebated City Fees” shall be added to Section 1.1 of the Comprehensive Agreement as follows:

Rebated City Fees. Collectively, the Prairie Center Residential Village One Fees that are rebated or remitted by the City to the District in accordance with the terms and provisions of Section 4.12 hereof in connection with the construction of Prairie Center Residential Village One, subject to annual appropriation by the City Council.

(j) A new definition of “Third Amendment” shall be added to Section 1.1 of the Comprehensive Agreement as follows:

Third Amendment. The certain Third 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 June 16, 2015.

(k) A new definition of “Traffic Impact Fee” shall be added to Section 1.1 of the Comprehensive Agreement as follows:

Traffic Impact Fee. The Traffic Impact Fee imposed pursuant to Section 3-5-45 of the Brighton Municipal Code in the amount and for the purposes determined by the City Council and as set forth in the City of Brighton Fee Resolution, as the same may be amended from time to time.

(l) A new definition of “Use Taxes” shall be added to Section 1.1 of the Comprehensive Agreement as follows:

Use Taxes. The use taxes imposed pursuant to Section 3-32-30 of the Brighton Municipal Code, as modified or amended from time to time.

ARTICLE 2
GENERAL PROVISIONS

2. Effect of Third Amendment. The Parties intend to modify and amend the Original Agreement, the First Amendment and the Second Amendment as set forth in this Third Amendment. Except as expressly amended or modified in the First Amendment, the Second Amendment or this Third Amendment, the Comprehensive Agreement shall remain as originally stated and shall remain in full force and effect in accordance with its terms. If there is any inconsistency between the terms of the Comprehensive Agreement, the terms of the First Amendment or the terms of the Second Amendment, and the terms of this Third Amendment, the provisions of this Third Amendment shall govern and control the rights and obligations of the Parties. From and after the Effective Date of the Third Amendment, all references to the Comprehensive Agreement or this Agreement shall be deemed references to the Comprehensive Agreement as amended by the First Amendment, the Second Amendment and as hereby amended. The provisions of this Third Amendment constitute covenants or servitudes that will, upon Recordation, touch, attach to and run with the land comprising the Property.

ARTICLE 3
MASTER DEVELOPMENT AGREEMENT

3. This Third Amendment does not amend any provisions of Article 3 of the Comprehensive Agreement relating to the Master Development Agreement.

ARTICLE 4
COMPREHENSIVE FUNDING PLAN

4. The second paragraph of Section 4.3(c)(iv) of the Comprehensive Agreement shall be amended and restated in its entirety as follows:

The Park and Rec Primary Public Improvements are eligible for funding only from one-fifth (1/5) of the Credit PIF Revenues derived from the initial Credit PIF rate of 1.25% as set forth in Section 4.3(n)(i) of this Agreement. The total amount of such Credit PIF Revenues available to finance and refinance the design, construction or cash disbursement for, the Park and Rec Primary Public Improvements under this Agreement shall be equal to Nine Million Dollars (\$9,000,000) of combined Hard Costs and Eligible Soft Costs incurred in connection with the Park and Rec Primary Public Improvements, plus Eligible Interest Costs and Eligible Financing Costs related to the Park and Rec Primary Public Improvements.

5. Section 4.3(n)(i) of the Comprehensive Agreement shall be amended and restated in its entirety as follows:

(i) The District will designate one-fifth (1/5) of the Credit PIF Revenues derived from the initial Credit PIF rate of 1.25% solely for principal reduction and/or debt service for a principal amount of the following Public Improvements in the order of priority set forth below:

(a) Six Million Five Hundred Thousand Dollars (\$6,500,000), which amount is not subject to and will not be allocated or deducted from the Cap Amount for the following:

i) First, approximately \$3.5 million for the design and construction, to City Standards, of improvements and restoration of the Lutz Reservoir for use in the Non-Potable Water Distribution System; and

ii) Third, approximately \$3 million for the design and construction, to City approved standards, of landscaping and public trails within the Lutz Reservoir wildlife sanctuary (Planning Area 38, as depicted on the Conceptual Development Plan);

(b) Second, Two Million Five Hundred Thousand Dollars (\$2,500,000), which amount is not subject to and will not be allocated or deducted from the Cap Amount, to fund the design and/or construction of the second phase of the Adult Recreation Center. Within a commercially reasonable period after one (1) million square feet of retail space within the Project has been constructed, leased and occupied, and upon written request by the City to the District, the District shall remit the amount of \$2.5 million to the City which the City shall apply to the design and/or construction of the second phase of the Adult Recreation Center. The amount so funded by the District in connection with the design and construction of the Adult Recreation Center shall be an Eligible Cost hereunder payable from one-fifth (1/5) of the Credit PIF Revenues derived from the initial Credit PIF rate of 1.25%.

Once the Districts have retired all debt incurred with respect to design and/or construction of the foregoing improvements, the District will exercise its authority under the PIF Covenant to reduce the rate of the Credit PIF from 1.25% to 1%. As provided Section 4.3(a), the Sales/Use Tax Credit within the Project will adjust from 1.25% to 1% upon implementation of the corresponding reduction in the Credit PIF rate.

6. A new Section 4.12 shall be added to the Comprehensive Agreement as follows:

4.12 Rebated City Fees. To the extent permitted by law and subject to the City's outstanding contractual covenants and obligations, and subject to annual appropriation by the City, on or prior to the thirtieth day after the last day of each calendar quarter, the City shall remit to the District the Rebated City Fees that have been collected by the City in such prior calendar quarter in connection with the application for a building permit or the issuance of a certificate of occupancy for a single family detached residential home in Prairie Center Residential Village One, as hereinafter provided. Notwithstanding the foregoing, the Parties

acknowledge that a portion of the Prairie Center Residential Village One Fees will be collected at the time of application for a building permit and the remainder of such fees will be collected at the time of issuance of a certificate of occupancy. The City shall be required to remit to the District the Rebated City Fees that have been collected for each specific home in Prairie Center Residential Village One only after the certificate of occupancy has been issued for such home and all Prairie Center Residential Village One Fees have been collected for such home.

The specific Prairie Center Residential Village One Fees to be remitted or rebated to the District shall be determined by the City in its sole discretion, provided that the City shall not remit or rebate more than 87% of the Traffic Impact Fee or more than 87% of the Bridge/Crossing Impact Fee collected with respect to each specific home in Prairie Center Residential Village One.

The total amount of Rebated City Fees that will be remitted to the District in connection with the construction of Prairie Center Residential Village One shall be \$2.5 million, subject to annual appropriation by the City Council. The specific amount of Rebated City Fees that will be remitted to the District for each specific home in Prairie Center Residential Village One shall be determined by dividing \$2.5 million by the total number of homes that have been approved to be constructed in Prairie Center Residential Village One through the entitlement process with the City. For example, if the total number of homes to be constructed in Prairie Center Residential Village One is 333, then the amount to be rebated per home will be \$2.5 million divided by 333 homes, or \$7,507.51 per home. In the event that the total number of homes to be constructed in Prairie Center Residential Village One is revised from time to time after a portion of the Rebated City Fees have been rebated to the District, the specific amount of Rebated City Fees that will be rebated to the District for each specific home shall be determined by dividing the remaining amount due to be rebated to the District at the time of such revision by the revised number of remaining homes approved to be constructed in Prairie Center Residential Village One.

Notwithstanding the foregoing or any other provision to the contrary contained in this Agreement, as required by the Brighton Municipal Code, the City shall rebate or remit Traffic Impact Fees or Bridge/Crossing Impact Fees to the District only to the extent that the District has financed or will finance the design or construction of a particular Primary Public Improvement that is eligible to be financed in whole or in part from such fees, and to the extent that the District has not already been reimbursed for such design and construction. Unless otherwise agreed to in writing by the City Manager and an authorized representative of the District, the Traffic Impact Fees and the Bridge/Crossing Impact Fees that are remitted to the District in accordance

with this Section 4.12 shall be allocated to the following Primary Public Improvements: (a) the Bridge/Crossing Impact Fees that are remitted to the District shall be allocated to the reimbursement of the costs incurred by the District in connection with the design and construction of the underpass structure at 144th Avenue and Buckley Road; and (b) the Traffic Impact Fees that are remitted to the District shall be applied by the District to the future design and construction of 148th Avenue/Telluride Road, which road is identified as a Primary Public Improvement in this Agreement. The District shall keep records of the expenditure of the rebated Traffic Impact Fees on such Primary Public Improvement. The City shall receive a credit against its obligation to pay or reimburse Eligible Costs related to such particular Primary Public Improvements in an amount equal to the Traffic Impact Fees or Bridge/Crossing Impact Fees, as applicable, that are actually rebated or remitted to the District. All Traffic Impact Fees and Bridge/Crossing Impact Fees that are remitted or rebated to the District pursuant to the provisions of this Section 4.12 shall be considered to be Shared Revenues for purposes of this Agreement, and shall be counted toward the Cap Amount.

To the extent that the City rebates or remits Building Permit Fees or Use Taxes to the District as Rebated City Fees, (a) such fees or taxes are not required to be applied or allocated to the payment or reimbursement of Eligible Costs related to a Primary Public Improvement, (b) such fees or taxes shall not be considered Shared Revenues for purposes of this Agreement, and (c) any such fees or taxes remitted or rebated to the District shall not be counted toward the Cap Amount.

To the extent that the City Manager determines that other fees or taxes collected by the City in connection with the application for a building permit or the issuance of a certificate of occupancy for a single family detached residential home in Prairie Center Residential Village One shall be remitted or rebated to the District as Rebated City Fees hereunder, any such fees or taxes remitted or rebated to the District shall not be counted toward the Cap Amount.

On or prior to the thirtieth business day after the end of each calendar quarter, the City shall provide the District and the Developer with a record of (i) the amount of Prairie Center Residential Village One Fees that were collected by the City in such quarter, (ii) the number of certificates of occupancy issued by the City in such quarter for Prairie Center Residential Village One, (iii) the amount of Rebated City Fees remitted to the District during such quarter, and (iv) the amount of Traffic Impact Fees and Bridge/Crossing Impact Fees remitted to the District during such calendar quarter, and the particular Primary Public Improvements to which such Traffic Impact Fees and Bridge/Crossing Impact Fees were allocated, as set forth above.

The District shall provide the Finance Director with the documentation and information required by Section 4.10 of this Agreement and an authorized representative of the District and the Finance Director shall periodically meet to discuss and reconcile the information that has been submitted by the District to the City.

ARTICLE 5
LAND USE MATTERS

7. This Third Amendment does not amend any provisions of Article 5 of the Comprehensive Agreement relating to Land Use Matters.

ARTICLE 6
PRE-ANNEXATION AGREEMENT

8. This Third Amendment does not amend any provisions of Article 6 of the Comprehensive Agreement relating to Pre-Annexation Agreements.

ARTICLE 7
DEFAULT, REMEDIES, TERMINATION

9. This Third Amendment does not amend any provisions of Article 7 of the Comprehensive Agreement.

ARTICLE 8
MISCELLANEOUS

10. Findings. The City hereby finds and determines that execution of this Third Amendment is in the best interests of the public health, safety, and general welfare and the provisions of this Third Amendment are consistent with the Comprehensive Plan and development laws, regulations and policies of the City.

11. Fees, Costs and Expenses. The Developer hereby agrees to pay or reimburse all fees, costs and expenses of the City, including without limitation, reasonable attorneys' fees, incurred by the City in connection with the negotiation, drafting, execution and delivery of this Third Amendment.

12. Severability. If any term, provision, covenant or condition of this Third Amendment is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of the Comprehensive Agreement will continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining, or substantially deprive such Party of the benefit of its bargain under the Comprehensive Agreement. The Parties will cooperate in reforming the Comprehensive Agreement to the extent required to most fully affect the intent of any such invalid, void or unenforceable term, provision, covenant or condition.

13. Authority. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Third Amendment, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Third Amendment have been made.

14. Recording. In accordance with Section 8.1(b) of the Comprehensive Agreement, the City shall Record this Third Amendment.

15. Counterparts. This Third Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, and all such counterparts taken together shall constitute one and the same instrument.

[Signature Pages Follow This Page]

IN WITNESS WHEREOF, the Parties have executed this Third Amendment as of the Effective Date of the Third Amendment.

CITY OF BRIGHTON, COLORADO,
a municipal corporation of the County of Adams,
State of Colorado

ATTEST:

Natalie Hoel, City Clerk

By: _____
Richard N. McLean, Mayor

APPROVED AS TO FORM:

Margaret R. Brubaker, City Attorney

CITY OF BRIGHTON WATER, SEWER AND
DRAINAGE ENTERPRISE, a government-owned
utility enterprise pursuant to Article X, § 20(2) of
the Colorado state constitution

ATTEST:

Natalie Hoel, Secretary

By: _____
Richard N. McLean, President

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., its Manager

By: _____
Jason Meyerpeter
Manager

THF PRAIRIE CENTER RETAIL ONE, L.L.C.,
a Missouri limited liability company

By: THF Prairie Center Development, L.L.C.,
a Colorado limited liability company, Manager

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

By: Milan Green Management, L.L.C., its Manager

By: _____
Jason Meyerpeter
Manager

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

ATTEST:

Ann Finn, Secretary

By: _____
Michael Tamblyn, President

STATE OF COLORADO)
) ss.
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me this _____ day of June, 2015, by Richard N. McLean, Mayor, and Natalie Hoel, City Clerk, of the CITY OF BRIGHTON, COLORADO.

Witness my hand and official seal.

Notary Public
My Commission expires:_____

STATE OF COLORADO)
) ss.
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me this _____ day of June, 2015, by Richard N. McLean, President, and Natalie Hoel, Secretary, of CITY OF BRIGHTON WATER, SEWER AND DRAINAGE ENTERPRISE.

Witness my hand and official seal.

Notary Public
My Commission expires:_____

STATE OF MISSOURI)
) ss.
COUNTY OF _____)

On this _____ day of June, 2015, before me appeared Jason Meyerpeter, to me personally known, who, being by me duly sworn, did say that he is the Manager of Milan Green Management, L.L.C., a Missouri limited liability company, which is the Manager of THF Prairie Center Investors, L.L.C., a Missouri limited liability company, which is the Manager of THF Prairie Center Development, L.L.C., a Colorado limited liability company, and said Jason Meyerpeter acknowledged that he executed this instrument on behalf of said limited liability company and acknowledged said instrument as the free act and deed of said limited liability companies.

Witness my hand and official seal.

Notary Public
My Commission expires: _____

STATE OF MISSOURI)
) SS.
COUNTY OF ST. LOUIS)

On this _____ day of June, 2015, before me appeared Jason Meyerpeter, to me personally known, who, being by me duly sworn, did say that he is the Manager of Milan Green Management, L.L.C., a Missouri limited liability company, the Manager of THF Prairie Center Investors, L.L.C., a Missouri limited liability company, the Manager of THF Prairie Center Development, L.L.C., a Colorado limited liability company, the Manager of THF Prairie Center Retail One, L.L.C., a Missouri limited liability company, and said Jason Meyerpeter acknowledged that he executed this instrument on behalf of said limited liability company and acknowledged said instrument as the free act and deed of said limited liability companies.

Witness my hand and official seal.

Notary Public
My Commission expires: _____

EXHIBIT J

(Attach Map of Prairie Center Residential Village One)