

CITY OF BRIGHTON, COLORADO

ORDINANCE NO. _____

INTRODUCED BY: _____

AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING A LOAN FROM THE CITY OF BRIGHTON, COLORADO, FROM ITS GENERAL FUND, TO THE BRIGHTON URBAN RENEWAL AUTHORITY, IN AN AMOUNT NOT TO EXCEED TWO MILLION FIVE HUNDRED TEN THOUSAND DOLLARS (\$2,510,000.00) TO FUND THE ACQUISITION OF CERTAIN REAL PROPERTY; SETTING FORTH CERTAIN FINDINGS REGARDING SAID LOAN; AND SETTING FORTH CERTAIN CONDITIONS FOR SAID LOAN AND OTHER DETAILS RELATED THERETO.

WHEREAS, the Brighton Urban Renewal Authority was established in compliance with C.R.S. Section 31-25 101, et seq. on or about April 13, 2001 by Brighton City Council Resolution No. 01-58; and

WHEREAS, the Brighton Urban Renewal Authority plan was approved by the Brighton City Council on or about April 16, 2002 by Brighton City Council Ordinance No. 1740; and

WHEREAS, pursuant to C.R.S. Section 31-25-105(1)(g), the Brighton Urban Renewal Authority is empowered “*to borrow money and to apply for and accept advances, loans, grants, and contributions from the federal government or other source for any of the purposes of this part I and to give such security as may be required*”; and

WHEREAS, pursuant to C.R.S. Section 31-25-105(1)(b), the Brighton Urban Renewal Authority is empowered to “*undertake urban renewal projects and to make and execute any and all contracts and other instruments which it may deem necessary or convenient to the exercise of its powers under this part I, including, but not limited to, contracts for advances, loans, grants, and contributions from the federal government or any other source*”; and

WHEREAS, the Brighton Urban Renewal Authority has entered into a contract to purchase certain real property located within its plan area, consisting of approximately 2.933 acres, and generally located within the southwest ¼ southwest ¼ of Section 7, Township 1 South, Range 66 West of the 6th P.M., County of Adams, State of Colorado (the “Property”); and

WHEREAS, the City Council finds and determines that it is in the best interests of the citizens of Brighton, and necessary for the continued protection of the health, safety and general welfare of the City for the City to assist the Brighton Urban Renewal Authority in carrying out the urban renewal plan and providing for the acquisition of certain property to facilitate the redevelopment of the area within the project boundaries; and

WHEREAS, the City Council further finds and determines that such assistance to the Brighton Urban Renewal Authority is consistent with the Authority's plan for redevelopment; and

WHEREAS, pursuant to C.R.S. Section 31-25-112(4)(a), a home rule municipality may, consistent with its charter, "*appropriate such of its funds and make such expenditures of its funds as it deems necessary for it to undertake any of its powers, functions, or activities mentioned in this part I. . .*"; and

WHEREAS, there is currently sufficient monies in the General Fund which is not encumbered for the next six (6) months; and

WHEREAS, pursuant to Section 5.7 of the City of Brighton Charter, every act creating indebtedness and authorizing borrowing of money shall be approved by ordinance; and

WHEREAS, the City Council finds and determines that it is in the best interests of the City and in furtherance of a substantial public purpose that the City loan to the Brighton Urban Renewal Authority, a sum not to exceed Two Million Five Hundred Ten Thousand Dollars (\$2,510,000.00), for the acquisition of certain real property; and

WHEREAS, the term of said note shall be six (6) months from the date thereof and shall include simple interest on the principal at the rate of .4% per annum, until the loan is paid in full; and

WHEREAS, the City Council is desirous of authorizing the subject loan to the Brighton Urban Renewal Authority upon the terms and subject to the conditions set forth herein; and

WHEREAS, this Ordinance is necessary for the immediate preservation of the public peace, health and safety in that the acquisition of the subject Property is necessary for the implementation of the BURA plan and that the time constraints on the sale and purchase of the Property by BURA necessitate that the same must be consummated as soon as possible.

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

Section 1. The City, through its General Fund, is hereby authorized to loan to the Brighton Urban Renewal Authority a sum not to exceed Two Million Five Hundred Ten Thousand Dollars (\$2,510,000.00), subject to the conditions set forth in Section 2 hereof.

Section 2. Said loan is hereby conditioned upon and subject to the following occurring, or subsequent thereto if agreed to by the City and the Authority:

1. The City, through its General Fund, and the Brighton Urban Renewal Authority shall execute a Promissory Note in form and substance acceptable to the Brighton City Attorney; and

2. The term of said note shall be six (6) months from the date thereof and shall include simple interest on the principal at the rate of .4% per annum, until the note is paid in full; and
3. The security for said Note shall be in the form of a Deed of Trust in form and substance acceptable to the Brighton City Attorney; and
4. The Finance Director for the City of Brighton shall issue a written statement that the monies in the General Fund used to fund said loan are available to loan to the Urban Renewal Authority for the period of six (6) months; and
5. The Brighton Urban Renewal Authority shall execute to the satisfaction of the Brighton City Attorney an indemnification agreement, indemnifying and holding harmless the City for any challenges, losses, claims, damages, costs, including reasonable attorney fees, arising out of or related to this financing plan; and
6. The City may waive or otherwise modify the conditions set forth in paragraphs 1 through 5 above upon a showing of good cause that said condition or conditions are no longer necessary or applicable, and that it is in the best interests of the City that they be waived or modified.

Section 3. The Mayor and City Manager are hereby authorized to execute all documents necessary to consummate the subject loan, subject to the provisions of Section 2 above.

Section 4. The City Council finds that it is authorized to adopt this emergency ordinance pursuant to the City of Brighton Home Rule Charter.

Section 5. The City Council finds and determines that, in accordance with the foregoing recitals, an emergency exists requiring the immediate passage of this ordinance for the immediate preservation of the health, safety, morals and welfare of the citizens of the City of Brighton.

Section 6. Validity. 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 portion or portions of the ordinance.

Section 7. Repeal. Existing or parts of ordinances covering the same matters as embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed.

Section 8. Emergency Declaration. By reason of the fact that it is necessary to meet the time constraints for BURA to consummate the purchase and sale of the subject Property, it is hereby declared that an emergency exists, that this ordinance is necessary to the immediate preservation of the public peace, health, safety and welfare, and that it shall be in full force and effect upon its adoption.

INTRODUCED, ADOPTED ON FIRST AND FINAL READING AS AN EMERGENCY ORDINANCE AND ORDERED PUBLISHED THIS 17th DAY OF MARCH, 2015.

CITY OF BRIGHTON, COLORADO

Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker, City Attorney

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