

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THE EXERCISE OF EMINENT DOMAIN PROCEEDINGS FOR THE PUBLIC USE AND PURPOSE OF ACQUIRING EASEMENTS FOR STORM WATER DRAINAGE, RETAINING WALL ADJACENT TO NORTH GOLDEN EAGLE PARKWAY, AND OTHER IMPROVEMENTS, AND CONSTRUCTION OF THE SAME

WHEREAS, the Brighton Crossing Metropolitan District No. 7 (“Brighton Crossing No. 7”) is a political subdivision of the State of Colorado formed pursuant to C.R.S. § 32-1-101 *et seq.* and is authorized under the laws of the State of Colorado to acquire property interests which are necessary for public use; and

WHEREAS, a Service Plan, as amended, for Brighton Crossing No. 7 was approved by the City Council of the City of Brighton, Colorado on March 6, 2018 (the “Service Plan”); and

WHEREAS, development within Brighton Crossing No. 7 south of the South Basin Line, has created a need for certain drainage infrastructure and improvements, including a drainage swale, to be constructed on property owned by United Water and Sanitation District (“UWSD”); and

WHEREAS, UWSD has been or may be unwilling or unable to sell the real property interest needed by Brighton Crossing No. 7, and it may be necessary to initiate condemnation proceedings to acquire certain property interests and obtain immediate possession of such properties; and

WHEREAS, on October 27, 2021, Brighton Crossing No. 7 approved a resolution in which it determined that there is a public need and necessity for a permanent drainage easement and to construct certain infrastructure, including a retaining wall adjacent to North Golden Eagle Parkway, and grading for what is commonly known as Pond 308, which is attached hereto as Exhibit A; and

WHEREAS, Brighton Crossing No. 7, pursuant to Section IV(A)(10) of the Service Plan, requests the ability to utilize the power of eminent domain from the City Council.

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

Section 1. City Council hereby finds and determines that there is a public need and necessity for a permanent drainage easement and to construct certain other drainage related infrastructure, including a retaining wall adjacent to North Golden Eagle Parkway, and grading for what is commonly known as Pond 308 (collectively, the “Improvements”).

Section 2. City Council hereby finds and determines that there is a public need and necessity to acquire certain property for construction of the Improvements.

Section 3. City Council hereby consents to Brighton Crossing No. 7's use of eminent domain to acquire the property interests necessary to construct the Improvements.

Section 4. This Resolution is effective as of the date of its adoption.

RESOLVED this 18th day of January, 2022.

CITY OF BRIGHTON, COLORADO

GREGORY MILLS, Mayor

ATTEST:

NATALIE HOEL, City Clerk

APPROVED AS TO FORM:

ALICIA CALDERON, City Attorney

EXHIBIT A

Resolution of Brighton Crossing No. 7 dated October 27, 2021

EXHIBIT E

BRIGHTON CROSSING METROPOLITAN DISTRICT NO. 7

A RESOLUTION OF NECESSITY AND FOR EMINENT DOMAIN PROCEEDINGS FOR THE PUBLIC USE AND PURPOSE OF ACQUIRING EASEMENTS FOR STORM WATER DRAINAGE, RETAINING WALL ADJACENT TO NORTH GOLDEN EAGLE PARKWAY, OTHER IMPROVEMENTS AND CONSTRUCTION OF THE SAME

WHEREAS, the Brighton Crossing Metropolitan District No. 7 (“BCMD”) is a quasi-municipal corporation and political subdivision of the State of Colorado formed pursuant to C.R.S. Section 32-1-101 *et seq.* and is authorized under the laws of the State of Colorado to acquire property interests which are necessary for a public use;

WHEREAS, development within BCMD south of the South Basin Line, has created the need for certain drainage infrastructure and improvements, including a drainage swale, to be constructed on property owned by United Water and Sanitation District (“UWSD”);

WHEREAS, UWSD has been or may be unwilling or unable to sell the real property needed by BCMD, and it may be necessary to initiate condemnation proceedings to acquire certain property interests and obtain immediate possession of such properties; and,

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Board of Directors of BCMD (“Board”) hereby finds and determines that there is a public need and necessity for a permanent drainage easement and to construct certain other drainage related infrastructure, including a retaining wall adjacent to North Golden Parkway, and grading for Pond 308.
2. The Board hereby finds and determines that there is a public need and necessity to acquire certain properties set forth in the attached legal descriptions in furtherance of the public purpose described herein and that such acquisitions are for the public benefit, welfare, and safety.
3. The Board hereby directs its agents to negotiate in good faith for the acquisition of the necessary property interests, and if they are unable to acquire such property interests through good faith negotiations, BCMD may acquire the necessary property through the exercise of its power of eminent domain.
4. The Board further directs its agents to seek the approval of the City of Brighton and Adams County to exercise the power of eminent domain and to acquire the property interests contemplated herein, to the extent required by BCMD’s Service Plan and applicable law.
5. BCMD shall have the authority to amend, enlarge, decrease or change the legal descriptions of the property interests to be acquired as necessary to accommodate the storm water drainage.
6. The Board hereby ratifies and approves engagement of real estate appraiser Steven Rothweiler, MAI, pursuant to the terms set forth in the engagement letter.

EXHIBIT E

Duly adopted with a quorum present and voting this ___ day of October, 2021.

**BRIGHTON CROSSING
METROPOLITAN DISTRICT NO. 7**

By: ^{DocuSigned by:} Christopher Bremner
A2823EB0B0F0400
Officer of the District

Attest:

By: ^{DocuSigned by:} Jay Thomas
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APPROVED AS TO FORM:

Waas Campbell Rivera Johnson & Velasquez



Special Counsel to the District