

RESOLUTION NO. 2020-108

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, ACCEPTING THE CONSERVATION EASEMENT FOR THE MORIMITSU FARM LOCATED AT 14201 SABLE BOULEVARD, BRIGHTON, COLORADO IN FAVOR OF THE CITY OF BRIGHTON, AND THE BOARD OF COUNTY COMMISSIONERS OF ADAMS COUNTY (THE "COUNTY") AS CO-GRANTEES ("THE GRANTEES"), AUTHORIZING THE MAYOR, OR THE CITY MANAGER TO SIGN AND EXECUTE THE EASEMENT AND OTHER DOCUMENTS THAT MAY BE REQUIRED TO COMPLETE THE EASEMENT

WHEREAS, The Conservation Fund ("TCF") is the sole fee simple owner of certain real property located in Adams County known as the Morimitsu Farm, located at 14201 Sable Boulevard, Brighton, Colorado (the "Property"); and

WHEREAS, immediately following acceptance of the Conservation Easement by the Grantees, TCF intends to convey the fee title interest in the Property to a private buyer (the "Buyer") who will take title subject to the terms of the Conservation Easement held by the Grantees. Upon TCF's conveyance of the Property to the Buyer, the Buyer will be the Grantor under the Conservation Easement; and

WHEREAS, the acquisition of the Conservation Easement on the Property was partially funded by an Adams County Open Space grant, funded by the Adams County Open Space Sales Tax which was passed by Adams County voters in 1999, and reauthorized in November 2004, to be extended until December 31, 2026. The adopted Adams County Open Space Policies and Procedures requires projects receiving passive funds for land acquisition to preserve the Property in perpetuity with a conservation easement. The Buyer intends to utilize the Property as natural open space and farmland preservation uses, and in furtherance thereof, prior to conveyance to the Buyer, TCF intends to grant and convey to the Grantees, the attached Conservation Easement; and

WHEREAS, the acquisition of the Conservation Easement on the Property was partially funded by a grant from the Great Outdoors Colorado Trust Fund (GOCO) to TCF. The voters of the State of Colorado by adoption of Article XXVII to the Constitution of the State of Colorado, and the GOCO Board, by adopting and administering competitive grants programs and rigorous due diligence review processes, have established that it is the policy of the State of Colorado and its people to preserve, protect, enhance and manage through the acquisition of lands, leases, or easements the state's unique open space and natural areas of statewide significance, and in furtherance thereof, the Conservation Easement on the Property is intended to be granted and conveyed to the Grantees; and

WHEREAS, the Property possesses natural, scenic, open space, agricultural and/or recreational values (collectively, the "Conservation Values") of great importance to the people of the City of Brighton and Adams County. In particular, the Property is located in a key areas of farmland along Sable Boulevard, East 144th Avenue and Potomac Street known as the Historic Splendid Valley. These rich farming soils on the Property are very important to the City of Brighton and to Adams County and are threatened by rapid conversion to commercial, residential, and industrial development. In addition, the Property comprises a visual corridor of undeveloped farmland at the south entrance to the urban setting of the City of Brighton. Residents within the region, and within Adams County and Brighton, will benefit from the protection of this Property as agricultural open space. Preserving the Property's agricultural heritage allows potential for continued local food production, agri-tourism and education in the greater Brighton area; and

WHEREAS, TCF, as Granter, intends that the Conservation Values of the Property must be preserved and protected, and that any uses be prohibited that would substantially diminish or impair the Conservation Values, or that otherwise would be inconsistent with the purposes of the Conservation Easement. The current land use patterns on the Property, including certain existing improvements located on the Property, do not significantly impair or interfere with the Property's Conservation Values and are consistent with purposes of the Conservation Easement; and

WHEREAS, TCF, as Granter, further intends, as owner of the Property, to convey to the Grantees, the right to preserve and protect the Conservation Values of the Property in perpetuity, pursuant to the terms and provisions of the Conservation Easement; and

WHEREAS, the City is a publically supported, tax-exempt municipal government, qualified under Sections 170(h) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto, and is a qualified holder of a conservation easement in gross under Colorado law; and

WHEREAS, the City, as Grantee, agrees by accepting the Conservation Easement, to honor the intentions of Grantor stated therein, and to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this and future generations, according to the terms of the Conservation Easement.

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

1. In consideration of the above Recitals and the mutual covenants, terms, conditions, and restrictions contained in the Conservation Easement, and pursuant to the laws of the State of Colorado, and in particular C.R.S. § 38-30.5-101 et seq., the City, as Grantee, hereby voluntarily accepts The Conservation Fund's grant and conveyance to the City and County as co-grantees, of a PERPETUAL conservation easement in gross over the Property, of the nature and character and to the extent set forth in the Conservation Easement; and
2. The City of Brighton hereby accepts and assumes the rights and obligations of Grantee under the Conservation Easement, and agrees to carry out and perform the Conservation Easement according to its terms.
3. The City Manager, or designee is authorized to sign the Deed of Conservation Easement in Gross for the Morimitsu Farm and other documents that may be required, and the City Clerk to attest thereto.

RESOLVED, this 20th day of October, 2020

CITY OF BRIGHTON, COLORADO

GREGORY MILLS, Mayor

ATTEST:

NATALIE HOEL, City Clerk

APPROVED AS TO FORM:

JACK D. BAJOREK, City Attorney

