

**AGREEMENT FOR AFFORDABLE HOUSING  
LIBRETTO APARTMENTS PHASE II**

**THIS AGREEMENT FOR AFFORDABLE HOUSING** (hereinafter the “Agreement”) is made and entered into this 18<sup>th</sup> day of December, 2018, by and between the **CITY OF BRIGHTON, COLORADO**, a home rule municipality of the County of Adams, State of Colorado (hereinafter called the “City”), and **HC BRIGHTON LIBRETTO 2011, L.P.**, a Colorado Limited Partnership, and **HENDRICKS COMMUNITIES, LLC**, a Colorado Limited Liability Company (collectively hereinafter, “Developer”).

**RECITALS**

WHEREAS, the Developer, pursuant to a Purchase and Sale Agreement dated February 23, 2011, and First Amendment to the Purchase and Sale Agreement dated September 15, 2011, between the Developer and the Brighton Urban Renewal Authority, agreed to acquire certain real property generally located west of 8<sup>th</sup> Avenue and between Jessup Street and Southern Street, in the Southeast Quarter of Section 7, Township 1 South, Range 66 West of the 6<sup>th</sup> Principal Meridian, City of Brighton, County of Adams, State of Colorado, being more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference (the “Property”), and develop on said Property an affordable housing project for seniors; and

WHEREAS, the Developer desires and intends to construct upon the Property the second phase of that certain mixed-income, multi-family, senior restricted residential development generally known as “Libretto Apartments”; and

WHEREAS, the Developer desires and intends to construct Phase II of the “Libretto Apartments” on Lot 2 of Campbell Park Subdivision First Amendment Final Plat, herein by reference (the “Project”); and

WHEREAS, the Developer is requesting that the City reduce, reimburse, or otherwise subsidize the City’s customary Development Impact Fees and Use Taxes (collectively hereinafter, “Fees”) in connection with Phase II of the Project and for the benefit of Developer; and

WHEREAS, the Developer warrants and represents that Phase II of the Project will consist of forty-two (42) housing units (“Project Unit(s)” or “Unit(s)”), which shall be affordable to income-qualifying residents of Brighton who earn less than the Denver metropolitan area median household income and are 62 years of age or older; and

WHEREAS, the Developer acknowledges and represents that the Project has been reviewed by and is subject to the rules, regulations, restrictions, conditions and oversight of the Colorado Housing and Finance Authority (“CHFA”); and

WHEREAS, on November 8, 2018, and pursuant to the requirements of Section 3-5-50 of the Brighton Municipal Code (the “Code”), the Developer submitted to the City that certain Application for Affordable Assistance, requesting a reduction, reimbursement or other subsidy of Fees for the benefit of Developer in connection with Phase II of the Project (the “Application”); and

WHEREAS, in response to the Application, on December 18, 2018, the City Council adopted Resolution No. (\_\_\_\_), attached hereto as **Exhibit D** and incorporated herein by reference (the “Fee Resolution”), which provides that certain of such Fees are thereby made eligible for reduction,

reimbursement, or subsidy for the benefit of the Developer in connection with the Project, and which sets forth particular percentages of such Fees that are payable by Developer in connection therewith; and

WHEREAS, the Fee Resolution also requires that any such Fee reduction(s), reimbursement(s), or other subsidy for Phase II of the Project shall be reduced to a written agreement (this “Agreement”) by and between all Owners and Developers of the Property or Project and the City, and that the terms and provisions of such Agreement shall run with the land and be binding upon the Property and Project for so long as such Agreement remains in effect; and

WHEREAS, this Agreement shall bind the Developer and its heirs, successors or assigns, and the Developer guarantees the faithful performance of the terms and conditions hereof, including but not limited to the income eligibility criteria and other pertinent development conditions and requirements of the City; and

WHEREAS, if the Developer or its heirs, successors or assigns do not faithfully perform or satisfy any term or condition of this Agreement, then the Developer acknowledges that the City Council may summarily revoke the Fee Resolution and the grant(s) and benefits contained therein and in this Agreement, and Developer agrees that it shall thereupon be required to repay, as provided herein, the full amount of Fees which customarily would have applied to the Project or would otherwise have been imposed and collected by the City, but for the reductions or subsidies granted herein and in the Fee Resolution; and

WHEREAS, in consideration of the City’s reduction in Fees for Phase II of the Project, the Developer agrees that it shall provide affordable senior housing units within the Project, pursuant to and in accordance with the terms and provisions of the Fee Resolution and Article 3-5-70 of the Code, and subject to the terms and provisions of this Agreement; and

WHEREAS, consistent with Code Section 3-5-70, the Fee Resolution, and the Application, the Parties desire to set forth herein their agreements, understandings, covenants, terms, conditions and promises, in order to guarantee the Developer’s performance and satisfaction of income eligibility criteria and other pertinent development conditions regarding the Fee reduction(s) for Phase II of the Project; and

WHEREAS, the City Council has determined that the public interest and convenience require the execution of this Agreement in order to obtain the Developer’s commitment to construct and maintain the affordable housing described herein.

NOW, THEREFORE, in consideration of the foregoing recitals, which are a substantive and enforceable part of this Agreement, and in consideration of the representations, warranties, understandings, covenants, promises and conditions set forth herein, together with other good and sufficient consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. RATIFICATION OF APPLICATION. The Developer hereby acknowledges, ratifies, and restates the representations and statements set forth by the Developer in the Application submitted to the City on November 8, 2018.
2. DEVELOPER’S OBLIGATIONS. For a period of at least forty (40) years from the date of issuance of the first certificate of occupancy for all or any portion of the Project, the Developer shall:

- A. Provide Units within the Project to income-qualified tenants at reduced lease rates according to the percentages for designated Area Median Incomes (“AMI”) as more particularly described in **Exhibit C** attached hereto and by this reference made a part hereof. “Income qualified tenant(s)” are those persons at least sixty-two (62) years of age whose household income is not more than sixty percent (60%) of the Denver metropolitan area average median income, based upon the most recent applicable CHFA guidelines, and taking into consideration the “Available Unit Rule” (see paragraph 3 hereof). The Developer acknowledges that such reduced rental rates are available for the Project in the percentages indicated and are otherwise attributable, in whole or in part, to the reduction(s) of Fees by the City in the Fee Resolution. The Developer represents and warrants that the Developer shall in good faith pass the benefit of such reduced Fees through to such income-qualified tenant(s) of the Project, in order to reduce the rental rate for all Units within the Project.
  - B. Provide or otherwise make available to income-qualified tenants, in accordance with **Exhibit C**, forty-two (42) Project Units that shall be continuously offered for lease to such income-qualified tenants during the term of this Agreement, and at appropriate rental rates that are affordable to such tenants pursuant to the percentages set forth in **Exhibit C**.
  - C. Provide to the City annually, on or before January 31<sup>st</sup> of each and every year, a written leasing compliance certification demonstrating Developer’s full compliance with the income-qualifying provisions of this Agreement for the prior year, and otherwise warranting, representing and establishing to the City that the Developer is meeting the letter and spirit of this Agreement in all respects. The City will accept CHFA Long Form G-2 to satisfy the requirements herein. In conjunction therewith, the Developer shall make available to the City, upon reasonable prior notice, for inspection and audit, the books and other records relied upon by Developer to prepare the rental compliance certification. The Developer shall also provide to the City a copy of the annual CHFA audit of the Project.
  - D. In consideration of such Fee reductions, the Developer agrees to faithfully perform the terms and provisions of this Agreement, and in the event of default by Developer, agrees to repay to the City all such Fees that have been reduced herein, in the Fee Resolution, or otherwise in connection with the Project, as more particularly set forth below.
3. DEFAULT. Any one of the following shall constitute an event of default under this Agreement:
- A. Failure of the Developer to fully and faithfully perform in good faith any term or provision in this Agreement.
  - B. A voluntary or involuntary sale, assignment, conveyance or other transfer of ownership or interest in the Owner, Developer, Project or Property, to a person or entity not a party to this Agreement, without the written consent of the City. In the event of such proposed transfer, the City agrees not to unreasonably withhold its consent, provided that the Developer and its successor, assign, or other transferee expressly agrees in writing to be bound by the terms and provisions of this Agreement in all respects.

- C. Conversion of the Project or Unit(s) from income-qualifying rental housing as provided herein and in the Fee Resolution and Application, to any other use or income-qualifying structure not contemplated herein or not within the purview of this Agreement.
- D. Otherwise, default for purposes of this Agreement shall be defined as the date upon which a Unit, Units, or the Property or Project, in whole or in part, ceases to be occupied by an income-qualified tenant at the applicable reduced rental rate in the percentages as provided herein, except in the case of normal Unit vacancy or turnover; or the date upon which a Unit, Units, or the Property or Project, in whole or in part, was first occupied by a non-income-qualified tenant; or the date of sale or transfer of a Unit, Units, or the Property or Project, in whole or in part, to a person or entity that does not expressly agree in writing to honor the terms and provisions of this Agreement. If the Project is never occupied by an income-qualified tenant as provided herein, then the date of default shall be the date of issuance of the first certificate of occupancy for a Unit, Units, or the Property or Project, in whole or in part.

NOTE: The Parties hereto understand and agree that the above default provisions are subject to the "Available Unit Rule" found at Section 3.13 of the CHFA Regulations (26 CFR Part 1, Federal Register Vol. 62, No. 187, Friday, September 26, 1997, Page 50503).

- 4. DAMAGES UPON DEFAULT. The City shall have forty-five (45) days to review the annual written rental compliance certification provided for in paragraph 2.C. above. The City shall give written notice to the Developer of each and every incident of default represented in said compliance certification or other incident of default discovered by the City and not included in the compliance certification. The Developer shall have six (6) months from the date of the notice to cure the default(s). If said default(s) is not timely cured, the Developer agrees and shall pay to the City the sum of Three Thousand Dollars (\$3,000.00) for each incident of default, representing repayment of a pro rata portion of the Fee reductions provided by the City. Said default payment shall be paid to the City no later than thirty (30) days from the expiration of the six-month cure period.

If said payment is not timely paid by the Developer, the City shall have the option, at its sole discretion, to summarily revoke the Fee Resolution and the grant(s) and benefits contained therein and in this Agreement, and Developer agrees to repay the full amount of Fees which customarily would have applied to the Project or would otherwise have been imposed and collected by the City, but for the reductions and subsidies granted herein and in the Fee Resolution, together with interest thereon from the date of default at 12% per annum.

The City and Developer agree and represent that the above-referenced damage provisions are liquidated damages only and are not a penalty, and that the same are not unreasonable or objectionable under the circumstances of this Agreement.

- 5. STATUS OF DEVELOPER. The Developer shall perform all work under this Agreement as an independent contractor and not as an agent or employee of the City. Except to such limited extent as may be provided in any standard Development Agreement by and between the City and the Developer, the Developer shall not be supervised or controlled by any employee or official of the City with respect to the

Project, nor will the Developer exercise supervision over any employee or official of the City. The Developer shall not represent that Developer is an employee or agent of the City in any capacity. The Developer shall supply all personnel, buildings, equipment and materials for the Project at Developer's sole expense. This Agreement shall not establish a joint venture between the City and Developer. The Developer is not entitled to City worker's compensation benefits and is obligated to pay federal and state income tax on income earned pursuant to this Agreement, if applicable.

6. NOTICES. All notices, requests, demands, and other communications under this Agreement shall be in writing and deemed received upon delivery, if delivered personally, or upon depositing in the U.S. Mail, postage prepaid and addressed to the proper Party as follows:

City of Brighton:

City Manager  
500 South 4<sup>th</sup> Avenue  
Brighton, Colorado 80601

Developer:

HC Brighton Libretto 2011, L.P.  
J. Marc Hendricks, Manager  
16 Inverness Place East, Building A100  
Englewood, CO 80112

cc: City Attorney  
500 South 4<sup>th</sup> Avenue  
Brighton, CO 80601

7. ASSIGNMENT. Neither the City, nor the Owner nor the Developer shall assign or transfer any interest in this Agreement without the prior written consent of the other Party or Parties.
8. PROVISIONS CONSTRUED AS TO FAIR MEANING. The provisions of this Agreement shall be construed as to their fair meaning and not for or against any Party based upon any attribution to such Party as to the source of the language in question.
9. HEADINGS FOR CONVENIENCE. All headings, captions, and titles are for convenience and reference only and are of no meaning in the interpretation or effect of this Agreement.
10. COMPLIANCE WITH ORDINANCES AND REGULATIONS. The Developer shall perform all obligations under this Agreement in strict compliance with all federal, state, and City laws, rules, statutes, charter provisions, ordinances, resolutions, and regulations applicable to the performance of Developer's obligations under this Agreement.
11. NO THIRD PARTY BENEFICIARIES. None of the terms or conditions in this Agreement shall give or allow any claim, benefit, or right of action by any third person not a party hereto. Other than the Parties hereto, any person receiving services or benefits under this Agreement shall be only an incidental beneficiary.
12. FINANCIAL OBLIGATIONS OF CITY. All financial obligations of the City under this Agreement are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. Nothing in this Agreement shall be deemed a pledge of the City's credit, or a payment guarantee by the City to the Developer.

13. INTEGRATED AGREEMENT AND AMENDMENTS. Subject to the terms and provisions of any standard Development Agreement by and between the City and Developer for the Project or any portion thereof, this Agreement is an integration of the entire understanding of the Parties with respect to the matters set forth herein. The Parties shall only amend this Agreement in writing with the proper official signatures attached thereto.
14. WAIVER. No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.
15. SEVERABILITY. Invalidation of any specific provisions of this Agreement shall not affect the validity of any other provision of this Agreement.
16. GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the State of the Colorado.
17. BINDING EFFECT. This Agreement shall be binding upon the Parties and their respective successors and assigns in all respects.
18. AGREEMENT AS COVENANT. This Agreement, and all of its obligations, shall run with the land and be a covenant with respect thereto, and shall be binding upon the Parties, their respective heirs, successors, transferees and assigns. The City shall record this Agreement with the Adams County Clerk and Recorder.
19. ATTORNEY FEES AND COSTS. Should the City take legal action to enforce the provisions of this Agreement or otherwise address Developer's default hereunder, the City shall be entitled to recover its reasonable attorney fees, costs, expert witness and other fees.
20. AUTHORITY TO EXECUTE THIS AGREEMENT. By their signatures below, the undersigned officers and officials of the Parties warrant and represent that they are fully authorized and empowered to execute this Agreement for and on behalf of their respective principals, the Parties, and in doing so, further warrant and represent that they have authority to bind the Parties to this Agreement in all respects.

The Parties execute this Agreement this 18<sup>th</sup> day of December, 2018.

**CITY OF BRIGHTON, COLORADO**  
A Home Rule Municipality

By: \_\_\_\_\_  
KENNETH J. KREUTZER, Mayor

**ATTEST:**

By: \_\_\_\_\_  
NATALIE HOEL, City Clerk

**DEVELOPER:**  
**HC BRIGHTON LIBRETTO 2011 L.P.**  
A Colorado Limited Partnership

By: \_\_\_\_\_  
J. MARC HENDRICKS, Manager

**ATTEST:**

By: \_\_\_\_\_, Title:

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
JACK D. BAJOREK, City Attorney

**DEVELOPER:**  
**HENDRICKS COMMUNITIES, LLC**  
A Colorado Corporation

By: \_\_\_\_\_  
J. MARC HENDRICKS, President

**ATTEST:**

By: \_\_\_\_\_  
\_\_\_\_\_, Title:

**Exhibit A****Legal Description:**

Lot 2, Campbell Park Subdivision First Amendment, County of Adams, State of Colorado, Together with all appurtenances, rights, easements, rights-of-way, and vacated roads, streets and alleys, adjacent to, associated with, or appurtenant to the Property.



**Exhibit B**  
**Final Plat (2 pages)**

# CAMPBELL PARK SUBDIVISION FIRST AMENDMENT

A REPLAT OF LOT 2 AND LOT 3, CAMPBELL PARK SUBDIVISION,  
LOCATED IN THE SOUTHEAST QUARTER OF SECTION 7, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,  
CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

**OWNER**  
KING SURVEYORS, INC.  
600 E. Garden Drive  
Windsor, Colorado 80550  
Phone: (770) 686-5011 Fax: (770) 686-5821

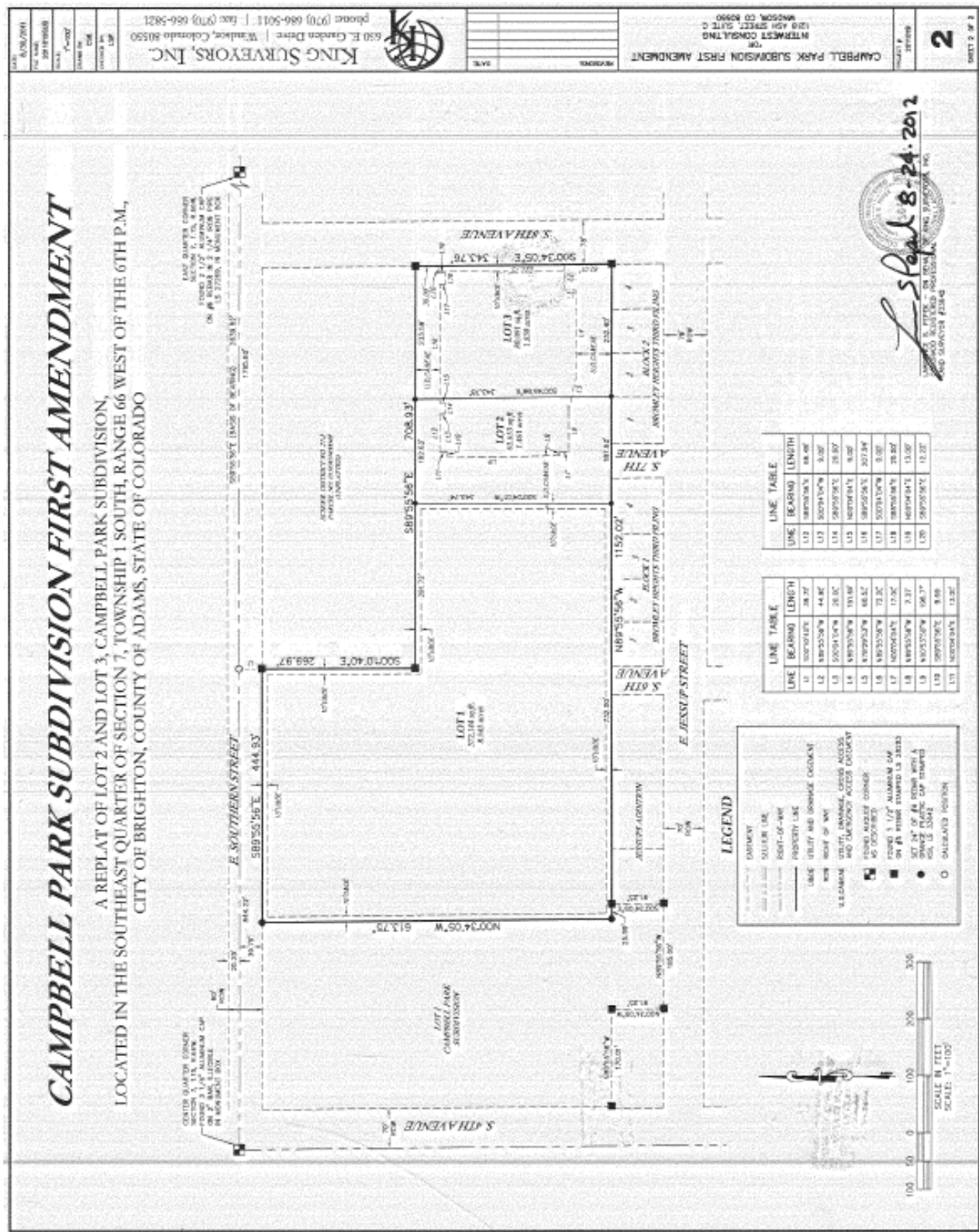
**RECORDING OFFICE**  
COUNTY OF ADAMS  
CLERK AND RECORDS DIVISION  
1000 WEST 10TH AVE.  
BRIGHTON, CO 80602

**RECORDING OFFICE**  
COUNTY OF ADAMS  
CLERK AND RECORDS DIVISION  
1000 WEST 10TH AVE.  
BRIGHTON, CO 80602

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CLERK AND RECORDS DIVISION  
1000 WEST 10TH AVE.  
BRIGHTON, CO 80602

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CLERK AND RECORDS DIVISION  
1000 WEST 10TH AVE.  
BRIGHTON, CO 80602

**RECORDING OFFICE**  
COUNTY OF ADAMS  
CLERK AND RECORDS DIVISION  
1000 WEST 10TH AVE.  
BRIGHTON, CO 80602



**Exhibit C****Application for Affordable Housing Assistance (3 pages)****APPLICATION FOR AFFORDABLE HOUSING ASSISTANCE**CITY OF BRIGHTON  
COMMUNITY DEVELOPMENT DEPARTMENT

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Name of Development: Libretto Apartments Phase II

Name of Applicant: HC Brighton Libretto 2011 L.P.

Name & Address of each property owner, subdivider and/or developer:

*HC Brighton Libretto 2011 L.P.  
16 Inverness Place East, Building A100  
Englewood, Colorado 80112*

*Hendricks Communities LLC  
16 Inverness Place East, Building A100  
Englewood, Colorado 80112*

*Brighton Housing Authority  
22 South F<sup>th</sup> Avenue, Suite 202  
Brighton, Colorado 80601*

*Please list the following information in this form digitally or on a separate sheet of paper.*

1. A description of the applicant's project and fee reduction proposal, including the number of units to be occupied by tenants or purchased and occupied by homeowners whose incomes meet the specific percentages of the median income by occupancy type;

*The to-be-developed property will be a 42-unit, 3 story elevator-served building, with one and two bedroom units. Property occupancy will be restricted to independent seniors. The property is the second phase development of the existing Libretto Apartments, which included the full re-development of the former City Library. The site is located adjacent to Carmichael Park. All units in the project will be affordable according to the following unit mix:*

*30% Area Median Income (AMI) – 5 units  
40% AMI – 12 units  
50% AMI – 17 units  
60% AMI – 8 units*

*Proposed fee reductions/waivers are being requested according to the Attainable Housing Matrix published by the City. The Matrix provides for fee reductions and/or waivers as follows:*

*1) Private on-site open space dedication requirements – waived except for City-mandated landscape requirements, which will be met ; 2) Neighborhood Park fees – waived; 3) Open Space – no dedication requirement; 4) School Land – waived – no dedication required; 5) Capital Facility Foundation Fee – waived because of senior-only use; 6) Use Tax – waived; 7) Park Fees – waived; 8) Traffic Impact Fees – waived; 9) Water & Plant Investment Fees & Storm Drainage Fees – calculated according to the Attainable Housing Matrix.*

*The project, to be co-developed by a private developer (Hendricks Communities LLC) and the Brighton Housing Authority, will be 100% owned by the Authority.*

2. Whether or not there is a commitment by the applicant to a minimum ten year or longer use period for Affordable Housing (tenant-occupied), or a minimal five-year or longer use period for Affordable Housing (owner-occupied);

*The commitment to affordability is for 40 years, however, ownership by the Housing Authority will ensure permanent affordability.*

3. Whether or not there is a commitment by the applicant to provide a minimum of five percent of the total units to one or more special needs populations including, but not limited to, large-family (three or more bedrooms), homeless, elderly, disabled and agricultural workers;

*The entire property will be leased to senior residents over the age of 62.*

4. Whether there is a commitment by the applicant to giving a priority to residents of the City of Brighton who are currently on waiting lists for affordable house;

*An agreement has been signed with the Brighton Housing Authority, that gives priority to prospective residents on the Authority wait list.*

5. Whether or not there are construction features of the subject project that lower the cost of housing for low income consumers:

*Solar panels/shingles will be incorporated into the building that will generate operational savings. This will enhance the overall cash flow of the Authority, as the property owner.*

*Additionally, energy-saving light fixtures, appliances and mechanical systems will be provided, to help minimize utility costs to the senior residents.*

6. Whether or not the applicant has diligently applied for, pursued, obtained and received, or has been denied, other fund(s) or subsidies, including State or Federal funds, subsidies, grants, or other financing tools or products. In this regard, all applicants hereunder are required to demonstrate to the City Council that other available funding sources have been diligently pursued.

*The applicant has acquired Low Income Housing Tax Credits for the project, from the Colorado Housing & Finance Authority (CHFA). A favorable commitment has also been received from CHFA for the project permanent financing.*

*The applicant has also received a support letter for HOME funds in the amount of \$420,000 from the Colorado Division of Housing.*

*With the acquisition of these financing commitments, the project has secured very favorable long term funds for the property. However, in order to maintain a high level of project construction quality, all cost savings must be pursued, including the fee waivers and reductions as allowed in the Attainable Housing Matrix, as requested in this application.*

7. Any other factors consistent with the intent of this Article that may support the application that the Director may deem necessary or pertinent to the subject application, or which are otherwise set forth in an administrative regulation.

*One of the project developers, Hendricks Communities LLC, has a history of experience in the development and management of high quality, affordable properties for senior-only residents in Brighton and throughout Colorado. Hendricks has a long-standing relationship with the City of Brighton (14 years since the beginning of the development of Brighton Village Phase I). It has also co-developed other senior properties with the Brighton Housing Authority, including Phase I of the Libretto project and Brighton Village Phase II. These properties have performed extremely well since their inception. They currently have a combined waiting list of over 800 people, which clearly demonstrates the enormous need for affordable senior housing in the City of Brighton. Most recently, Hendricks and the Brighton Housing Authority co-developed a family project in Brighton, Windmill Ranch. This property received Certificates of Occupancy at the end of September and is expected to be 100% occupied before the end of November, further demonstrating the need for affordable housing in Brighton.*

*In addition, full consideration should be given for fee waivers and reductions since the property will be owned by the Brighton Housing Authority.*

**Exhibit D****Fee Resolution No. \_\_\_\_ (3 pages)**

RESOLUTION NO. 2018-\_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, TAKING ACTION UPON AN APPLICATION FOR SENIOR AFFORDABLE HOUSING ASSISTANCE SUBMITTED BY HC BRIGHTON LIBRETTO 2011, L.P., AND HENDRICKS COMMUNITIES, LLC, PURSUANT TO SECTIONS 3-5-50, 3-5-60, AND 3-5-70 OF THE BRIGHTON MUNICIPAL CODE, AND APPROVING THE REDUCTION OR SUBSIDY OF DEVELOPMENT IMPACT FEES AND USE TAX ACCORDINGLY

WHEREAS, on November 8, 2018, and pursuant to the requirements of Sections 3-5-50, 3-5-60 and 3-5-70 of the Brighton Municipal Code, HC Brighton Libretto 2011 L.P. and Hendricks Communities, LLC (collectively known as the “Applicant”), submitted to the City of Brighton, Colorado (“City”), an Application (the “Application”) for Affordable Housing Assistance for Libretto Apartments Phase II (the “Project”); and

WHEREAS, pursuant to Section 3-5-50 of the Brighton Municipal Code, City staff reviewed the Application in conjunction with the City’s Attainable Housing Matrix and has made a recommendation to the City Council regarding the reduction or subsidy of certain development impact fees and use tax for forty-two (42) units for Phase II of the Project as follows:

1. Applicant shall pay at the time of building permit issuance the full amount of the following fees in the amount in effect at the time of payment:
  - Building Permit
  - Electrical Permit
  - Plumbing Permit
  - Mechanical Permit
  - Plan Check Fee
  - Sewer Plant Investment Fee (Metro District)
2. Applicant shall pay proportionately-reduced fees\* at the time of building permit issuance for the following fees in the amount in effect at the time of payment:
  - Water Plant Investment Fees
  - Sewer Plant Investment Fees for City of Brighton fees only
  - Drainage Impact Fees

\*Based on the AMI percentage for the applicable unit. For instance, 50% AMI units at the standard Water Plant Investment Fee rate for 2018 is \$112,319.00, and the proportionately reduced fee is 50% of the standard cost at \$56,159.50.
3. Applicant shall not be required to pay the following fees or dedications:
  - Neighborhood Park Impact Fees
  - Community Park Impact Fees

- Crossing Fees
- Traffic Impact Fees
- Public Park Land Dedication or fee-in-lieu
- Open Space Land Dedication or fee-in-lieu
- School Land Dedication or fee-in-lieu
- Capital Facility Foundation Fees
- Private on-site open space dedication

4. Applicant shall not be required to pay use tax on building materials for Phase II of the Project; and

WHEREAS, the Applicant has represented and promised that all of the units in the Project will be affordable according to the following unit mix:

30% Area Median Income (AMI) – 5 units

40% AMI – 12 units

50% AMI – 17 units

60% AMI – 8 units

and the same shall be applied to the proportionate reduction of fees as set forth above; and

WHEREAS, the City Council is basing their fee reductions/subsidies on the AMI unit allocations as represented by the Applicant; and

WHEREAS, the City Council finds and determines that the Application meets the requirements of Section 3-5-50 of the Brighton Municipal Code, that good and sufficient cause exists to reduce and/or subsidize certain development impact fees and use tax for Phase I of the Project, and that the Applicant and the City shall enter into a written agreement as required by Section 3-5-70 of the Code.

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

Subject to final execution of an agreement between the City and the Applicant, as required by Section 3-5-70 of the Brighton Municipal Code, the following reduction or subsidy of development impact fees and use tax for Phase II of the Libretto Apartments Project is hereby approved:

1. Applicant shall pay at the time of building permit issuance the full amount of the following fees in the amount in effect at the time of payment:
  - Building Permit
  - Electrical Permit
  - Plumbing Permit
  - Mechanical Permit
  - Plan Check Fee

- Sewer Plant Investment Fee (Metro District)
2. Applicant shall pay proportionately-reduced fees\* at the time of building permit issuance for the following fees in the amount in effect at the time of payment:
- Water Plant Investment Fees
  - Sewer Plant Investment Fees for City of Brighton fees only
  - Drainage Impact Fees
- \*Based on the AMI percentage for the applicable unit. For instance, 50% AMI units at the standard Water Plant Investment Fee rate for 2018 is \$112,319.00, and the proportionately reduced fee is 50% of the standard cost at \$56,159.50.
3. Applicant shall not be required to pay the following fees or dedications:
- Neighborhood Park Impact Fees
  - Community Park Impact Fees
  - Crossing Fees
  - Traffic Impact Fees
  - Public Park Land Dedication or fee-in-lieu
  - Open Space Land Dedication or fee-in-lieu
  - School Land Dedication or fee-in-lieu
  - Capital Facility Foundation Fees
  - Private on-site open space dedication
4. Applicant shall not be required to pay use tax for building materials only for the initial construction of Phase II of the Project.

RESOLVED AND PASSED THIS 18<sup>TH</sup> DAY OF DECEMBER, 2018.

CITY OF BRIGHTON, COLORADO

\_\_\_\_\_  
KENNETH J. KREUTZER, Mayor

ATTEST:

\_\_\_\_\_  
NATALIE HOEL, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
JACK D. BAJOREK, City Attorney