

RESOLUTION NO. 2021-78

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, APPROVING THAT CERTAIN “PARTIAL ASSIGNMENT AND ASSUMPTION OF BROMLEY PARK FILING NO. 103 DEVELOPMENT AGREEMENT” (“ASSIGNMENT”), AND AUTHORIZING THE MAYOR TO EXECUTE THE ASSIGNMENT FOR THE CITY

WHEREAS, the City previously entered into that certain Development Agreement for Bromley Park Filing No. 103, governing the development of Lot 1, Block 1 and Lot 2, Block 1 of Bromley Park Filing No. 103 (“Development Agreement”); and

WHEREAS, the Developer of Filing 103, collectively King Paul 1, LLC, Jacobs Colorado, LLC, and IVE Colorado, LLC, has sold and transferred Lot 2, Block 1 to Bromley Owner, LP, and, pursuant to Section 9.4 of the Development Agreement, the Developer also desires to transfer and assign to Bromley Owner, LP the relevant obligations of the Development Agreement applicable to Lot 2, Block 1; and

WHEREAS, the City Council finds that the Development Agreement permits the transfer and assignment of such obligations, in part; provided that the new owner expressly assumes and agrees to faithfully perform such obligations, and provided that the original Developer or successor shall still remain obligated to perform any remaining provisions which are not assigned. The City Council further finds that Bromley Owner, LP has agreed to assume and perform the obligations for Lot 2, pursuant to the Assignment attached as Exhibit A and the Development Agreement, and that all other terms and provisions of the Development Agreement shall remain intact, except as amended by the Assignment or previous assignment unless amended.

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

Section 1. The City Council hereby finds and determines that the attached Assignment is consistent with the Development Agreement and is therefore approved. The Mayor is authorized to execute the Assignment for and on behalf of the City, and the City Manager or their designee are directed to cause the Assignment and Development Agreement to be faithfully performed by the Parties to the Development Agreement, according to their terms.

Section 2. Bromley Owner, LP, as a “Developer” under the Development Agreement, shall hereafter faithfully perform all obligations of the Development Agreement related to Lot 2; that the original Developer is released and discharged from performing such Lot 2 obligations; and that the original Developer, successor, or assigns shall faithfully perform any and all remaining obligations of the Development Agreement which are not assigned hereunder.

ADOPTED this 5th day of October, 2021.

CITY OF BRIGHTON, COLORADO

GREGORY MILLS, Mayor

ATTEST:

NATALIE HOEL, City Clerk

APPROVED AS TO FORM:

ALICIA CALDERÓN, City Attorney

EXHIBIT A

Partial Assignment and Assumption of Bromley Park Filing No. 103 Development Agreement

AFTER RECORDING RETURN TO:

KING PAUL I, LLC
4500 CHERRY CREEK DRIVE SOUTH #860
DENVER, CO 80246
ATTN: JAROD PATE

PARTIAL ASSIGNMENT AND ASSUMPTION OF BROMLEY PARK FILING NO. 103 DEVELOPMENT AGREEMENT

THIS PARTIAL ASSIGNMENT AND ASSUMPTION OF BROMLEY PARK FILING NO. 103 DEVELOPMENT AGREEMENT ("Assignment") is made and entered into this _____ day of _____, 2021 ("Effective Date"), by and between the CITY OF BRIGHTON, COLORADO, a home rule municipality of the County of Adams, State of Colorado ("City"); and KING PAUL I, LLC, a Colorado limited liability company, JACOBS COLORADO LLC, a Colorado limited liability company, and IVE COLORADO LLC, a Colorado limited liability company (collectively, "Developer"); and BROMLEY OWNER, LP, a Texas limited partnership ("Owner"), as follows:

WHEREAS, the City and Developer entered into that certain Bromley Park Filing No. 103 Development Agreement dated January 5, 2010, and recorded in the Adams County Clerk and Recorder's Office on January 29, 2010, at Reception No. 2010000006237 (the "Development Agreement"). A map depicting Bromley Park Filing No. 103 is attached as **Exhibit A**;

WHEREAS, Developer and Western United Electric Supply Company, a Colorado corporation ("WUESC") entered into that certain Limited Assignment of Developer's Rights and Obligations and Bridge Street Improvement Agreement dated February 9, 2010, and recorded February 12, 2010, at Reception No. 2010000009670 ("Bridge Street Assignment") related to the Bridge Street Improvements, as defined in the Bridge Street Assignment.

WHEREAS, Developer, WUESC, and the City entered into that certain Partial Assignment of Bromley Park Filing No. 103 Development Agreement dated July 9, 2010, and recorded on August 27, 2010, at Reception No. 2010000057782 ("Partial Assignment");

WHEREAS, WUESC and the City entered into that certain First Amendment to Bromley Park, Filing NO. 103 Development Agreement dated July 8, 2019 ("First Amendment"). The Filing 103 Development Agreement, the Bridge Street Assignment, the Partial Assignment, and the First Amendment are collectively referred to the "Filing 103 Development Agreement";

WHEREAS, On or about the Effective Date, Developer conveyed to Owner that certain portion of the Development described as Lot 2, Block 1, Bromley Park Filing 103, Adams County, Colorado ("Lot 2");

WHEREAS, the Developer and Owner have agreed that Developer's rights (excluding the Bridge Street Improvement Payment as defined in the Bridge Street Assignment) and obligations under the Filing 103 Development Agreement applicable to Lot 2, including without limitation the rights (excluding the Bridge Street Improvement Payment as defined in the Bridge Street Assignment) and obligations set forth in the Bridge Street Assignment, be assigned to and assumed by the Owner, and that the Developer be released from such obligations;

WHEREAS, Developer hereby notifies the City of the transfer of Lot 2 and Developer's obligations under the Filing 103 Development Agreement to Owner, and, in accordance with Section 9.4 of the Development Agreement, Developer and Owner hereby request that the City release Developer from its obligations under the Filing 103 Development Agreement;

NOW THEREFORE, in consideration of the foregoing Recitals, incorporated by reference, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto promise, covenant, and agree as follows:

1. The Parties acknowledge that Lot 2 is or will be owned by Owner and is subject to all terms and provisions of the Filing 103 Development Agreement.

2. All notices to Developer required to be made under Section 9.6 of the Filing 103 Development shall be addressed as follows:

King Paul Management, LLC
Attention: Christopher King
7800 E. Union Avenue, Ste. 800
Denver, CO 80237

And to:

King Paul Management, LLC
Attention: Paul DeCrescentis
4500 Cherry Creek Drive South, Suite 860
Denver, Colorado 80246-1537

With copy to:

Moye White LLP
1400 16th Street, 6th Floor
Denver, CO 80202
Attn: Matt Dillman, Esq.

3. All notices to Owner required to be made under Section 9.6 of the Filing 103 Development shall be addressed as follows:

Bromley Owner, LP
c/o Lovett Industrial, LLC
Attention: Charlie Meyer
1902 Washington Ave., Suite A
Houston, Texas 77007

With copy to:

Lovett Industrial, LLC
1902 Washington Ave., Suite A
Houston, Texas
Attn: Sara Bloom

4. The term "Owner" herein means Bromley Owner, LP, a Texas limited partnership, and, upon this Assignment, means "Developer" as that term is used in the Filing 103 Development Agreement. All other capitalized terms herein shall have the same meaning as in the Filing 103 Development Agreement, as applicable.

5. As of the Effective Date, the Owner hereby assumes and agrees to perform all obligations of the Developer as set forth in the Filing 103 Development Agreement arising out of or related to the development of Lot 2, including without limitation the obligations set forth in the Bridge Street Assignment. Owner shall indemnify, defend and hold harmless Developer, from and against any and all damages, liabilities, losses, demands, actions, causes of action, claims, costs and expenses (including without limitation reasonable attorneys' fees) (collectively, "Losses") solely arising as a result of the City's exercise of the Developer's joint and several liability under Section 9.4 of the Filing 103 Development Agreement; provided, however, that Owner's indemnity of Developer set forth above shall automatically terminate upon the City's execution of this Assignment and release of Developer (as set forth in Section 6) from all from all obligations identified in the Filing 103 Development Agreement, including but not limited to those obligations identified in Exhibit G of the Development Agreement, as applicable, and those obligations set forth in the Bridge Street Assignment.

6. The City consents to such assignment and delegation of such rights and obligations regarding Lot 2 and the Bridge Street Assignment pursuant to this Assignment and Section 9.4 of the Filing 103 Development Agreement. The Developer (King Paul 1, LLC, Jacobs Colorado LLC, and IVE Colorado LLC) is hereby released from all obligations identified in the Filing 103 Development Agreement, including but not limited to those obligations identified in Exhibit G of the Development Agreement, as applicable, and those obligations set forth in the Bridge Street Assignment.

7. The Filing 103 Development Agreement shall otherwise remain unchanged and in full force and effect, except as specifically modified herein.

[signatures on following pages]

IN WITNESS WHEREOF, the Parties have executed this Assignment the day and year written above.


CITY OF BRIGHTON, COLORADO
A Home Rule Municipality

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

KING PAUL 1, LLC,
a Colorado limited liability company


By: 
Name: Paul T. DeCrescentis
Title: Manager

STATE OF COLORADO)
) ss.
COUNTY OF Arapahoe)

Witness my hand and official seal.

My commission expires: 9/1/2024

HEATHER TOMKO
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20204030470
MY COMMISSION EXPIRES SEPTEMBER 01, 2024


Notary Public

DEVELOPER:

JACOBS COLORADO LLC,
a Colorado limited liability company

By: 

Name: Brad D. Skepner

Title: Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Contra Costa

On June 29, 2021, before me, Myrna Yvette Rivera a
Notary Public, personally appeared Brad D. Skepner, who proved to me on the basis of
satisfactory evidence to be the person whose name is subscribed to the within instrument and
acknowledged to me that he executed the same in his authorized capacity, and that by his
signature on the instrument the person, or the entity upon behalf of which the person acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: 

Name: MYRNA YVETTE RIVERA
(Typed or Printed)



(Seal)

SIGNATURE PAGE TO
PARTIAL ASSIGNMENT AND ASSUMPTION OF
BROMLEY PARK FILING NO. 103 DEVELOPMENT AGREEMENT

DEVELOPER:

IVE COLORADO LLC,
a Colorado limited liability company

By: 

Name: Brad D. Skepner

Title: Manager

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

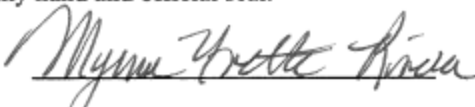
State of California

County of Contra Costa

On June 29, 2021, before me, Myrna Yvette Rivera a
Notary Public, personally appeared Brad D. Skepner, who proved to me on the basis of
satisfactory evidence to be the person whose name is subscribed to the within instrument and
acknowledged to me that he executed the same in his authorized capacity, and that by his
signature on the instrument the person, or the entity upon behalf of which the person acted,
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: 

Name: MYRNA YVETTE RIVERA
(Typed or Printed)




(Seal)

OWNER:

BROMLEY OWNER, LP,
a Texas limited partnership

By: 1520 OLIVER INVESTMENTS GP, LLC,
a Texas limited liability company

By: 
Name: Charles F. Meyer, Jr.
Title: President

STATE OF TEXAS)
) ss
COUNTY OF HARRIS)

The foregoing instrument was acknowledged before me this 25 day of June,
2021, by Charles F. Meyer, Jr., as President of 1520 OLIVER INVESTMENTS GP, LLC, the
general partner of BROMLEY OWNER, LP, a Texas limited partnership.


Notary Public

My Commission Expires: 6-20-2022



