

ORDINANCE NO. 2486
INTRODUCED BY: Taddeo

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, CONCERNING THE FINANCING OF THE ACQUISITION, CONSTRUCTION, EQUIPPING, REMODELING, AND IMPROVEMENT OF CERTAIN CITY FACILITIES; AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF A SITE LEASE AGREEMENT, A LEASE PURCHASE AGREEMENT, AND OTHER DOCUMENTS RELATED THERETO; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS; AND PROVIDING OTHER MATTERS RELATED THERETO

WHEREAS, the City of Brighton, Colorado (the "City") is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the City (the "Charter"); and

WHEREAS, the City is authorized pursuant to Section 2.3 of the Charter to purchase, receive, hold and enjoy, or sell and dispose of real and personal property; and

WHEREAS, the City is authorized by Article XX, Section 6 of the Colorado Constitution, its Charter and part 8 of article 15 of title 31, Colorado Revised Statutes to enter into rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, for the functions and operations of the City, the City Council of the City (the "Council") deems it necessary and in the best interest of the City to acquire certain real property and the building located thereon and to remodel such building to be used as a City facility, and to remodel certain existing City facilities in order to provide more space for City functions and employees (collectively, the "Project"); and

WHEREAS, the Council has determined and hereby determines that it is in the best interest of the City to finance the Project by entering into a lease financing as hereinafter provided; and

WHEREAS, the Council has determined and hereby determines that the leased property under the Site Lease (hereinafter defined) and the Lease (hereinafter defined) will consist of the property that is being acquired by the City and the buildings and improvements located thereon (as more particularly described in Exhibit A to the Site Lease and the Lease, the "Leased Property"); and

WHEREAS, to provide for the financing of the Project, the Council has determined, and now hereby determines, that it is in the best interests of the City to enter into (a) a Site Lease Agreement (the "Site Lease"), between the City, as lessor, and U.S. Bank Trust Company, National Association, as trustee (the "Trustee"), as lessee, pursuant to which the City will lease the Leased Property to the Trustee, and (b) a Lease Purchase Agreement (the "Lease"), between the Trustee, as lessor, and the City, as lessee pursuant to which the Trustee will lease the Leased Property back to the City; and

WHEREAS, contemporaneously with the execution and delivery of the Site Lease and the Lease, the Trustee will enter into an Indenture of Trust (the "Indenture") pursuant to which there will be executed and delivered certain Certificates of Participation, Series 2025 (the "Certificates") that will evidence the right to receive certain Revenues (as defined in the Lease) under the Lease, will be payable solely from the sources provided in the Indenture, and shall not directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year during which the Lease shall be in effect; and

WHEREAS, the Council has determined and now hereby determines that selling the Certificates directly to a bank in a private placement is to the best advantage of the City; and

WHEREAS, the City will distribute a request for proposals to banks, and the City expects to receive proposed terms for the purchase of the Certificates from interested purchasers; and

WHEREAS, the net proceeds from the sale of the Certificates to the selected bank, together with other available money, will be used to finance the Project and to pay the costs of execution and delivery of the Site Lease, the Lease, and the Certificates; and

WHEREAS, pursuant to the Lease, and subject to the right of the City to terminate the Lease and other limitations as therein provided, the City will pay certain Base Rentals and Additional Rentals (as such terms are defined in the Lease) in consideration for the right of the City to use the Leased Property; and

WHEREAS, the City's obligation under the Lease to pay Base Rentals and Additional Rentals shall be from year to year only; shall constitute currently budgeted expenditures of the City; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional, statutory or Charter limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the City in any

ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, C.R.S., as amended (the "Supplemental Act"), provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act; and

WHEREAS, there has been presented to the Council and are on file with the City Clerk of the City (the "City Clerk") the following: (i) the proposed form of the Site Lease; and (ii) the proposed form of the Lease; and

WHEREAS, capitalized terms used herein and not otherwise defined have the meanings set forth in the Lease.

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

Section 1. Recitals Incorporated. The foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Council.

Section 2. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Council or the officers, agents or employees of the Council or the City relating to the Site Lease, the Lease, the implementation of the Project, and the sale, execution and delivery of the Certificates is hereby ratified, approved and confirmed.

Section 3. Finding of Best Interests. The Council hereby finds and determines, pursuant to the Constitution, the laws of the State of Colorado and the Charter, that undertaking the Project and financing the costs thereof pursuant to the terms set forth in the Site Lease and the Lease are necessary, convenient, and in furtherance of the City's purposes and are in the best interests of the inhabitants of the City and the Council hereby authorizes and approves the same.

Section 4. Supplemental Act; Parameters. The Council hereby elects to apply all of the provisions of the Supplemental Act to the Site Lease and the Lease. In connection therewith the Council hereby delegates to the Mayor, the City Manager or the Finance Director of the City the independent authority to make any determination delegable pursuant to Section 11-57-205 of the Supplemental Act in relation to the Site Lease and the Lease, and to execute a sale certificate (the "Sale Certificate") setting forth such determinations, including without limitation, the term of the Site Lease, the term of the Lease and the rental amount payable by the City pursuant to the Lease, subject to the following parameters and restrictions:

- (a) the Site Lease Termination Date shall be no later than December 31, 2050;
- (b) the Lease Term shall end no later than December 31, 2040;
- (c) the aggregate principal amount of the Base Rentals payable by the City pursuant to the Lease shall not exceed \$6,200,000;
- (d) the maximum annual amount of Base Rentals payable by the City pursuant to the Lease shall not exceed \$815,000;
- (e) the maximum total repayment amount of Base Rentals payable by the City pursuant to the Lease shall not exceed \$9,120,000;
- (f) the purchase price of the Certificates shall not be less than 100% of the aggregate principal amount of the Certificates; and
- (g) the maximum net effective interest rate on the interest component of the Base Rentals relating to the Certificates shall not exceed 5.25%.

Pursuant to Section 11-57-205 of the Supplemental Act and the Charter, the Council hereby delegates to the Mayor, City Manager, or the Finance Director the independent authority to receive proposals for the purchase of the Certificates and to determine the best proposal therefor in accordance with the provisions of this Ordinance, and subject to the parameters and terms set forth herein. The Mayor, City Manager, or the Finance Director is hereby independently authorized to accept a proposal for the Certificates and to execute a term sheet, a contract for the purchase of the Certificates, or any other document needed to lock in the interest rate and other financial terms in connection with the Certificates in order to carry out the purposes of this Ordinance.

The delegation set forth in this Section 4 shall be effective for one year following the date hereof.

Section 5. Approval of Documents. The Site Lease and the Lease, in substantially the forms presented to the Council and on file with the City Clerk, are in all respects approved, authorized and confirmed, and the Mayor is hereby authorized and directed for and on behalf of the City to execute and deliver the Site Lease and the Lease in substantially the forms and with substantially the same contents as presented to the Council, provided that such documents may be

completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance and to comply with the terms of the Sale Certificate. The execution of such documents by the Mayor shall be conclusive evidence of the approval by the City Council of such documents in accordance with the terms hereof and thereof.

Section 6. Authorization to Execute Collateral Documents. The City Clerk is hereby authorized and directed to attest all signatures and acts of any official of the City in connection with the matters authorized by this Ordinance and to place the seal of the City on any document authorized and approved by this Ordinance. The Mayor, City Clerk, City Manager, Finance Director and other appropriate officials or employees of the City are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including without limiting the generality of the foregoing, executing, attesting, authenticating and delivering for and on behalf of the City any and all necessary documents, instruments or certificates and performing all other acts that they deem necessary or appropriate in order to implement and carry out the transactions and other matters authorized by this Ordinance. The approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their completion, deletions therefrom and additions thereto as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance and to comply with the terms of the Sale Certificate. The execution of any document or instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval by the Council of such document or instrument in accordance with the terms hereof and thereof.

The Mayor, City Clerk, City Manager, Finance Director and any other employee or official of the City that is authorized or directed to execute any agreement, document, certificate, instrument or other paper in accordance with this Ordinance (collectively, the "Authorized Documents") are hereby authorized to execute Authorized Documents electronically via facsimile or email signature. Any electronic signature so affixed to any Authorized Document shall carry the full legal force and effect of any original, handwritten signature. This provision is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act. It is hereby determined that the transactions described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 7. No General Obligation Debt. No provision of this Ordinance, the Site Lease, the Lease, the Indenture, or the Certificates shall be construed as

creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional, statutory or Charter provision, nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the then current fiscal year. The City shall have no obligation to make any payment with respect to the Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the City in accordance with the provisions of the Lease. Neither the Lease nor the Certificates shall constitute a mandatory charge or requirement of the City in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional, statutory or Charter debt limitation or constitute a multiple fiscal year direct or indirect debt or other financial obligation whatsoever. No provision of the Site Lease, the Lease or the Certificates shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the City within the meaning of Sections 1 or 2 of Article XI of the Colorado Constitution. Neither the Site Lease, the Lease nor the Certificates shall directly or indirectly obligate the City to make any payments beyond those budgeted and appropriated for the City's then current fiscal year.

Section 8. Reasonableness of Rentals. The Council hereby determines and declares that the Base Rentals payable by the City under the Lease, in the maximum amounts authorized pursuant to Section 4 hereof, constitute the fair rental value of the Leased Property and do not exceed a reasonable amount so as to place the City under an economic compulsion to renew the Lease or to exercise its option to purchase the Trustee's leasehold interest in the Leased Property pursuant to the Lease. The Council hereby determines and declares that the period during which the City has an option to purchase the Trustee's leasehold interest in the Leased Property (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property.

The Council hereby further determines that the amount of rent to be received by the City from the Trustee pursuant to the Site Lease is reasonable consideration for the leasing of the Leased Property to the Trustee for the term of the Site Lease as provided therein.

Section 9. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the Certificates. Such recourse shall not be available either directly or indirectly through the Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or

otherwise. By the acceptance of the Certificates and as a part of the consideration of their sale or purchase, any person purchasing or selling the Certificates specifically waives any such recourse.

Section 10. Purpose. The purpose of this Ordinance is to provide for the health, safety and welfare of the people.

Section 11. Severability. If any one or more sections, sentences, clauses or parts of this Ordinance shall for any reason be held invalid, such judgment shall not affect, impair, or invalidate the remaining provisions of this Ordinance, but shall be confined in its operation to the specific sections, sentences, clauses or parts of this Ordinance so held unconstitutional or invalid, and the inapplicability and invalidity of any section, sentence, clause or part of this Ordinance in any one or more instances shall not affect or prejudice in any way the applicability and validity of this Ordinance in any other instances.

Section 12. Repealer. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 13. Interpretation. This ordinance shall be so interpreted and construed as to effectuate its general purpose.

Section 14. Charter Controls. Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this Ordinance are hereby superseded to the extent of any inconsistencies or conflicts between the provisions of this Ordinance and the Sale Certificate authorized hereby and such statutes. Any such inconsistency or conflict is intended by the Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

Section 15. Ordinance Irrepealable. After the Certificates are executed and delivered, this Ordinance shall be and remain irrepealable until the Certificates have been fully paid, satisfied and discharged, as provided in the Indenture.

Section 16. Recording and Authentication. Immediately after its passage this Ordinance shall be numbered and recorded in the ordinance book of the City kept for that purpose, authenticated by the signatures of the Mayor and City Clerk, and affidavits of publication shall be retained with this Ordinance in the City records.

Section 17. Effective Date. As provided in City Charter Section 5.9(A), this Ordinance, either as presented or as amended, shall be published in full as it was

adopted after the initial reading. This Ordinance shall be in full force and effect five days after its final publication, as provided in City Charter Section 5.8, except as set forth herein.

INTRODUCED, PASSED ON FIRST READING, AND ORDERED PUBLISHED, THIS 16th DAY OF SEPTEMBER 2025.

PASSED ON SECOND AND FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY THIS 7th DAY OF OCTOBER 2025.

CITY OF BRIGHTON, COLORADO

GREGORY MILLS, Mayor

ATTEST:

NATALIE HOEL, City Clerk

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APPROVED AS TO FORM:

ALICIA CALDERÓN, City Attorney