

ORDINANCE NO. 2059

AN ORDINANCE AUTHORIZING AN INSTALLMENT LAND CONTRACT FOR THE SALE AND PURCHASE OF REAL ESTATE BY AND AMONG THE CITY AND COUNTY OF BROOMFIELD, PROFESSORS FUND V, LLC, LAKE SKINNER INVESTORS SIX, LLC, AND MP LAND 1, LP

WHEREAS, the City and County of Broomfield, State of Colorado (the "City"), is a political subdivision of the State, a body corporate and politic, a home-rule city and county pursuant to Article XX of the State Constitution, and a city and county pursuant to Sections 10, 11, 12, and 13 of Article XX of the State Constitution (the "Constitutional Amendment"); and

WHEREAS, the Constitutional Amendment provides that the charter provisions and procedures shall supersede any constitutional or statutory limitations and procedures regarding financial obligations; and

WHEREAS, the Constitutional Amendment provides that it shall be construed so as to supersede any conflicting constitutional or statutory provision that would otherwise limit any of the provisions of the Constitutional Amendment; and

WHEREAS, Section 14.9 of the Home Rule Charter of the City (the "Charter") permits the City, pursuant to ordinance, to enter into long-term installment purchase contracts and rental or leasehold agreements in order to provide necessary land, buildings, equipment, and other property for governmental or proprietary purposes; and

WHEREAS, Section 14.9 of the Charter provides that the obligation created by any long-term contract or agreement entered into by the City for the acquisition of land, buildings, equipment, and other property for governmental or proprietary purposes shall not constitute an indebtedness of the City within the meaning of the legal limitations on contracting of indebtedness by cities; and

WHEREAS, Section 14.9 of the Charter authorizes and empowers City Council to provide for the payments of any long-term contract or agreement entered into by the City for the acquisition of land, buildings, equipment, and other property for governmental or proprietary purposes by a tax levy imposed upon property included within the boundaries of the City, or by rates, tolls, or service charges imposed for the use of such property or any part thereof by others, or by any other available municipal revenue, or by any one or more of the above sources; and

WHEREAS, Broomfield residents have expressed their support for preserving and maintaining open space and parks within the community. This support is evidenced by the 1994 passage by a vote of the people of a one-quarter percent sales tax dedicated for open space and parks. Said sales tax was reaffirmed in 2001 when Broomfield voters eliminated the "sunset" provision of the sales tax, allowing the tax to continue in perpetuity unless altered by the voters; and

WHEREAS, on February 8, 2005, after public hearing and input from a community survey, City Council formally adopted the Open Space, Parks, Recreation, and Trails Master

Plan ("Master Plan") to guide the City in the future planning and development of the City and with the development of open space, parks, trails, and recreational lands within the jurisdictional boundaries of the City; and

WHEREAS, the Master Plan established a goal that the City preserve forty percent (40%) of the City's planning area as either open space or park land; and

WHEREAS, Professors Fund V, LLC, Lake Skinner Investors Six, LLC, and MP Land 1, LP (the "Sellers"), own and desire to sell approximately 75 contiguous acres within the City which are located west of Interstate 25, north of County Road 4 and Palisade North, and east of County Road 7 (hereinafter the "Property"); and

WHEREAS, the Property has historically been used for agricultural purposes and remains free of development; and

WHEREAS, the City desires to purchase the Property to be used for park development; and

WHEREAS, the City has determined said purchase of the Property to be necessary if the City desires to achieve the acreage goals established for open space and park lands as set forth in the Master Plan; and

WHEREAS, the City and the Sellers have agreed that the City will purchase the Property from the Sellers, and that the Sellers will sell the Property to the City, pursuant to an agreement for the sale and purchase of real estate, said agreement being attached hereto as Exhibit A and incorporated herein by this reference; and

WHEREAS the total purchase price for the Property shall be Four Million Two Hundred Thousand Dollars and 00/100 (\$4,200,000.00) plus interest and expenses; and

WHEREAS, the total purchase price shall be paid by the City through a combination of a cash payments and seller-provided financing wherein the City will execute a promissory note payable to to the Sellers within three (3) years from the date of closing. The total amount of the promissory note shall be Three Million Dollars and 00/100 (\$3,000,000.00) plus interest and expenses; and

WHEREAS, the annual interest rate payable to the Sellers by the City shall be 2.75 percent.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY AND COUNTY OF BROOMFIELD, COLORADO:**

Section 1. The City Council approves the purchase of the Property in accordance with the terms and conditions of the agreement for the sale and purchase of real estate attached hereto as Exhibit A.

Section 2. The mayor or mayor pro tem is authorized to sign, and the city and county clerk is authorized to attest the agreement, in a form as approved by the city and county attorney.


Section 3. The city manager, or his designee, is authorized to complete as necessary the terms and conditions of the agreement.

Section 4. This ordinance shall be effective seven days after publication following final passage.

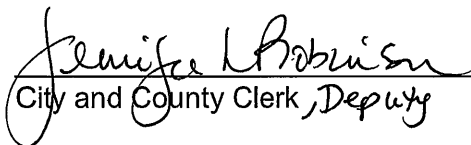
INTRODUCED AND APPROVED after first reading on December 12, 2017, and ordered published in full.

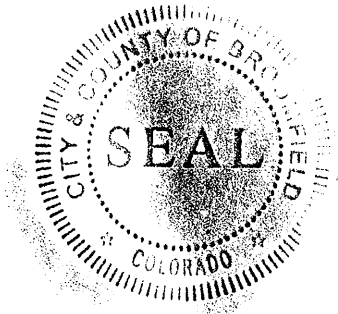
INTRODUCED A SECOND TIME and approved on January 9, 2017, and further ordered published.

THE CITY AND COUNTY OF BROOMFIELD,  
COLORADO

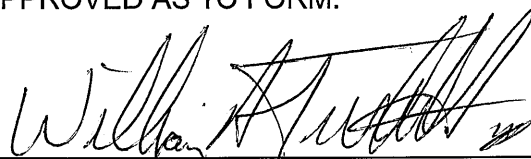
  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City and County Clerk, Deputy



APPROVED AS TO FORM:

  
\_\_\_\_\_  
City and County Attorney

First Publication: December 17, 2017

Second Publication: January 14, 2018