

CITY OF COMMERCE CITY, COLORADO

ORDINANCE NO. 2147

AN ORDINANCE AMENDING ORDINANCE NO. 2130 FINALLY ADOPTED AND APPROVED ON AUGUST 7, 2017, RELATING TO THE LEASING OF CERTAIN CITY PROPERTY AND THE EXECUTION AND DELIVERY BY THE CITY OF A SITE LEASE, A LEASE PURCHASE AGREEMENT AND OTHER FINANCING DOCUMENTS IN CONNECTION THEREWITH, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Commerce City, Colorado (the “City”), is duly organized and existing under the Constitution and the laws of the State of Colorado and the home rule charter of the City (the “Charter”); and

WHEREAS, the members of the City Council of the City (the “Council”) have been duly elected, chosen and qualified; and

WHEREAS, on August 7, 2017, the Council adopted Ordinance No. 2130 (the “Original Ordinance”) approving the execution and delivery of a Site Lease (the “Site Lease”), a Lease Purchase Agreement (the “Lease”), and other documents relating thereto in order to finance the cost of the acquisition of 4A Equivalent Residential Units from South Adams County Water and Sanitation District (the “Project”); and

WHEREAS, in order to finance the Project, a Trustee, as defined in the Original Ordinance, would execute and deliver certain Certificates of Participation (the “Certificates”), the proceeds of which would be utilized by the Trustee to prepay its obligation to lease certain leased property of the City under the Site Lease; and

WHEREAS, the Original Ordinance provided that Certificates would be privately placed with Wells Fargo Bank, National Association, as the Initial Purchaser, which Initial Purchaser is (a) an “accredited investor,” as defined in Rule 501(A)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended (an “Institutional Accredited Investor”) or (b) a “qualified institutional buyer,” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (a “Qualified Institutional Buyer”)the Loan would mature not later than 30 years from the date of the Loan; and

WHEREAS, the City has determined that the section of the Original Ordinance naming Wells Fargo as the Initial Purchaser be amended; and

WHEREAS, pursuant to Chapter 5, Section 5.4 of Commerce City Home Rule Charter, because of the urgent need for the financing of the Project and the limited availability of low interest loans, the Council has determined that an emergency exists and that adoption of this Ordinance as an emergency measure is necessary for the immediate preservation of the public peace, health, safety and welfare.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO:

Section 1. Definitions. Unless otherwise defined herein, all terms used herein shall have the same meaning as in the Original Ordinance.

Section 2. Amendments.

Section 1 – Recitals – Paragraph (I) is hereby amended as follows (strike through indicates language removed, double underline indicates additional language):

The Certificates shall be privately placed with ~~Wells Fargo Bank, National Association~~ a commercial bank or financial institution herein after named in the Sale Certificate (the “Initial Purchaser”), which Initial Purchaser is (a) an “accredited investor,” as defined in Rule 501(A)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended (an “Institutional Accredited Investor”) or (b) a “qualified institutional buyer,” as defined in Rule 144A promulgated under the Securities Act of 1933, as amended (a “Qualified Institutional Buyer”).

Section 3. Ratification. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the Council, the officers of the City and otherwise taken by the City directed toward the Bonds or the amendment of the Original Ordinance, is hereby ratified, approved and confirmed. Except as amended hereby, the provisions of the Original Ordinance are hereby ratified, approved and confirmed.

Section 4. 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 revive any such bylaw, order, resolution or ordinance, or part thereof, heretofore repealed. All rules of the Council, if any, which might prevent the final passage and adoption of this Ordinance as an emergency measure at this meeting of the Council be, and the same hereby are, suspended.

Section 5. Severability. If any section, subsection, paragraph, clause or other provision of this Ordinance for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Ordinance.

Section 6. Emergency Declaration. By reason of the City's need to complete the Project to provide for the immediate preservation of public health, safety and welfare of its citizens, the further need to acquire financing to complete the Project with the limited availability of low interest financing, the Council declares that this Ordinance is an emergency ordinance, that this Ordinance is necessary for the immediate preservation of the public peace, health and safety, and that this Ordinance shall be in full force and effect immediately after its passage by an affirmative vote of seven (7) of the members of the Council.

Section 7. Effective Date and Disposition. After its passage by the approval of seven (7) members of the Council, this Ordinance shall be recorded, published and posted for informational purposes and authenticated by the signature of the Mayor and the City Clerk as required by the City Charter. This Ordinance shall become effective immediately after its adoption.

PASSED, ADOPTED AS AN EMERGENCY ORDINANCE AND ORDERED PUBLISHED IN FULL this 2nd day of October, 2017.

CITY OF COMMERCE CITY, COLORADO

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk

STATE OF COLORADO)
)
COUNTY OF ADAMS) SS. CERTIFICATE OF CITY CLERK
)
CITY OF COMMERCE CITY)

I, Laura J. Bauer, the duly appointed, qualified and acting City Clerk of the City of Commerce City, Colorado, do hereby certify:

A. That the foregoing pages are a true, correct, and complete copy of an Ordinance adopted by the Council of the City of Commerce City, Colorado (the “City Council”), at regular meeting of the City Council held on October 2, 2017. A quorum of the City Council was in attendance at each meeting.

B. That the passage of the Ordinance as an emergency ordinance on first and final reading was duly moved and seconded at a regular meeting of the City Council on October 2, 2017, and the Ordinance was approved on first reading as an emergency ordinance by a vote seven (7) of the members of the City Council as follows:

<u>Council member</u>	<u>Voting Yes</u>	<u>Voting No</u>	<u>Absent</u>	<u>Abstaining</u>
Sean Ford, Mayor				
René Bullock, Mayor Pro Tem				
Andrew Amador, Ward I				
Rick Teter, Ward II				
Jadie Carson, Ward III				
Paolo Diaz, Ward IV				
Steve Douglas, At-Large				
Crystal Elliott, At-Large				
Jason McEldowney, At-Large				

3. That the Ordinance has been authenticated by the Mayor and sealed with the corporate seal of the City, attested by me as the City Clerk, and duly recorded in the official records of the City.

4. That notice of the meeting of October 2, 2017, in the form attached hereto as **Exhibit A**, was duly given to the Council members and were posted in a designated public place within the boundaries of the City no less than twenty-four hours prior to the meetings as required by law.

5. That the Ordinance was published and posted after adoption and final approval as an emergency ordinance as required by the City Charter.

WITNESS my hand and the seal of said City affixed this October ____, 2017.

(SEAL)

City Clerk