

**FIRST (1<sup>ST</sup>) AMENDMENT  
TO THE  
CHAPEL HILL FILING NO. 2 DEVELOPMENT AGREEMENT**

**THIS IS AN AMENDMENT** (the “First Amendment”) to the existing Chapel Hill Filing No. 2 Development Agreement (the “Agreement”), entered into by and between the City of Brighton, a Colorado home rule municipality (“City”) and Larsen Real Estate LLC, a limited liability company of Colorado (“Developer”). City and Developer are collectively referred to as “Parties.” The M. Joann Briggs Living Trust dated August 10, 1998, the Danny R. Briggs Living Trust dated August 10, 1998, and Susan Cvancara (collectively, “Residence Owners”) agree to the form and content of this Agreement and authorize Developer to access the Residence Owners’ properties as may be required herein in the performance of any obligation as required herein.

**RECITALS**

**WHEREAS**, the Chapel Hill Filing No. 2 Development Agreement (“Original Development Agreement”) was originally approved on April 19, 2005 and recorded on September 20, 2005 in Adams County, Reception No. 20050920001025710, by and between the City of Brighton (the “City”) and Theron Whitfield and Coretta Whitfield (“Prior Owner”); the Agreement was thereafter subsequently amended, this being the First Amendment;

**WHEREAS**, Larsen Real Estate, LLC, a limited liability company of Colorado, (the “Developer”) is the successor in interest and in title to Prior Owner, and is, in all respects and for all purposes, the Developer under the Agreement, as amended, subject to any future assignment of Developer’s interests and obligations under this Agreement; and

**WHEREAS**, this First Amendment relates to the Chapel Hill Subdivision Filing No. 2 (“Chapel Hill”), which was originally approved on April 19, 2005 by the Brighton City Council, and the Final Plat thereof recorded on September 20, 2005 in Adams County, at Reception No. 20050920001025730; and

**WHEREAS**, an administrative amendment, titled the Chapel Hill Filing No. 2, Amendment No. 1 Final Plat, was filed and approved on November 5, 2005 by the City which did not require an amendment to the Original Development Agreement; and

**WHEREAS**, another administrative amendment, titled the Chapel Hill Filing No. 2, Amendment No. 2 Final Plat, has been filed with the City, and which implements various

changes, including a change to the lot layout of the Chapel Hill Subdivision Filing No. 2 Final Plat, and which necessitates an amendment to the Original Development Agreement; and

**WHEREAS**, this First Amendment relates, generally, to the phasing, construction and payment for certain specific public improvements in Chapel Hill, including: (i) the final lift of asphalt on Chapel Hill Drive and Chapel Hill Circle, and (ii) the removal and or relocation of existing water taps that will be affected by the change in lot configurations, and (iii) the installation and maintenance of landscaping; and

**WHEREAS**, Larsen Real Estate LLC, is the Developer of the real property within Filing No. 2 and the owner of all unimproved property within Filing No. 2, and is subject to the Agreement and the provisions contained therein, as amended; and

**WHEREAS**, the Residence Owners have executed the Consents attached hereto as Exhibit D-1 as the owners of the following lots:

- Lot 10, Block 4 of Filing No. 2 (168 Chapel Hill Circle), owners M. Joann Briggs Living Trust dated August 10, 1998 and Danny R. Briggs Living Trust dated August 10, 1998
- Lot 1, Block 1 of Filing No. 2 (102 Chapel Hill Circle) , owners Susan Cvancara; and

**WHEREAS**, all of the terms and provisions of the Original Development Agreement, including those amended herein, remain binding and enforceable;

**WHEREAS**, in order to facilitate the development of Chapel Hill and the construction of the remaining improvements, which are essential to the City and Chapel Hill, the Parties have agreed to modify the Agreement as provided herein.

## COVENANTS

**NOW, THEREFORE**, in consideration of the foregoing recitals, which are a substantive and enforceable part of this First Amendment, and for the mutual promises and covenants set forth herein, and for other good and valuable consideration, the Parties agree as follows:

### A. Definitions:

“Common Areas” shall be the landscape areas within the Right of Way, Tracts C, D, E, F, G, & H, and the common landscape areas as designated on the PUD Plan Sheet #3, attached hereto as **Exhibit C-1**.

“Home Owners Association (HOA)” shall mean the Chapel Hill Owners Association, Inc. established in accordance with the Master Declaration for Chapel Hill which were completed and recorded in the real estate records of Adams County, Colorado on June 11, 2015 as instrument No. 2015000044432 for the purpose of owning and maintaining privately or publicly owned common-interest areas and infrastructure that are not maintained by individual property owners or the City.

“Plat” or “Subdivision” shall mean the Chapel Hill Subdivision Filing No. 2 Final Plat, Recorded September 20, 2005 as instrument No. 20050920001025730, Adams County, State of Colorado, as amended by the Chapel Hill Subdivision, Filing No. 2, Amendment No. 1 recorded on November 8, 2006 as instrument No. 2006000998587, and Amendment No. 2 recorded on June 10, 2015, as instrument No. 2015000044281.

“Property” shall mean the +/- 13.83 acres of land more particularly described in Exhibit ‘A-1’ attached hereto and by this reference made a part hereof.

- B. **Exhibit A-1, The Second Plat Amendment**, The lot configuration of Chapel Hill shall be modified to remove the duplex designations shown on the Chapel Hill Subdivision, Filing No. 2, Final Plat for Lots 4, 5, and 8, Block 3, and Lots 8, 10, 14, and 15, Block 4 and also shown as Lots 5, 8, 9, 11, and 13, Block 4 in the Chapel Hill Subdivision, Filing No. 2, Administrative Amendment No. 1. The lot configurations appear as indicated on the Chapel Hill Subdivision, Filing No. 2, Administrative Amendment No. 2 as shown in the attached Exhibit A-1.
- C. **Exhibit B-1, The Schedule of Public Improvements**. Chapel Hill Drive and Chapel Hill Circle have been constructed with the exception of the installation of the final asphalt lift. The Schedule of Improvements, **Exhibit B** of the Original Development Agreement dated April 19, 2005, is hereby amended as more specifically set forth in **Exhibit B-1** of this First Amendment to reflect the cost adjustments to the utility service asphalt cuts and the final asphalt lift to Chapel Hill Drive and Chapel Hill Circle, as a result of the lot configuration modification referenced in paragraph B above.
- D. **Exhibit C-1, Landscaping Improvements**.
1. The Developer has completed the installation of the landscaping within the Right of Way (ROW), Tracts C, D, E, F, G, & H, and the Common Landscape Areas (except within the Pedestrian and Utility Easement) as designated on the PUD Plan Sheet #3, attached hereto as **Exhibit C-1**. Until conveyance by the Developer to the HOA, and the agreement of the HOA assuming the maintenance responsibility, the ROW, Tracts C, D, E, F, G, and H, the

Common Landscape Areas (including the Pedestrian and Utility Easement) shall be maintained by the Developer.

2. Developer shall install a temporary crusher fines trail within the Pedestrian and Utility Easement as demonstrated in Exhibit C-1 no later than May 31, 2015.
  3. At the time of each lot development, the Developer, or its successor, shall replace that lot's portion of the crusher fine trail with a concrete trail and install all landscape improvements within the Pedestrian and Utility Easement of that lot as generally outlined on Exhibit C-1. The property owner shall be responsible for the maintenance of that portion of the Pedestrian and Utility Easement within its lot until the entire Pedestrian and Utility Easement is improved, at which time, the HOA shall be responsible for maintenance. If there is a maintenance issue prior to landscaping completion of the trail, as determined by the City, the homeowner will be responsible for repairs or replacement. If there is a maintenance issue once the trail is complete, as determined by the City, the established HOA will be responsible for maintenance.
  4. The maintenance responsibility, as defined in subsections D.1. and D.3. above, shall be continued in perpetuity and shall commence immediately upon installation. "Maintenance" shall include, by way of illustration and not limitation, cutting, trimming and fertilizing grass, shrubs, bushes, trees or other landscaping, maintain (including repairs and replacement) of all irrigations systems, and replanting and replacing dead landscape materials in all Common Areas demonstrated within the attached Exhibit C-1.
- E. The maintenance of the existing perimeter fence of the Chapel Hill Subdivision Filing No. 2, and any replacements or additions thereto, shall be the sole responsibility of the Developer, until conveyance by the Developer to the HOA, and acceptance of such maintenance responsibility by the HOA. The material type and perimeter fence location shall be maintained as indicated within the approved zoning regulations.
- F. Developer shall complete the final asphalt lift for Chapel Hill Drive and Chapel Hill Circle prior to the issuance of a certificate of occupancy for the 16<sup>th</sup> lot in Chapel Hill. When construction of the final asphalt lift is completed, the City's final acceptance of the improved roadways will be based upon compliance with the Public Works Standards and Specifications, in effect at the time of acceptance.

- G. Plat Amendment No. 2 eliminates lot lines shown on the Chapel Hill Subdivision, Filing No. 2, Final Plat for Lots 4, 5, and 8, Block 3, and Lots 8, 10, 14, and 15, Block 4 and also later reconfigured as Lots 5, 8, 9, 11, and 13, Block 4 in the Chapel Hill Subdivision, Filing No. 2, Administrative Amendment No. 1.
- H. There are two water service lines and meters on each of the prior duplex lots (as listed in subsection G above), originally installed to accommodate both homes. Since the reconfiguration of the lots makes one of these service lines unnecessary, the Developer, or its successor, shall remove and cap the unneeded service line at the main, at its sole cost and expense, in accordance with the City's Public Works Standards and Specifications, in effect at the time of removal. The Developer, or its successor, acknowledges and agrees that all unused water and sewer lines will be abandoned at the same time. Line removal to take place during the development of the 16<sup>th</sup> lot, and prior to the installation of the second lift of paving. Developer to submit removal details for approval at that time.

[Signatures begin on following page]



**CITY OF BRIGHTON, COLORADO**

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By: Richard N. McLean, Mayor

ATTEST:

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Natalie Hoel, City Clerk

Approved as to Form:

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Margaret R. Brubaker, Esq., City Attorney





**EXHIBIT B-1**

**AMENDED SCHEDULE OF IMPROVEMENTS**

**ESTIMATED COST OF CONSTRUCTION**

<b>Type of Improvements</b>	<b>Quantity/ Length</b>	<b>Total Cost</b>
Second Lift of Paving	3422	\$119,770.00
Crusher Fine Pathway	523	\$9,855.00



**EXHIBIT D-1**

**RESIDENCE OWNERS CONSENT**

[Consent forms begin on the next page]

**Susan Cvancara**

**Residence Owner Consent**

**Lot 1, Block 1, Filing No. 2 Final Plat**

The undersigned is the Owner of the following property:

Lot 1, Block 1,  
Chapel Hill Subdivision Filing No. 2 Final Plat,  
County of Adams, State of Colorado ("Lot")

The undersigned provides this Residence Owner Consent for the benefit of the City of Brighton ("City") and for the benefit Larsen Real Estate LLC, a limited liability company of Colorado ("Developer").

First Amendment to the Chapel Hill Filing No. 2 Development Agreement. The undersigned has reviewed, approved and consents to the above property being bound by the First Amendment to the Chapel Hill Filing No. 2 Development Agreement ("First Amendment") in respect of provisions of the First Amendment which may be performed by the Developer on the Lot.

The undersigned further consent to the First Amendment as it and the Original Development Agreement may be further amended and supplemented of record, as binding on their Lot, in respect of provisions which may be performed by the Developer on the Lot.

Until such time as the Pedestrian and Utility Easement is fully constructed and maintained by the HOA, the undersigned agrees to maintain that portion located within the Lot in accordance with section D.3. of the First Amendment.

PUD for Chapel Hill Filing No. 2. The undersigned has reviewed, approved and consents to the above property being bound by the PUD for Chapel Hill Filing No. 2 ("PUD").

The undersigned further consent to the PUD as it may be further amended and supplemented of record.

Master Declaration for Chapel Hill. The undersigned has also reviewed, approved and consents to the Lot being bound by the Master Declaration for Chapel Hill ("Declaration"), as the Declaration may be revised and recorded by the Developer.

The undersigned further consent to the Declaration as it may be further amended and supplemented of record.

Working Capital of the Homeowners Association. The undersigned agrees to contribute working capital to the Association named in the Declaration in the amount as provided for in the Declaration.

This payment is to be made within 30 days of the date of the last signature of the undersigned, or within 30 days of invoicing by the Association, whichever occurs first.

Further Documents. The undersigned desires that this Residence Owner Consent be sufficient to bind the Lot to the terms of the First Amendment, the Original Development Agreement, the PUD and the Declaration, as provided for in this document.

If additional consent or documents are desired by the City or the Developer, the undersigned agrees to approve and sign those additional documents.

Susan Cvancara

Susan Cvancara

State of Colorado            )  
  ) ss.  
County of Adams            )

Subscribed and sworn to before me by Brenda L. Peters, on this 5<sup>th</sup> day of May, 2015 by Susan Cvancara.

Witness my hand and seal.

My commission expires: 8/25/2017

BRENDA L. PETERS  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 19934008114  
MY COMMISSION EXPIRES 08/25/2017

Brenda L. Peters  
Notary Public

**M. Joann Briggs Living Trust dated August 10, 1998 & Danny R. Briggs Living Trust dated August 10, 1998**

**Residence Owner Consent**

**Lot 10, Block 4, Filing No. 2 Amendment No. 1**

The undersigned are the Owner of the following property:

Lot 10, Block 4,

Chapel Hill Subdivision Filing No. 2 Amendment No. 1 Final Plat,

County of Adams, State of Colorado ("Lot")

The undersigned provides this Residence Owner Consent for the benefit of the City of Brighton ("City") and for the benefit Larsen Real Estate LLC, a limited liability company of Colorado ("Developer").

First Amendment to the Chapel Hill Filing No. 2 Development Agreement. The undersigned has reviewed, approved and consents to the above property being bound by the First Amendment to the Chapel Hill Filing No. 2 Development Agreement ("First Amendment") in respect of provisions of the First Amendment which may be performed by the Developer on the Lot.

The undersigned further consent to the First Amendment as it and the Original Development Agreement may be further amended and supplemented of record, as binding on their Lot, in respect of provisions which may be performed by the Developer on the Lot.

Until such time as the Pedestrian and Utility Easement is fully constructed and maintained by the HOA, the undersigned agrees to maintain that portion located within the Lot in accordance with section D.3. of the First Amendment.

PUD for Chapel Hill Filing No. 2. The undersigned has reviewed, approved and consents to the above property being bound by the PUD for Chapel Hill Filing No. 2 ("PUD").

The undersigned further consent to the PUD as it may be further amended and supplemented of record.

Master Declaration for Chapel Hill. The undersigned has also reviewed, approved and consents to the Lot being bound by the Master Declaration for Chapel Hill ("Declaration"), as the Declaration may be revised and recorded by the Developer.

The undersigned further consent to the Declaration as it may be further amended and supplemented of record.

Working Capital of the Homeowners Association. The undersigned agrees to contribute working capital to the Association named in the Declaration in the amount as provided for in the Declaration.

This payment is to be made within 30 days of the date of the last signature of the undersigned, or within 30 days of invoicing by the Association, whichever occurs first.

Further Documents. The undersigned desires that this Residence Owner Consent be sufficient to bind the Lot to the terms of the First Amendment, the Original Development Agreement, the PUD and the Declaration, as provided for in this document.

If additional consent or documents are desired by the City or the Developer, the undersigned agrees to approve and sign those additional documents.

M. Joann Briggs

Authorized agent of the M. Joann Briggs Living Trust dated August 10, 1998

Danny R. Briggs

Authorized agent of the Danny R. Briggs Living Trust dated August 10, 1998

State of Colorado )

) ss.

County of Adams )

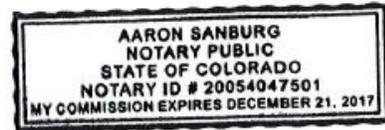
Subscribed and sworn to before me by Joann Danny Briggs, on this 5<sup>th</sup> day of May, 2015 by Joann Briggs as authorized agent of the M. Joann Briggs Living Trust dated August 10, 1998.

Witness my hand and seal.

My commission expires: 12/21/2017



Notary Public



State of Colorado )

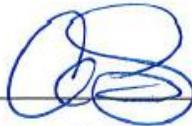
) ss.

County of Adams )

Subscribed and sworn to before me by Danny Briggs, on this 5<sup>th</sup> day of May, 2015 by Danny Briggs as authorized agent of the Danny R. Briggs Living Trust dated August 10, 1998.

Witness my hand and seal.

My commission expires: 12/21/2017



Notary Public

