GUZMAN SUBDIVISION

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 20_____ by and between the CITY OF BRIGHTON, COLORADO, a home rule municipality of the County of **Weld,** State of Colorado (the "City") and Gabriela Guzman (the "Developer" or "Owner").

WHEREAS, the Owner has submitted a Final Plat (the "Plat"), Guzman Subdivision (the "Development" or "Property"), attached hereto as **Exhibit A** and incorporated herein by reference. Said Plat has been reviewed and approved by the City Council of the City of Brighton; and

WHEREAS, Gabriela Guzman is the current Owner of a 35.136-acre parcel of land, more particularly described in **Exhibit A** attached hereto and by this reference made a part hereof; and

WHEREAS, Gabriela Guzman desires to develop a single-family residence and related accessory uses on Lot 2 of the Property; and

WHEREAS, as required by the City's development regulations, to obtain a building permit for any new residence on the Property, the subdivision of the Property into two lots will facilitate Owner's immediate objectives and implementation of the City's long-range plans; and

WHEREAS, the City's development regulations require that the public improvement obligations for a subdivision be guaranteed in a form acceptable to the City; and

WHEREAS, the City's development regulations require the Owner to execute a development agreement with the City relative to improvements related to the Development; and

WHEREAS, as contemplated by this Agreement, Owner's construction of a residence on Lot 2 will incur minimal obligations to make public improvements, with new roadway improvements on Weld County Road 31, for example, deferred until the further development of Lot 1 along Weld County Road 31;

NOW THEREFORE, in consideration of the foregoing Agreement, the City and the Developer (the "Parties") hereto promise, covenant, and agree as follows:

SECTION 1

DEFINITIONS

Definitions. The following terms and definitions shall apply to this Development Agreement and the exhibits and attachments hereto. If there is a conflict between the following definitions and a

specific provision of the Development Agreement or any exhibit or attachment, the more restrictive shall apply.

The term, civil engineering documents includes civil plans, construction plans, or any combinations thereof with drawings replacing the word Plans, and shall mean any graphic representation of the following: demolition plans, grading plans, drainage plans, water system plans, sanitary sewer plans, streets plans, or any combination thereof. This list is not exhaustive in nature and should include any plans and reports included in the civil engineering scope.

"Construction permit" as used in this Development Agreement and the attachments hereto includes building permits, infrastructure permits, temporary use permit; and permits for grading, excavating, drainage, erosion and sediment control and the moving of structures.

"Costs" and "actual costs" as used to determine the costs of required Public Improvements, reimbursement agreements and shared reimbursement agreements means the actual costs of the improvement(s) including the cost of design and construction of the improvement(s), including the cost of over-sizing of utilities, and an adjustment for the current interest rate during the cost recovery period of the reimbursement agreement. The cost must be

a) Reasonable, i.e., the cost is generally recognized as necessary for the performance of the project and is one that a prudent person would consider reasonable given the same set of circumstances;
b) It must be allocable to the applicable improvement project, i.e., the cost is incurred for the benefit of only one project or the item can be easily assigned to multiple benefiting projects; and,
c) A specific project may only be charged that portion of the cost which represents the direct benefit to that project.

The term "costs" or "actual costs" shall not include indirect costs for overhead, administration and general staff expenses, equipment rental, maintenance, and similar expenses.

"Developer" means the Owner or other agent who has applied for approval of land development as reflected in this Development Agreement and the attachments hereto. "Developer" may additionally mean the successor in interest of the initial Developer as to Lot 2, or the buyer of Lot 1 from the initial Developer, or a subsequent buyer of Lot 1 prior to any entitlement for new development on Lot 1.

SECTION 2

GENERAL CONDITIONS

2.1 Development Obligation. Developer shall be responsible for the performance of the covenants set forth herein.

2.2 Development Impact Fees and Other Fees. Developer shall pay all fees related to development of the property described in the Plat(s) at the time of issuance of a building permit for any or all portions of the Development. The amount of the fees shall be the amount in effect

at the time construction permits are issued. Any amendment to the kinds of fees or the amounts of said fees enacted by the City after the date of this Agreement are incorporated into this Agreement as if originally set forth herein.

2.3 Schedule of Improvements. For this Agreement, the term "Schedule of Improvements" and/or "Phasing Plan(s)" shall mean a detailed listing of all of the Public Improvements, the design, construction, installation, or phasing of which are the sole responsibility of the Developer. The "Schedule of Improvements" may be divided into Phases of the approved Final Plat(s) for the Development, and shall specify, as to each improvement listed below, the type, size, general location, estimated cost of each improvement and the development Phase in which the Public Improvement is to be built:
Water Lines
Sanitary Sewer Lines
Storm Sewer Lines
Drainage Retention/Detention Ponds
Streets/Alleys/Rights-of-Way
Curbs/Gutters
Sidewalks
Bridges and Other Crossings
Traffic Signal Lights
Street Lights
Signs
Fire Hydrants
Guard Rails
Neighborhood Parks/Community Parks
Open Space
Trails and Paths
Street Trees/Open Space and/or Common Area Landscaping
Irrigation Systems
Wells
Fencing/Retaining Walls
Parking Lots
Permanent Easements
Land Donated and/or Conveyed to the City
Value of Land Beneath All Infrastructure Improvements
Value of Water Donated and/or Conveyed to the City

2.4 Engineering Services. Developer agrees to furnish, at its sole expense, all necessary engineering services and civil engineering documents relating to the design and construction of the Development and the Public Improvements set forth in the Schedule of Improvements and/or Phasing Plan(s) described in **Exhibit B**, attached hereto and incorporated herein by this reference (the "Improvements" and/or the "Schedule of Public Improvements" and/or the "Phasing Plan(s)"). Said engineering services shall be performed by, or under the supervision of, a Registered Professional Engineer, or a Registered Land Surveyor, or other professionals as

appropriate, licensed by the State of Colorado, and in accordance with applicable Colorado law, and shall conform to the standards and criteria for Public Improvements as established and approved by the City as of the date of submittal to the City.

2.5 Construction Standards. Developer shall construct all Improvements required by this Agreement, and any other Improvements constructed in relation to the Development, in accordance with the plans and specifications approved in writing by the City, and with the approved Final Plat(s), and in full conformity with the City's construction specifications applicable at the time of construction plan approval.

2.6 Development Coordination. Unless specifically provided in this Agreement to the contrary, all submittals to the City or approvals required of the City in connection with this Agreement, shall be submitted to or rendered by the City Manager or the Manager's designee, who shall have general responsibility for coordinating development with the Developer.

2.7 Plan Submission and Approval. Developer shall furnish to the City complete civil engineering documents and plans for all Improvements to be constructed in each Phase of the Development, as defined in Section 2.16 below, and obtain approval of the plans for each Phase prior to commencing any construction work thereon. The City shall issue its written approval or disapproval of said documents and plans as expeditiously as reasonably possible. Said approval or disapproval shall be based upon standards and criteria for Public Improvements as established and approved by the City, and the City shall notify Developer of all deficiencies which must be corrected prior to approval. All deficiencies shall be corrected and said plans shall be resubmitted to and approved by the City prior to construction.

2.8 Construction Acceptance and Warranty. No later than ten (10) days after construction of a Public Improvement is completed, Developer shall request inspection of the Improvement by the City. If Developer does not request this inspection within ten (10) days of completion of the Improvements, the City may conduct the inspection without approval of the Developer. At the time of said request, and as a condition thereof, the Developer shall submit to the City a revised and updated Schedule of Improvements, delineating all modifications to the original Schedule of Improvements and specifying the actual costs, rather than the estimated costs, of the completed Improvement listed on the Schedule of Improvements, including satisfactory documentation to support said actual costs. Developer shall provide "as built" drawings and an affidavit of actual construction costs no later than thirty (30) days after an Improvement is completed, or prior to a reduction in financial guarantee, whichever occurs earlier. If Developer has not completed the Improvement on or before the completion dates set forth in the Phasing Plan and/or Schedule of Public Improvements provided for in Section 2.16 herein, the City may exercise its rights to secure performance as provided in Section 10.1 of this Agreement. If the Improvement completed by Developer are satisfactory, the City shall grant "construction acceptance," which shall be subject to final acceptance as set forth herein. If the Improvements completed by Developer are unsatisfactory, the City shall provide written notice to Developer of the repairs, replacements, construction, or other work required to receive "construction acceptance." Developer shall complete the work within thirty (30) days of said notice, weather permitting. After Developer

completes the repairs, replacements, construction, or other work required, Developer shall request of the City a re-inspection of such work to determine if construction acceptance can be granted, and the City shall provide written notice to Developer of the acceptability or unacceptability of such work prior to proceeding to complete any such work at Developer's expense. If Developer does not complete the repairs, replacements, construction, or other work required within thirty (30) days of said notice, the City may exercise its right to secure performance as provided in Section 10.1 of this Agreement. The City reserves the right to schedule re-inspections, depending upon the scope of deficiencies. No Building Permits shall be issued by the Administrative Division of the Community Development Department prior to Construction Acceptance of Public Improvements. Notwithstanding the foregoing, building permits may be issued for individual Phases in which the only remaining Improvement to be completed are detached sidewalks and/or final asphalt lift for streets within that Phase, provided that a sufficient improvement guarantee is in place for these remaining Improvements.

2.9 Maintenance of Improvements. For a one (1) year period from the date of Construction Acceptance of any Improvements related to the Development, Developer shall, at its own expense, take all actions necessary to maintain said Improvements and make all needed repairs and replacements, which, in the reasonable opinion of the City, shall become necessary. If within thirty (30) days after Developer's receipt of written notice from the City requesting such repairs or replacements the Developer has not completed such repairs, the City may exercise its rights to secure performance as provided in Section 10.1 of this Agreement.

2.10 Final Acceptance. At least thirty (30) days before one (1) year has elapsed from the issuance of Construction Acceptance, or as soon thereafter as weather permits, Developer shall request a "final acceptance" inspection. The City shall inspect the Improvements and shall notify the Developer in writing of all deficiencies and necessary repairs. After Developer has corrected all deficiencies and made all necessary repairs identified in said written notice, the City shall issue to Developer a letter of "final acceptance." 10.1 If any mechanic's liens have been filed with respect to the Public Improvements, the City may retain all or a portion of the Improvement Guarantee up to the amount of such liens. 10.1

2.11 Reimbursement to the City. The City may complete construction, repairs, replacements, testing, maintenance or other work for Developer, pursuant to Sections 2.8, 2.9, 2.10 or 2.12 of the Agreement, with funds other than the Improvements Guarantee, in which event Developer shall reimburse the City within thirty (30) days after receipt of written demand and supporting documentation from the City. If Developer fails to so reimburse the City, the Developer shall be in default of the Agreement and the City may exercise its rights under Section 10.1 of this Agreement.

2.12 Testing and Inspection. Developer shall employ, at its own expense, a licensed and registered testing company, previously approved by the City in writing, to perform all testing of materials or construction that may be reasonably required by the City, and shall furnish copies of test results to the City, on a timely basis, for City review and approval prior to commencement or continuation of that particular phase of construction. In addition, at all times during said

construction, the City shall have access to inspect the materials and workmanship of said construction. All materials and work not conforming to the approved plans and specifications shall be repaired or removed and replaced at Developer's expense so as to conform to the approved plans and specifications. All work shown on the approved Public Improvements Plans requires inspection by the appropriate department, such as the Streets & Fleet and Utilities Departments. Inspection services are provided Monday through Friday, except legal holidays, from 8:00 a.m. to 5:00 p.m., throughout the year. During the hours listed above, inspections shall be scheduled by 4:00 p.m. of the day prior to the requested inspection day. Requests for inspection services beyond the hours listed above shall be submitted a minimum of 48 hours in advance for approval. All requests for after-hours inspection services shall be made on a form provided by the Engineering Division. If the request is approved, the Developer shall reimburse the City for all direct costs of the after-hours inspection services. If the request is denied, the work shall not proceed after the hours listed above.

2.13 Improvement Guarantees. Developer shall submit to the City an Improvement Guarantee for all Public Improvements related to each phase of the Development as listed in Section 2.3 above and specified in **Exhibit B**. Said guarantee may be in cash, bond, or a letter of credit in a format provided or approved by the City. Infrastructure permits shall be issued for only that phase of the Development for which said guarantees have been furnished. The total amount of the guarantee for each phase of development shall be calculated as a percentage of the total estimated cost, including labor and materials, of all Public Improvements to be constructed in said phase of the Development as described in **Exhibit B**. The total minimum amounts are as follows:

a) prior to City approval of Public Improvements Construction Plans – 115%
b) Upon Construction Acceptance prior to Final Acceptance – 15%
c) After Final Acceptance – 0%

In addition to any other remedies it may have, the City may, at any time prior to Final Acceptance, draw on any Improvement Guarantee issued, pursuant to this Agreement. If the City draws on the guarantee to correct deficiencies and complete any Improvements, any portion of said guarantee, not utilized in correcting the deficiencies and/or completing the Improvements, shall be returned to Developer within thirty (30) days after said Final Acceptance. In the event the entity issuing the Improvement Guarantee becomes non-qualifying, or the cost of the Improvements and related construction as reasonably determined by the City to be greater than the amount of the security provided, then the City shall furnish written notice to the Developer of the condition, and within thirty (30) days of receipt of such notice, the Developer shall provide the City with a substituted qualifying Improvements Guarantee or augment the deficient security as necessary to bring the security into compliance with the requirements of this Section 2.13. If such an Improvement Guarantee is not submitted or maintained, then Developer is in default of this Agreement and is subject to the provisions of Section 10.1 of this Agreement, as well as the suspension of the development activities by the City, including but not limited to the issuance of construction permits of any kind including infrastructure permits, building permits, construction or final acceptance, or certificates of occupancy.

2.14 Indemnification and Release of Liability. Developer agrees to indemnify and hold harmless the City, its officers, employees, agents, or servants and to pay any and all judgments

rendered against the City and/or said persons on account of any suit, action, or claim caused by, arising from, or on account of acts or omissions by the Developer, its officers, employees, agents, consultants, contractors and subcontractors, and to pay to the City and said persons their reasonable expenses, including, but not limited to, reasonable attorney's fees and reasonable expert witness fees incurred in defending any such suit, action, or claim; provided, however, that Developer's obligation herein shall not apply to the extent said action, suit, or claim results from any negligent or willful acts or omissions of officers, employees, agents or servants of the City or the conformance with the requirements imposed by the City. Said obligation of Developer shall be limited to suits, actions, or claims based upon conduct prior to "final acceptance," by the City, of the construction work. Developer acknowledges that the City's review and approval of plans for development is done in furtherance of the general public's health, safety, and welfare and that no immunity is waived and no specific relationship with, or duty of care to, the Developer or third parties is assumed by such approval. The parties hereto understand and agree that the City of Brighton, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently $150,000 per person and $600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to the City of Brighton, its officers or its employees.

2.15 Insurance OSHA. Developer shall, through contract requirements and other normal means, guarantee and furnish to the City proof thereof that all employees and contractors engaged in the construction of Improvements are covered by adequate workmen's compensation insurance and public liability insurance, and shall require the faithful compliance with all provisions of the Federal Occupational Safety and Health Act (OSHA).

2.16 Phasing. For purposes of this Agreement, the term "Phase" refers to a designated portion of property in the Development within which construction of all or designated Public Improvements specified in Section 2.3 above and set forth in **Exhibit B** attached hereto will be constructed as required in this Agreement. It is anticipated that the Development will be developed sequentially in Phases, including the Public Improvements specified in **Exhibit B**. The City hereby approves Developer's Phasing Plan for the Public Improvements, which is a part of the attached **Exhibit B**. The completion of each Phase of the Development, including public and private Improvements, shall be in accordance with said Phasing Plan and completion schedules, or City-approved modifications thereof. All modifications shall be in writing and signed by the City Manager or the Manager's designee.

2.17 Water Dedications. See **Exhibits E & F** attached hereto.

SECTION 3
CONSTRUCTION OF IMPROVEMENTS

3.1 Rights-of-way and Easements. Before City may approve construction plans for any Improvements herein agreed upon, Developer shall acquire, at its own expense, and convey to the City all necessary land, rights-of-way and easements required by the City for the construction of the proposed Improvements related to the Development. All such conveyances shall be free and

clear of liens, taxes, and encumbrances, except for ad valorem real property taxes for the current year and thereafter and shall be by Special Warranty Deed in form and substance acceptable to the City Attorney. The City at the Developer's expense shall record all title documents. The Developer shall also furnish, at its own expense, an ALTA title policy, for all interest(s) so conveyed, subject to approval by the City Attorney.

3.2 Construction. Developer shall furnish and install, at its own expense, all of the Improvements listed on the "Schedule of Improvements" attached as **Exhibit B**, in conformance with the civil drawings, plans, and specifications approved by the City prior to construction and the applicable ordinances, regulations and specifications of the City. If Developer does not meet the above obligations, then Developer shall be in default of the Agreement and the City may exercise its rights under Section 10.1 of the Agreement.

3.3 Utility Coordination and Installation. In addition to the Improvements described in **Exhibit B**, Developer shall also be responsible for coordination of, and payment for, and the installation of on-site and off-site electric, street lights, natural gas, telephone, and other utilities. All utilities shall be placed underground, to the extent required by City Code or other applicable law.

3.4 Reimbursement. To the extent that roads, water lines, sewer lines, drainage channels, trails, crossings and other Public Improvements specified in **Exhibit B** are constructed by Developer, that will benefit landowners, developers and persons other than the Developer, the City, for a period of fifteen (15) years following the completion of construction of such Improvements, will withhold approval and recording of final plats of other benefited landowners, developers and persons pending reimbursement payment or reimbursement agreement for a pro rata reimbursement to the Developer. The actual costs of these off-site Improvements shall be submitted to the City after the Improvements are constructed by the Developer and Final Acceptance is issued by the City. Property owners, developers. and/or other persons submitting plats or development plans that are adjacent to or directly benefiting from these Improvements shall pay the required sums directly to the Developer before a final plat for any portion of their property is approved or recorded. The City agrees not to approve or record said plat until the payments are made, but assumes no responsibility for and hereby assigns to Developer the right, if any, for collecting the reimbursements from the affected property owners.

3.5 Reimbursement-City. To the extent that Public Improvements are constructed by the Developer, that will benefit landowners, developers and persons other than the Developer, the City, for a period of fifteen (15) years following the issuance of Final Acceptance of such improvements, will withhold approval and recording of final plats of other benefited landowners, developers and persons pending reimbursement payment or reimbursement agreement for a pro rata reimbursement to the Developer as provided in Section 3.4 of this Agreement. All costs for the construction of the improvements must be fully paid by the Developer before the Developer is entitled to reimbursement under any agreement established hereunder pursuant to Sections 3.5 and 3.6, Shared Improvements. The actual costs of the improvement(s) includes the actual cost of design and construction of the improvement(s), including the cost of over-sizing of utilities, and an adjustment for the current interest rate during the cost recovery period of the reimbursement

agreement. The amount of the reimbursement to be paid shall not exceed the actual cost of the improvement(s) paid by the Developer, plus reasonable interest, as agreed to by the City and the Developer.

a) After the improvements are constructed by the Developer and Final Acceptance is issued by the City, the Developer shall submit to the City Manager, or the Manager's designee, within ninety (90) days from Final Acceptance for review and approval, documentation of the actual costs of these off-site improvements and a proposed plan for recovery of those costs, including the following:
   1. Final invoices from all contractors, subcontractors, engineers, architects, and consultants, which contain a description of work done, prices, fees, and all charges invoiced and paid for by the Developer, unless previously submitted;
   2. Copies of paid receipts or other satisfactory evidence of payment of the costs claimed for the improvement(s), unless previously submitted;
   3. A verified statement from the Developer and/or contractor, subcontractor, engineer, architect, or consultant certifying that final payment has been paid and/or received;
   4. As-built map or plan satisfactory to the City which shows:
      a. The location of the improvement(s) as constructed, unless previously submitted;
      b. The name and address of the owner of each property which the Developer asserts has or will be benefited by the improvement(s);
      c. The amount of frontage each property has adjacent to the improvement(s);
      d. The acreage and parcel number of each property, which the Developer asserts has or will be benefited by the improvement(s);
      e. A reference to the book and page and/or reception number from the county records where the information for each property was obtained;
      f. A proposed manner by which the actual costs of the improvement(s) will be determined for reimbursement by the owners and/or developers of the benefited properties; and
      g. Any other information deemed necessary by the City Manager, or the Manager's designee.
   5. If the foregoing information is not submitted by the Developer within the ninety (90) days after Final Acceptance, then all rights and claims for reimbursement shall be deemed waived, and reimbursement will thereafter be denied. If the information is submitted in a timely manner, the City Manager, or the Manager's designee, will review it and, if approved as submitted or modified by the City Manager, prepare a reimbursement agreement to be signed by the Developer and the City Manager. If the Developer fails or refuses to sign the reimbursement agreement with the City within thirty (30) days of preparation by the City Manager, then all rights and claims for reimbursement shall be deemed waived, and reimbursement will thereafter be denied.

b). The City Manager, or the Manager's designee, will review the reimbursement materials and plan for reasonableness and appropriateness of the costs claimed and the proposed cost recovery plan, and may request further documentation for any such costs. The City Manager, or the Manager's designee, may make such adjustments, as the Manager or the Manager's designee, in their sole discretion, determines to be necessary if the costs are deemed to be in excess of reasonable and necessary costs at then prevailing rates and/or

the proposed cost recovery plan is not appropriate or reasonable. If the City Manager, or the Manager's designee, does not notify the Developer in writing of any adjustments thereto within thirty (30) days after the materials and proposed plan were submitted, or if backup documentation is requested within thirty (30) days, within thirty (30) days after the requested back up documentation is submitted, then the costs and the recovery plan will be deemed approved as submitted and a reimbursement agreement shall prepared and executed as provided in subsection 5. Above.

c). The reimbursement agreement shall include, but not be limited to:

1. A description of the improvement(s) for which the Developer will be reimbursed;
2. A recitation of all reimbursable costs;
3. A list of properties, owners and descriptions that are or will be benefited by the improvement(s);
4. The manner or formula that will be applied to determine the amount of reimbursement owed by the owners or developers of benefited properties;
5. Property owners and/or developers submitting plats or development plans for the identified benefited properties shall pay the required sums directly to the Developer before a final plat for any portion of their property is approved or recorded;
6. The City agrees not to approve a proposed development, approve or record a final subdivision plat, or issue a building permit for an identified benefited property, until the payments are made to the Developer or a reimbursement agreement between the original Developer and benefited landowner, developer or other person has been executed, but assumes no responsibility therefore and hereby assigns to Developer the right, if any, for collecting the reimbursements from the benefited property owners and/or developers. If the benefited landowner, developer or other person fails or refuses to pay the reimbursement costs or execute the reimbursement agreement which reflects the reimbursement agreement terms with the City within sixty (60) days of submission of the agreement, no further approvals shall be granted by the City as more specifically set forth in Sections 3.4 and 3.5.
7. The term of any reimbursement agreement, established hereunder, shall not exceed fifteen (15) from Final Acceptance, regardless of whether or not the original costs have been fully reimbursed;
8. The books and records of the Developer, relating to the actual costs of the improvement(s) for which the Developer seeks reimbursement, shall be open to the City at all reasonable times for the purpose of auditing and verifying the Developer's costs.

d). The Developer will be responsible for notifying all property owners who will be affected by the reimbursement agreement, by regular mail, postage prepaid, that a reimbursement request, which may affect their property, has been submitted to the City Manager within 30 days of submission of the request to the City Manager.

e). It is the responsibility of the Developer or its successors or assigns to notify the City in writing of any changes in address for notices and other matters under Section 3.5 of this Agreement. Upon receipt of an application for development of a benefited property, the City shall mail a notice of application for development, building permit or final plat, to the Developer, its successors or assigns by regular mail to the Developer, successor or assign's last known address provided to the City. If no response is received within thirty (30) days

after the date of the notice, then the City shall be authorized to approve the application for approval of the development, building permit, or final plat and release the owner, developer or other person of the benefited property from further reimbursement obligations and the Developer, its successor or assign will forfeit all rights to reimbursement from the owner and/or developer of the specified property.

3.6 Reimbursement - Shared Improvements. Construction of shared improvements and related facilities may be achieved according to a reimbursement agreement whereby owner(s) of property abutting or benefited by such improvements agree to reimburse the Developer for their proportionate share of Developer's costs to extend improvements which benefit such benefited property, in a form and content acceptable to the City Manager or the Manager's designee.

A. The Developer agrees to use its best efforts and work in good faith to reach an agreement regarding reimbursement for such shared improvements, and assumes sole responsibility for the administration and collection of any and all moneys payable under shared improvements reimbursement agreement(s). A fully executed shared improvements reimbursement agreement shall be a condition precedent to the City's approval of an application for development, building permit, or approval and recording of a final plat, related to the benefited property subject to such reimbursement agreement(s).
B. If the Developer is unable to secure a fully executed shared improvements reimbursement agreement prior to the issuance of Final Acceptance, the City may set the amount of the reimbursement obligation as provided in Section 3.5 of this Agreement.
C. The cost recovery period in a shared improvement reimbursement obligation shall not exceed fifteen (15) years following the Final Acceptance of such improvement(s).

SECTION 4
STREET IMPROVEMENTS

4.1 Definitions. For the purposes of this Agreement, "street improvements" shall be defined to include, where applicable, but not limited to, all improvements within the right-of-way, such as bridges, sub-base preparation, road base, asphalt, concrete, seal coat, curb and gutter, medians, entryways, underground utilities, sidewalks, bicycle paths, traffic signs, street lighting, street name signs, landscaping, and drainage improvements.

4.2 Street Signs, Traffic Signs and Striping. The Developer will install, at the Developer's expense, street name signs on local, collector, and arterial streets, and stop signs, speed limit, and other signs on local streets. Developer shall install, at its expense, signs and striping on collector and arterial streets in a manner reasonably approved by the City and in accordance with the *CDOT Manual on Uniform Traffic Control Devices*, as from time to time amended, and other applicable legal requirements.

4.3 Streets. All internal and external streets shall be constructed in accordance with the City of Brighton's approved *Transportation Master Plan and Public Works Standards and Specifications*, as the same be amended from time to time, and the approved construction Plans,

and shall be constructed in accordance with the Public Improvements Phasing Plan, as set forth in **Exhibit B**.

SECTION 5
PUBLIC LAND CONVEYANCE AND LANDSCAPING

5.1 Public Land Conveyance. Developer shall convey to the City all lands for public use as shown in the Final Plat(s), such as described in **Exhibit D**. Such lands for public use shall be s set forth on the Final Plat for all or any portion of the Development is approved by the City and before any such Final Plat is recorded. No Final Plat(s) shall be recorded or implemented until said conveyance is complete. Said conveyances shall be by special warranty deed in form and substance satisfactory to the City Attorney. As part of its application for a final plat for all or any portion of the Development, the Developer shall also furnish, at its own expense, an ALTA title commitment, for all interest(s) to be conveyed, subject to approval by the City Attorney. The City shall accept for public use only those lands which, pursuant to the title commitment, are free and clear of all liens, taxes, and encumbrances, except for ad valorem real property taxes for the current year and thereafter. The City shall not accept lands for public use with encumbrances, either surface or underground, as revealed on the title commitment or upon physical inspection, which limit the property for its intended public use. The Developer shall, at its sole expense, cause a title policy in conformance herewith to be delivered to the City at the time of the conveyance.

5.2 Landscape Improvements. For public lands and rights-of-way, Developer shall furnish to the City complete final landscape and irrigation plans for each Phase of development and obtain approval by the City Manager or the Manager's designee prior to commencement of construction.

SECTION 6
WATER MAINS

6.1 Specifications. All water mains, lines, and appurtenances thereto shall be constructed and installed, at the minimum, pursuant to City-approved plans, specifications, and the Schedule of Improvements, attached hereto as **Exhibit B**, including both on-site and off-site improvements.

SECTION 7
SEWER LINES

7.1 Specifications. All sewer lines and appurtenances thereto shall be constructed and installed, at the minimum, pursuant to City-approved plans, specifications and the Schedule of Improvements, attached hereto as **Exhibit B**, including both on-site and off-site improvements.

SECTION 8
OTHER IMPROVEMENTS

8.1 Street Lights. The total cost of street light installation, as shown on the approved construction plans for the Development, shall be the Developer's obligation. Developer shall cause,

at its own expense, United Power, or the applicable utility company, to install all required street lighting pursuant to City plans and specifications. Said streetlights shall be consistent with the City standard streetlight and shall be installed concurrently with the streets on which they are located unless otherwise approved or required by the City.

8.2 Drainage and Stormwater Improvements. Drainage and stormwater improvements, both on-site and off-site, required to provide for, and proper to reasonably regulate, stormwater facilities for the proper drainage and control of flood and surface waters within the Development in order that storm and surface water may be properly drained and controlled, pollution may be reduced, and the environment protected and enhanced shall be constructed by Developer pursuant to Chapter 14, *Storm Drainage,* BMC, all applicable state and federal stormwater regulations, as additionally described in **Exhibit H**, and all City-approved plans, specifications and the Schedule of Improvements, attached hereto as **Exhibit B**. Developer shall initiate no overlot grading until the City approves drainage improvement plans in writing and a permit is issued therefore. Drainage improvements shall not cause any damage to adjacent or downstream properties resulting from erosion, flood, or environmental impact during construction and/or after construction completion. Drainage improvements not constructed by the Developer and specific for each lot shall be constructed by the owner of said lot, at the minimum, in accordance with plans approved at the time of Plat approval. Said plans shall conform to the City's then-existing drainage, stormwater and floodplain regulations.

8.3 Post-Construction Stormwater Management. Post-construction stormwater management by the Developer shall comply with Chapter 14-8 Storm Drainage, BMC, as additionally described in **Exhibit H and attachments H1-H4**. All private drainage facilities shall be operated, repaired, maintained, and replaced by the Developer according to the Maintenance Agreement for Private Drainage Structures, **Exhibit H and attachments H1-H4** to ensure facilities continue serving their intended function in perpetuity, unless or until the City relieves the Developer of that responsibility in writing. The Developer shall ensure access to drainage facilities at the site for the purpose of inspection and repair.

SECTION 9
SPECIAL PROVISIONS

9.1 Special Provisions. Special provisions regarding the Development are described in **Exhibit G** of this Agreement, attached hereto and incorporated herein by this reference.

SECTION 10
MISCELLANEOUS TERMS

10.1 Breach of Agreement. In the event that the Developer should fail to timely comply with any of the terms, conditions, covenants, and undertakings of this Agreement, or any provisions of the Brighton Municipal Code related to development, and if such noncompliance is not cured and brought into compliance within thirty (30) days of written notice of breach of the Developer by

the City, unless the City in writing and in its sole discretion designates a longer period, then the City may draw upon the Improvement Guarantee and complete the Improvements at the Developer's expense. The Developer's expense shall be limited to the costs incurred by the City, as defined herein. Notice by the City to the Developer will specify the conditions of default. In the event that no Improvement Guarantee has been posted, or the Improvement Guarantee has been exhausted or is insufficient, then the City has the right to begin work on the Improvements at the expense of the Developer. If the City determines in its sole discretion that an emergency exists, such that the improvement must be completed in less than seven (7) days, the City may immediately draw upon the Improvement Guarantee and may complete the Improvements at Developer's expense. If the event the Improvement Guarantee is not available or is in an insufficient amount; the City shall use its best efforts to notify Developer at the earliest practical date and time. The City may also, during the cure period and until completion of the improvements in compliance with this Agreement, withhold any additional infrastructure permits, building permits, certificates of occupancy, or provision of new utilities fixtures or services. Nothing herein shall be construed to limit the City from pursuing any other remedy at law or inequity, which may be appropriate under City, state, or federal law. Failure to timely complete construction of Improvements, which is solely due to inclement weather, shall not be considered a breach of this Agreement. All costs incurred by the City, including, but not limited to, administrative costs and reasonable attorney's fees, in pursuit of any remedies due to the breach by the Developer, shall be the responsibility of the Developer. The City may deduct these costs from the Improvement Guarantee and seek indemnification and reimbursement from the Developer if the Improvement Guarantee does not cover the same.

10.2 Recording of Agreement. The City shall record this Agreement at Developer's expense in the office of the Clerk and Recorder in Weld County, Colorado, and the City shall retain the recorded Agreement.

10.3 Binding Effect of Agreement. This Agreement shall run with the land included within the Development and shall inure to benefit of and be binding upon the successors and assigns of the parties hereto.

10.4 Assignment, Delegation and Notice. Developer shall provide to the City, for approval, written notice of any proposed transfer of title to any portion of the Property and of the Development Agreement obligations to any successor, as well as arrangements, if any, for delegation of the Improvement obligations hereunder. Developer and its successors and assigns shall, until written City approval of the transfer of title and delegation of obligations, be jointly and severally liable for the obligations of Developer under this Agreement.

10.5 Modification and Waiver. No modification of the terms of this Agreement shall be valid unless in writing and executed with the same formality as this Agreement, and no waiver of the breach of the provisions of any section of this Agreement shall be construed as a waiver of any subsequent breach of the same section or any other sections which are contained herein.

10.6 Addresses for Notice. Any notice or communication required or permitted hereunder shall be given in writing and shall be personally delivered, or sent by United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed as follows:

If to the City:
City of Brighton
City Manager
500 South 4th Avenue
Brighton, CO 80601

If to the Developer:

With a copy to:
City Attorney Margaret R. Brubaker
Mehaffy Brubaker & Ernst, LLC
21 North 1st Avenue, Suite 290
Brighton, CO 80601

or to such other address or the attention of such person(s) as hereafter designated in writing by the applicable parties in conformance with this procedure. Notices shall be effective upon mailing or personal delivery in compliance with this paragraph.

10.7 Force Majeure. Whenever Developer is required to complete construction, maintenance, repair, or replacement of improvements by an agreed-upon deadline, the time for performance shall be extended for a reasonable period if the performance cannot as a practical matter be completed in a timely manner due to Acts of God or other circumstances constituting force majeure or beyond the reasonable control of Developer.

10.8 Approvals. Whenever approval or acceptance of a matter is required or requested of the City, pursuant to any provisions of the Agreement, the City shall act reasonably in responding to such matter.

10.9 Previous Agreements. All previous written and recorded agreements, between the Parties, their successors, and assigns, including, but not limited to, any amended and restated Annexation Agreement, shall remain in full force and effect and shall control this Development. If any prior agreements conflict with this Agreement, then this Agreement controls.

10.10 Title and Authority. Developer warrants to the City that it is the record owner for the Property within the Development or is acting in accordance with the currently valid and unrevoked power of attorney of the record owner hereto attached. The undersigned further warrant having full power and authority to enter into this Agreement.

10.11 Severability. This Agreement is to be governed and construed according to the laws of the State of Colorado. In the event that upon request of Developer or any agent thereof, any provision of the Agreement is held to be violate of the city, state, or federal laws and hereby rendered

unenforceable, the City, in its sole discretion, may determine whether the remaining provisions will or will not remain in force.

10.12 Agreement Status After Final Acceptance. Upon Final Acceptance by the City of all improvements and compliance by Developer with all terms and conditions of this Agreement, and provided that no litigation or claim is pending relating to this Agreement, and the applicable statute of limitations has tolled for any potential claim, this Agreement shall no longer be in effect.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officials to place their hands and seals upon this Agreement the day and year first above written.

[Signatures begin on the next page]

DEVELOPER:

Signature: Gabriela Guzman
By: Gabriela Guzman

STATE OF COLORADO)
) ss.
COUNTY OF Adams)

The foregoing instrument was acknowledged before me this 23rd day of May, 2018, by Gabriela Guzman.

WITNESS my hand and official seal.

DENNIS L YOUNG
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19944018982
MY COMMISSION EXPIRES JUNE 28, 2020

Dennis L Young
Notary Public
My commission expires: 06/28/2020

CITY OF BRIGHTON, COLORADO

By: _____
Kenneth J. Kreuzer, Mayor

ATTEST:

_____
Natalie Hoel, City Clerk

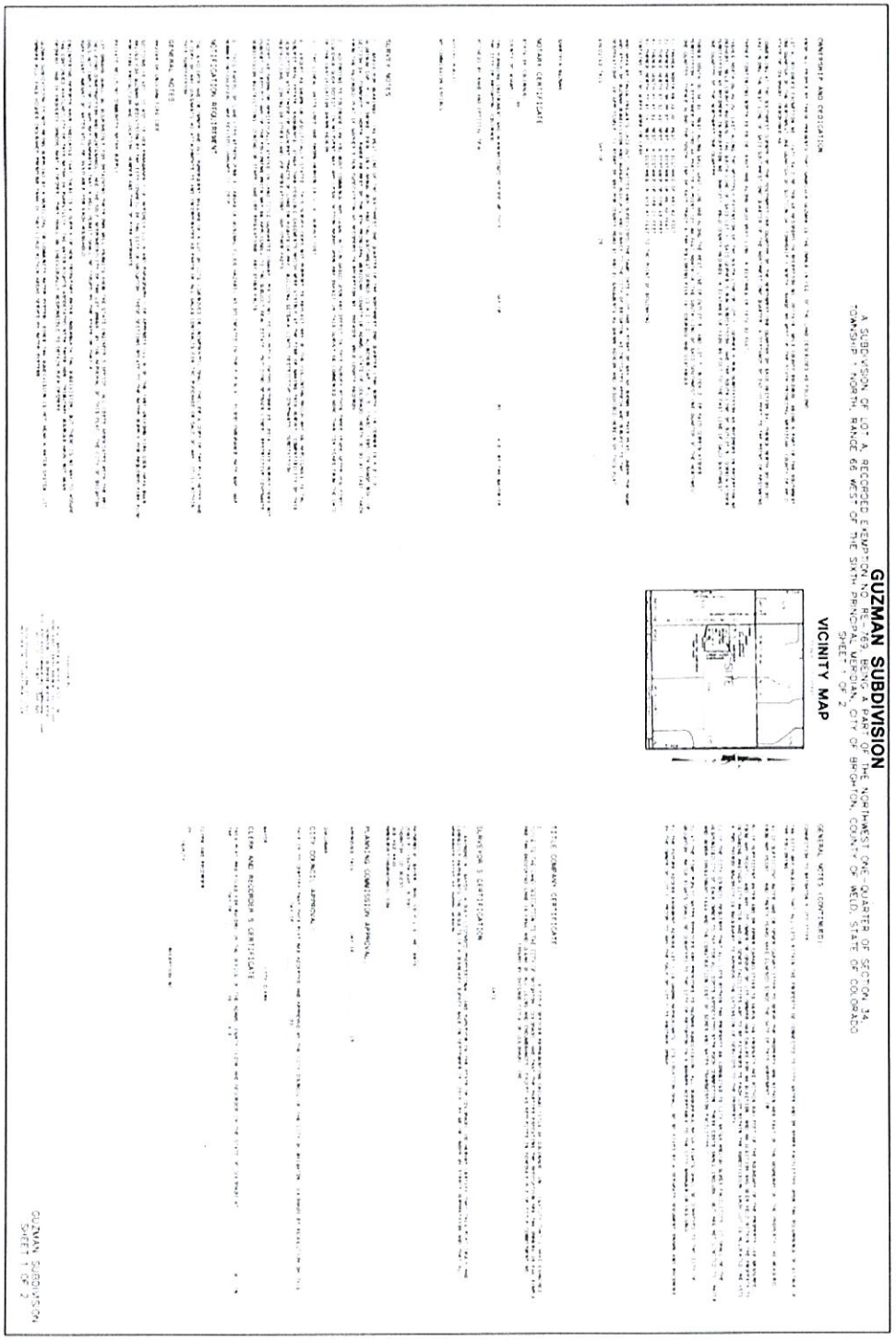
Approved as to Form:

_____

Margaret R. Brubaker, City Attorney

EXHIBIT A

GUZMAN SUBDIVISION



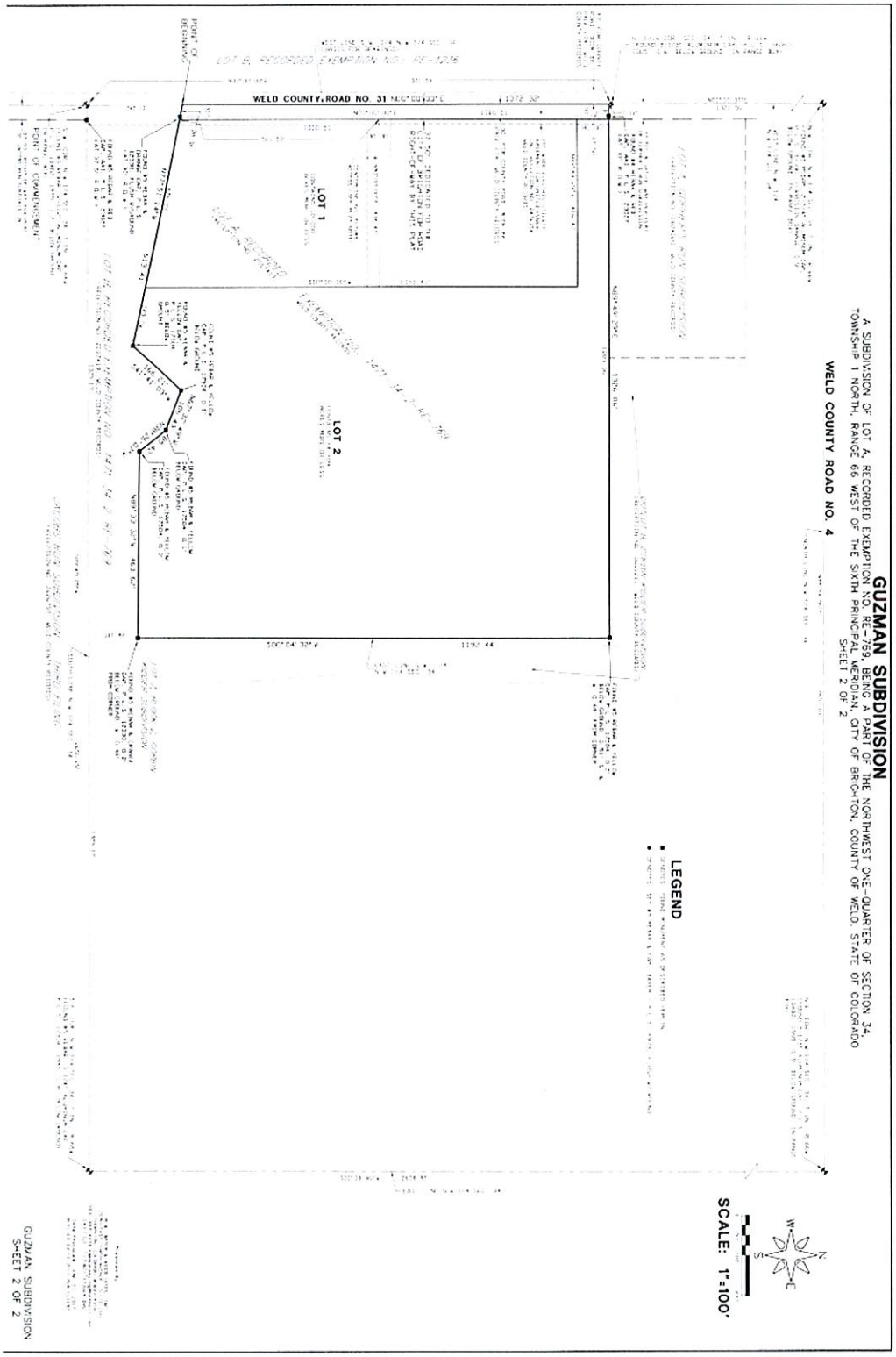

GUZMAN SUBDIVISION
A SUBDIVISION OF LOT A, RECORDED EXEMPTION NO. RE-769, BEING A PART OF THE NORTHWEST ONE-QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF BRIGHTON, COUNTY OF WELD, STATE OF COLORADO
SHEET 2 OF 2
WELD COUNTY ROAD NO. 4
WELD COUNTY ROAD NO. 31
LOT 1
LOT 2
LEGEND
SCALE: 1"=100'
GUZMAN SUBDIVISION
SHEET 2 OF 2

EXHIBIT B

SCHEDULE OF PUBLIC IMPROVEMENTS AND PHASING PLAN

Public Improvements to the Weld County Road 31 roadway corridor are required in association with the development of the Guzman Subdivision. The Schedule of Public Improvements for the Guzman Subdivision specifically includes widening the rural road section and adding a detached multi-use sidewalk, with the extended costs itemized below.

Public improvements will be implemented in the future, at a time to be determined by the City of Brighton. The City may determine to implement the Public Improvements in a single phase or according to a future plan for multiple phases.

This Schedule of Public Improvements allocates financial responsibility for the Public Improvements between the Owner/Developer of Lot 1 and the Owner/Developer of Lot 2. The use of this Schedule of Public Improvements for the assessment and timing of a fee-in-lieu, collateral, or other financial guarantee is governed by Exhibit G.

Public Improvement Costs:

Lot 1 - $128,553.00
Rural Road Section (1,000.5 feet)
Add lane (12 ft. wide)

- Prep and grade
- Place roadbase
- Place asphalt pavement

Lot 2 - $10,284.24
Rural Road Section (80.0 feet)
Add lane (12 ft. wide)

- Prep and grade
- Place roadbase
- Place asphalt pavement

EXHIBIT C

IRREVOCABLE LETTER OF CREDIT FORM

This form serves as an example of Irrevocable Letter of Credit terms which the City of Brighton will accept. Although acceptable letters of credit terms may vary, the City will approve only letters of credit which comply with the requirements of the City's Development/Subdivision/Annexation Agreements. The City will not accept any Letter of Credit forms provided by lending institutions if they do not comply with the provisions of the City's identified Agreements, or if they impose undue restrictions on the City's ability to draw on the Letter of Credit for the purposes stated in the specified Agreement.

LENDER'S
LETTERHEAD

TO: City of Brighton, Colorado
500 South 4th Avenue
Brighton, CO 80601

Letter of Credit #: _____
Issuing Bank: _____
Date of Issue: _____
Expiration Date: _____
Amount: _____

Greetings:

We hereby establish this Irrevocable Letter of Credit in your favor for an amount up to the aggregate sum of _____ dollars ($_____), which is available against presentation of your draft or drafts drawn on us at sight for the account of _____ (Developer/Customer), to guarantee the construction of the required improvements, warranties, and satisfactory compliance of _____ (Developer/Customer) with the terms and conditions of the Agreement between the City and the Developer/Customer.

Partial drawings are permitted.

The sole condition for payment of any draft drawn under this Letter of Credit is that the draft be accompanied by a letter, on the City's letterhead, signed by the City Manager, stating the (Developer/Customer), its successor, transferee, or assign, has failed to perform in accordance with the _____ Agreement dated _____.

Demands for payment by the City pursuant to this Letter of Credit shall be deemed timely if deposited in the U.S. mail prior to its date of expiration, affixed with first-class postage, and addressed to the above letterhead address.

This Letter of Credit shall have an initial term of one (1) year from its Date of Issue, but shall be deemed automatically extended without amendment or other action by either party for additional periods of one year from the present or any future expiration date hereof, unless we provide the City with written notice, by certified mail, return receipt requested, at least ninety (90) days prior to the expiration date, that we do not wish to extend this Letter of Credit for an additional period. After receipt by the City of such notice, the City may draw hereunder, on or before the then-applicable expiration date, and for the then-remaining available amount by means of the City's sight draft, accompanied by a letter, on the City's letterhead, signed by the City Manager, stating the following:

> *We are in receipt of written notice from (NAME OF BANK) of its election not to renew its Letter of Credit No. _____ for an additional term of one (1) year and (Developer/Customer), its successor, transferee, or assign, is still obligated to the City under the _____ Agreement, and an acceptable replacement Letter of Credit has not been received.*

We hereby agree with the City that:

(A) Such drafts will be processed in good faith and duly honored upon presentation to us;

(B) The exclusive venue for any action concerning this Letter of Credit shall be the District Court for **Weld** County, Colorado;

(C) The procedural and substantive laws of the State of Colorado shall apply to any such action;

(D) In the event it becomes necessary for the City to bring an action to enforce the terms of this Letter of Credit, or any action alleging wrongful dishonor of this Letter of Credit, and the City prevails in such action, the City shall be entitled to recover its reasonable attorney's fees and all costs and expenses associated with such action;

(E) If we bring an action against the City related directly or indirectly to this Letter of Credit, and the City prevails in such action, the City shall be entitled to recover its reasonable attorney's fees and other costs of such action; and

(F) The amount of funds available under this Letter of Credit may not be reduced except by payment of drafts drawn hereunder, or pursuant to written authorization given to us by the City.

This Letter of Credit is subject to the Uniform Commercial Code of the State of Colorado.

Very truly yours,

(NAME OF BANK)

By:_____
Signature of Authorized Signing Officer

_____
Print Name

STATE OF _____)
) ss
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 20____, by _____, the _____ (position of signatory) at _____ (bank).

My Commission Expires:

_____
Notary Public

SEAL

EXHIBIT D

PUBLIC LAND USE CONVEYANCE

1. **School Site Dedication.** Not required for the Guzman Subdivision, see Exhibit G: Special Provisions.
2. **Community Park Dedication.** Not required for the Guzman Subdivision, see Exhibit G: Special Provisions.
3. **Neighborhood Park Dedication.** Not required for the Guzman Subdivision, see Exhibit G: Special Provisions.
4. **Open Space Dedication.** Not required for the Guzman Subdivision, see Exhibit G: Special Provisions.
5. **Easement Dedication.** Not required for the Guzman Subdivision, see Exhibit G: Special Provisions.
6. **Right – of – Way.** The western 37.5 feet of the Property is dedicated by the Plat to the City for future development of Weld County Road 31.

EXHIBIT E

RESTRICTIVE DRY-UP COVENANT; GRANT OF EASEMENT; WARRANTY OF FIRST RIGHT TO DRY-UP CREDIT; AND AGREEMENT TO ASSIST

[Omitted as inapplicable.]

EXHIBIT F

WATER DEDICATION AGREEMENT

THIS AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 20_____ by and between the CITY OF BRIGHTON, COLORADO, a home rule municipality of the County of **Weld**, State of Colorado (the "City") and Gabriela Guzman (the "Developer").

WHEREAS, Developer is the owner of the Property described in **Exhibit A**, attached hereto and by this reference made a part hereof; and

WHEREAS, in conjunction with the approval of the Final Plat for the Property, DEVELOPER will execute a Development Agreement; and

WHEREAS, as agreed to by the Developer at the time of annexation of the Property, and as required by the regulations and laws of the City, as a condition of Final Plat approval, the Developer must either dedicate acceptable water resources or pay the "without water rights" fee for the Development, as determined at the sole discretion of the City; and

WHEREAS, after reviewing its current inventory of water resources, together with other factors relating to the City's water resource needs, the City has determined that the Developer shall pay the "without water rights" fee.

NOW, THEREFORE, in consideration of the recitals and representations set forth herein, together with other good and sufficient consideration, the PARTIES AGREE AS FOLLOWS:

1. The DEVELOPER will pay at building permit issuance the *"Without Water Rights"* Fee for water taps in the amount as set forth in the City's Annual Fee Resolution, as the same may be amended from time to time, in effect at the time payment is made.

2. This Agreement shall be an attachment to the Guzman Subdivision, and incorporated therein by references.

3. This Agreement is non-transferable and may only be modified or amended in writing, signed by the parties hereto.

4. To the extent permitted by City standards, Developer may apply for building permits based on groundwater wells or other water supply. Nothing in this Agreement shall be construed to compel the use of water taps or payment of water tap fees in circumstances where such water taps are not physically required.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to place their hands and seals upon this Agreement the day and year first above written.

DEVELOPER:

Gabriela Guzman

By: Gabriela Guzman

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 23rd day of May, 2018,

Gabriela Guzman

By:

WITNESS my hand and official seal:

DENNIS L YOUNG
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19944018982
MY COMMISSION EXPIRES JUNE 28, 2020

Dennis L Young

Notary Public

My commission expires: 06/28/2020

CITY OF BRIGHTON, COLORADO

_____

By: Kenneth J. Kreutzer, Mayor

ATTEST:

_____

Natalie Hoel, City Clerk

Approved as to Form:

_____

Margaret R. Brubaker, City Attorney

EXHIBIT G

SPECIAL PROVISIONS

THE FOLLOWING SPECIAL PROVISIONS ARE HEREBY ATTACHED TO AND MADE A PART OF THAT CERTAIN **GUZMAN SUBDIVISION DEVELOPMENT AGREEMENT**, BETWEEN THE CITY OF BRIGHTON, COLORADO, AND **GABRIELA GUZMAN**. SHOULD THERE BE ANY CONFLICT BETWEEN THE DEVELOPMENT AGREEMENT AND THE SPECIAL PROVISIONS SET FORTH IN THIS **EXHIBIT G**, THE TERMS OF THIS **EXHIBIT G** SHALL CONTROL.

1. **Definitions.** The following terms and definitions shall apply to this Exhibit G, Special Provisions:
   A. The term "Civil Engineering Documents" may refer to: Civil Plans, Civil Construction Plans, Construction Plans, or any of the aforementioned combinations with the word 'Drawings' replacing the word 'Plans'; and shall mean any graphic representation of the following: Demolition Plans, Grading Plans, Drainage Plans, Water System Plans, Sanitary Sewer Plans, Streets Plans, or any combination thereof. This list is not exhaustive and shall include all plans and reports included within the scope of Civil Engineering.
   B. The term, "Common-Interest Management Association" shall mean a Home Owners Association (HOA) or other entity legally established for the purpose of owning and maintaining privately owned common-interest areas and infrastructure that are not maintained by individual property owners or by the City. These common areas may include recreational amenities, parks, walkways, trails, drainage facilities, common area landscape tracts, subdivision signs, common area fencing, or any other privately owned common-interest areas and infrastructure that are not owned and maintained by individual property owners or the City. Common-Interest Management Associations may also provide common-interest services such as mail kiosks, trash collection, snow plowing, and other common-interest services that are not performed by individual property owners or the City.
   C. The term "Owner" as used in this Agreement shall mean ***Gabriela Guzman,*** her successors, assigns and designees.
   D. The term "Developer" as used in this Agreement shall mean ***Gabriela Guzman,*** her successors, assigns, and designees.

2. **Temporary Uses.** Temporary Uses refers to, but is not limited to, a temporary sales office, temporary construction office, and construction yard. Temporary uses are allowed, with a City approved temporary use permit, for a period of one year, with renewal after that year as determined by the Director of Community Development.

3. **City Regulations.** Developer agrees to develop the Property in conformance with any and all City Regulations, as outlined in Chapter 17 of the City's Municipal Code and/or

Ordinances, as the same may be subsequently amended from time to time and the Public Works Design and Construction Standards and Specifications Manual, current edition.

4. **Trails Construction.** Owner/Developer of Lot 1, at its sole cost and expense, shall submit a Schedule of Improvements including construction to completion all of the trails within and adjacent to the Development along County Road 31, and shall also escrow the cost to construct to completion such trails. Said Owner/Developer shall receive written acceptance thereof from the City, prior to, and as a condition precedent to, the issuance of any residential building permit for Lot 1, or Certificate of Occupancy for any uses, and in accordance with the City approved Final Plats, Open Space Plans, Construction Plans, and applicable City specifications in effect at the time of construction.

5. **Construction of County Road 31; Uses of Lot 1.** Owner/Developer of Lot 1, at its sole cost and expense, shall submit construction plans and a Schedule of Improvements to construct to completion of County Road 31, to the standards of a collector or the designation on the Brighton Transportation Master Plan (or subsequent Plan) and as indicated on the approved Final Plats, Construction Plans, Open Space Plans, and other applicable City of Brighton specifications in effect at the time of any improvement to Lot 1 other than for agricultural purposes as defined in the Land Use and Development Code as farming, including plowing, tillage, cropping, installation of best management practices, seeding, cultivating and harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); the grazing and raising of livestock (except in feedlots); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise. Said Owner/Developer at the time of building permit of Lot 1 may be required to construct the street, at the City of Brighton's discretion; or, alternatively, after consultation with the City of Brighton, the City may require the funds to construct the street, which shall be deposited for escrow with the City of Brighton in lieu of said Owner/Developer's further obligation to design, construct, or install outstanding work on the Schedule of Improvements.

6. **Right of Way Dedication.** Owner/Developer shall dedicate 37.50' of Right of Way to the City of Brighton along County Road 31 along Lots 1 & 2 as shown on the Final Plat.

7. **Public Land Dedication.**
The Property is zoned and platted for residential purposes. The parties acknowledge that additional residential development impacts local schools, parks and open space, and that the Land Use & Development Code requires Developer to contribute in order to mitigate and address such impacts. For this Property, the Developer desires to pay fees in lieu of physical land dedication. At the time of applying for any residential Building Permit for the Property, the Developer shall at its expense pay the following fees in lieu of public land dedication: (i) pursuant to the Fair Contributions IGA; (ii) pursuant to Section 17-20-80 (parks dedication); and (iii) pursuant to Section 17-44-100 (open space dedication). The below fee-in-lieu are listed below.

a. A fee-in-lieu for neighborhood parks shall be paid at the rate of the no land dedication per the adopted fee schedule at the time of building permit.
b. A fee-in-lieu for community parks shall be paid at the rate of the no land dedication per the adopted fee schedule at the time of building permit.
c. No fee-in-lieu is required for open space due to the dedication, as part of the right-of-way, for a trail.

8. **Restrictions Affecting Lot 2.**
Owner/Developer of Lot 2, shall pay a fee-in-lieu for the improvements to County Road 31 prior to the issuance of a building permit for a primary structure for Lot 2 as indicated in Exhibit B.

9. **Future Subdivision.**
Any further subdivision or development of Lots 1 or Lots 2 may be subject to, at the sole discretion of the City, site plan review, a Development Agreement amendment, and/or the potential future dedication of water shares, future public land dedication, and the provision of stormwater and drainage infrastructure, including a Stormwater Facilities Maintenance Agreement, and the Developer's compliance with other regulations in place at the time of any future subdivision or development on the Property triggering site plan review procedures or requirements.