THE VILLAGE AT SOUTHGATE BRIGHTON

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2015 by and between the CITY OF BRIGHTON, COLORADO, a home rule municipality of the County of **Adams,** State of Colorado (the "City") and PFG Acquisitions, LLC, a Colorado Limited Liability Company, authorized to conduct business in the State of Colorado (the "Developer").

WHEREAS, PFG Acquisitions, LLC is the owner of a 79.811 acre parcel of land, more particularly described in **Exhibit A** attached hereto and by this reference made a part hereof; and

WHEREAS, the Developer has submitted a Final Plat (the "Plat"), The Village at Southgate Brighton (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, the City's development regulations require that the public improvement obligations be guaranteed in a form acceptable to the City; and

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

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

SECTION 1
GENERAL CONDITIONS

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

1.2 **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.

1.3 **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, and 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, and estimated cost of each improvement:

- 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

1.4 **Engineering Services.** Developer agrees to furnish, at its sole expense, all necessary engineering services 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.

1.5 **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.

1.6 **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.

1.7 **Plan Submission and Approval.** Developer shall furnish to the City complete plans for all Improvements to be constructed in each Phase of the Development, as defined in Section 1.16 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 plan 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.

1.8 **Construction Acceptance and Warranty.** No later than ten (10) days after construction of all Improvements is completed, Developer shall request inspection of the Improvements 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 all Improvements 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 the Improvements are completed, or prior to a reduction in financial guarantee, whichever occurs earlier. If Developer has not completed the Improvements on or before the completion dates set forth in the Phasing Plan and/or Schedule of Public Improvements provided for in Section 1.16 herein, the City may exercise its rights to secure performance as provided in Section 9.1 of this

Agreement. If the Improvements 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 9.1 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 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 Improvements to be completed are detached sidewalks and/or final asphalt lift for streets within that Phase, provided that a sufficient bond is in place for these remaining Improvements.**

1.9 **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 9.1 of this Agreement.

1.10 **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." 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.

1.11 **Reimbursement to the City.** The City may complete construction, repairs, replacements, or other work for Developer, pursuant to Sections 1.7, 1.8, 1.9 or 1.10 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 9.1 of this Agreement.

1.12 **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.

1.13 **Improvement Guarantees.** Developer shall submit to the City an Improvement Guarantee for all public Improvements related to each phase of the Development. Said guarantee may be in cash, bond, or a letter of credit in a format provided by the City. Said Improvement Guarantee shall include, but not by way of limitation, street construction, landscaping, fencing, streetlights, water, sewer, storm sewer, and drainage improvements. 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 1.12. 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 9.1 of this Agreement, as well as the suspension of the development activities by the City, including but not limited to the issuance of infrastructure permits, building permits, and certificates of occupancy or completion.

1.14 **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 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.

1.15 **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).

1.16 **Phasing.** For purposes of this Agreement, the term "Phase" refers to a designated portion of property in the Development upon which construction of public Improvements (water, sewer, drainage, streets, etc.) occurs at one time. It is anticipated that the Development will be developed sequentially, in Phases, consistent with **Exhibit B**, attached hereto. The City hereby approves Developer's Phasing Plan, 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.

1.17 **Water Dedications.** See **Exhibits E & F.**

SECTION 2
CONSTRUCTION OF IMPROVEMENTS

2.1 **Rights-of-way, Easements, and Permits.** 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 those of record and shall be by Special Warranty Deed in form and substance acceptable to the City Manager or the Manager's designee. 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 Manager or the Manager's designee.

2.2 **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 drawings, plans, and specifications approved by the City prior to construction. 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 9.1 of the Agreement.

2.3 **Utility Coordination and Installation.** In addition to the Improvements described in **Exhibit B**, Developer shall also be responsible for coordination of, and payment for, 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.

2.4 **Reimbursement.** To the extent that roads, water lines, sewer lines, drainage channels, trails, crossings and other related facilities are constructed by Developer, for the benefit of landowners and persons other than Developer, the City, for a period of fifteen (15) years following the completion of construction of such Improvements, shall require other benefited landowners and persons to pay 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 accepted by the City. Property owners and/or developers 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 plat for any portion of their property is recorded. The City agrees not to 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.

2.5 **Reimbursement-City.** To the extent that public improvements are constructed by the Developer, for the benefit of landowners and persons other than the Developer, the City, for a period of fifteen (15) years following the issuance of Final Acceptance of such improvements, shall require other benefited landowners and persons to pay a pro rata reimbursement to the Developer as provided in Section 2.4 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. 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, prepare a reimbursement agreement to be signed by the Developer and the City Manager.

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 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.

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 recorded;
    6. The City agrees not to approve a proposed development; record a final subdivision plat, or issue a building permit for an identified benefited property until the payments are made to the Developer, 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. Reimbursement of the Developer's costs is contingent on actual collection of the front foot charge by the Developer;
    7. The term of any reimbursement agreement, established hereunder, shall not exceed fifteen (15) years 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.

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 2.5 of this Agreement. If the City mails a notice of application for development, building permit or final plat, to the Developer or assigns by regular mail using the Developer, successor or assign's last known address in the City

files, and no response is received within thirty (30) days, then the City shall be authorized to approve the application for approval of the development, building permit, or final plat and release the owner or developer of the benefited property from further reimbursement obligations and the Developer will forfeit all rights to reimbursement from the owner and/or developer of the specified property.

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

A. The Developer, successors, and/or assigns agree 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 benefited subject to such reimbursement agreement(s).

B. If the Developer, successors, and/or assigns 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 2.5 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 3
STREET IMPROVEMENTS

3.1 **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.

3.2 **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 Model Traffic Code, as from time to time amended, and other applicable legal requirements.

3.3 **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 Phasing Plan, which is a part of the attached **Exhibit B**.

SECTION 4
PUBLIC LAND CONVEYANCE AND LANDSCAPING

4.1 **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 conveyances shall be made after a 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 Manager or the Manager's designee. As part of its application for a final plat for all or any portion of the Development, the Developer shall provide to the City, for review, a title commitment for all lands designated for public use on the final plat. 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.

4.2 **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. Developer shall furnish a final landscape plan to the City Manager or the Manager's designee for approval prior to installation of any landscape improvements.

SECTION 5
WATER MAINS

5.1 **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 6
SEWER LINES

6.1 **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 7
OTHER IMPROVEMENTS

7.1 **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.

7.2 **Drainage Improvements.** Drainage improvements designed to reduce stormwater flows and minimize pollutants in urban runoff within the Development shall be constructed by Developer and, at the minimum, in accordance with plans and specifications approved by the City. Developer shall initiate no overlot grading until the City approves drainage improvement plans in writing. 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 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 floodplain regulations. Developer shall furnish copies of approved plans to subsequent purchasers (other than homeowners) of all lots within the Development.

7.3 **Stormwater Management During Construction.** The Development shall be constructed in accordance to City of Brighton Municipal Code Chapter 14-2 Storm Drainage Ordinance and all applicable state and federal stormwater regulations, as additionally described in **Exhibit H.**

7.4 **Post-Construction Stormwater Management.** The Developer must comply with the City of Brighton Municipal Code Chapter 14-8 Storm Drainage Ordinance, as additionally described in **Exhibit H**. All private drainage facilities shall be operated, repaired, maintained, and replaced by the Developer according to the Maintenance Agreement for Private Drainage Structures 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 8
SPECIAL PROVISIONS

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

SECTION 9
MISCELLANEOUS TERMS

9.1 **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 Improvement Guarantee is not available; in such event, 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. Any 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.

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

9.3 **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.

9.4 **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 successor 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.

9.5 **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.

9.6 **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:

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

With a copy to:
Margaret R. Brubaker, Esq.
Mehaffy Brubaker & Ernst, LLC
City Attorney
500 South 4th Avenue
Brighton, CO 80601

Developers:
PFG Acquisitions, LLC
Kevin Amolsch, Manager
10200 West 44th Ave., Suite 220
Wheat Ridge, CO 80033

With a copy to:
Fred Cooke
310 East 5th Street
Loveland, CO 80537

and a copy to:
Cynthia L. Bargell
Visani Bargell LLC
PO Box 2377
Dillon, CO 80435-2377

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.

9.7 **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.

9.8 **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.

9.9 **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.

9.10 **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.

9.11 **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.

9.12 **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: _____
By: Kevin Amolsch, Manager
PFG Acquisitions, LLC

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by _____.

WITNESS my hand and official seal.

_____
Notary Public
My commission expires: _____

CITY OF BRIGHTON, COLORADO

By: _____
Richard N. McLean, Mayor

ATTEST:

_____
Natalie Hoel, City Clerk

Approved as to Form:

_____
Margaret R. Brubaker, City Attorney

EXHIBIT A

THE VILLAGE AT SOUTHGATE BRIGHTON

[Reduced copy of
Final Plat begins: 1 of 9 pages.]

FINAL PLAT

VILLAGE AT SOUTHGATE BRIGHTON

LOCATED IN SECTION 1, T2S, R67W OF THE 6TH P.M., CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

SHEET 1 OF 8

OWNER'S CERTIFICATE

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED BEING THE OWNERS OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 1, TOWNSHIP 2 SOUTH, RANGE 67 WEST, OF THE 6TH P.M., COUNTY OF ADAMS, STATE OF COLORADO, EXCEPT THE RIGHT OF WAY FOR 120TH AVENUE AS DESCRIBED IN ROAD BOOK 2 AT PAGE 593,

SAID PARCEL DESCRIBED ABOVE CONTAINING A TOTAL OF 79.811 ACRES MORE OR LESS.

HAVE LAID OUT AND PLATTED THE SAME AS SHOWN UNDER THE NAME AND STYLE OF VILLAGE AT SOUTHGATE BRIGHTON AND DO HEREBY GRANT TO THE CITY OF BRIGHTON, STATE OF COLORADO, THE USE OF THE UNDERLYING FEE TITLE TO THE RIGHT OF WAY IN, OVER, UNDER AND ACROSS THE PUBLIC WAYS AND LANDS HEREON SHOWN AND NOT PREVIOUSLY DEDICATED. EASEMENTS ARE RESERVED AS SHOWN AND ARE FOR INSTALLATION AND MAINTENANCE OF PUBLIC UTILITIES AND DRAINAGE

EXECUTED THIS _____ DAY OF _____, 2015 BY:

OWNER
PFG ACQUISITIONS, LLC

BY: KEVIN AMOLSCH, MANAGER

COUNTY OF _____)
)SS
STATE OF COLORADO)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2015 BY KEVIN AMOLSCH AS MANAGER OF PFG ACQUISITIONS, LLC.

WITNESS MY HAND AND OFFICIAL SEAL

NOTARY PUBLIC _____

ADDRESS: _____

_____

MY COMMISSION EXPIRES _____

NOTES:

1. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

2. THIS SURVEY DOES NOT CONSTITUTE A TITLE SEARCH BY TAMARACK CONSULTING LLC TO DETERMINE OWNERSHIP OF THE DESCRIBED PROPERTY, EASEMENTS AND ENCUMBRANCES OF RECORD WERE PROVIDED IN TITLE COMMITMENT BY HERITAGE TITLE COMPANY, FILE NUMBER 451-H0357201-286-SCA, AMENDMENT NO. 1, DATED FEB. 13, 2015.

3. BASIS OF BEARINGS: THE WEST LINE OF THE NE¼ OF SECTION 1, T2S, R67W, 6TH P.M. BEARS OF S00°30'46"E AS SHOWN HEREON, GRID BEARINGS – SPC CENTRAL ZONE, NAD 1983, LINEAR DIMENSIONS ARE IN U.S. SURVEY FEET, WITH MODIFIED GROUND COORDINATES.

4. THIS IS TO CERTIFY THAT THIS PLAT OR MAP AND THE SURVEY UPON WHICH IT IS BASED ARE NOT LOCATED WITHIN THE DESIGNATED REGULATORY FLOOD PLAIN AREA PER FIRM MAP FOR ADAMS COUNTY, MAP NUMBER 08001C0337 H, REVISED MARCH 5, 2007, AS PUBLISHED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

5. SIX-FOOT (6') WIDE NON-EXCLUSIVE DRY UTILITY EASEMENTS ARE HEREBY DEDICATED AND CONVEYED ON PRIVATE PROPERTY ADJACENT TO THE FRONT LOT LINES AND EIGHT-FOOT (8') ON THE REAR LOT LINES, WITH FIVE-FOOT (5') WIDE SIDE LOT EASEMENTS WHERE NECESSARY FOR INSTALLATION OF DRY UTILITIES, OF EACH LOT IN THE SUBDIVISION OR PLATTED AREA IDENTIFIED AS SINGLE-FAMILY LOTS. EIGHT-FOOT (8') WIDE, NON-EXCLUSIVE, DRY UTILITY EASEMENTS ARE TO BE GRANTED ON PRIVATE PROPERTY ADJACENT TO ALL PUBLIC STREETS IN THE SUBDIVISION WITHIN LOT 1/BLOCK 3, TRACT A/BLOCK 5, TRACT D/BLOCK 7, AND LOT 15/BLOCK 7. TEN-FOOT (10') WIDE, NON-EXCLUSIVE, DRY UTILITY EASEMENTS ARE TO BE DEDICATED ON PRIVATE PROPERTY ADJACENT TO ALL PUBLIC STREETS, AND AROUND THE PERIMETER OF EACH COMMERCIAL/OFFICE/MULTI-FAMILY LOT IN THE SUBDIVISION OR PLATTED AREA INCLUDING TRACTS, PARCELS, AND/OR OPEN SPACE AREAS. THESE EASEMENTS ARE FOR THE BENEFIT OF THE APPLICABLE UTILITY PROVIDERS FOR THE INSTALLATION, MAINTENANCE AND REPLACEMENT OF ELECTRIC, GAS, TELEVISION, CABLE, AND TELECOMMUNICATIONS FACILITIES (DRY UTILITIES). UTILITY EASEMENTS SHALL ALSO BE GRANTED WITHIN ANY ACCESS EASEMENTS WITHIN THE SUBDIVISION AS FOLLOWS: IN BLOCK 1; TRACT C; BLOCK 2; TRACT E; BLOCK 3; TRACT F; BLOCK 10; TRACT G; BLOCK 11; TRACT H; BLOCK 13; TRACT I; AND TRACT J IN THE SUBDIVISION.

PERMANENT STRUCTURES, IMPROVEMENTS, OBJECTS, BUILDINGS, WELLS, WATER METERS AND OTHER OBJECTS THAT MAY INTERFERE WITH THE UTILITY FACILITIES OR USE THEREOF (INTERFERING OBJECTS) SHALL NOT BE PERMITTED WITHIN SAID UTILITY EASEMENTS AND THE UTILITY PROVIDERS, AS GRANTEES, MAY REMOVE ANY INTERFERING OBJECTS AT NO COST TO SUCH GRANTEES, INCLUDING WITHOUT LIMITATION, VEGETATION. PUBLIC SERVICE COMPANY OF COLORADO (PSCO) AND ITS SUCCESSORS AND ASSIGNS SHALL HAVE THE RIGHT TO REQUIRE THE PROPERTY OWNER TO GRANT PSCO AN EASEMENT ON ITS STANDARD FORM.

6. NON-EXCLUSIVE ACCESS AND DRAINAGE EASEMENTS ARE HEREBY GRANTED TO CITY OF BRIGHTON FOR THE PURPOSE OF ACCESSING, INSPECTING, MAINTAINING, AND REPAIRING PRIVATE DRAINAGE FACILITIES IN THE EVENT THE LAND OWNER, ITS SUCCESSORS, AND ASSIGNS FAIL TO SATISFACTORILY MAINTAIN OR REPAIR SAID FACILITIES.

7. MAINTENANCE OF ALL PRIVATE STORMWATER TREATMENT AND DRAINAGE IMPROVEMENTS CONTAINING EASEMENTS OF THE LANDOWNER, ITS SUCCESSORS AND ASSIGNS, TO ENSURE THE FACILITIES FUNCTION AS DESIGNED AND CONTINUE SERVING THE INTENDED FUNCTIONS IN PERPETUITY, UNLESS THE CITY EXPRESSLY ACCEPTS THE RESPONSIBILITY IN WRITING. EASEMENTS ARE TO BE GRANTED TO THE CITY OF BRIGHTON FOR THE PURPOSES OF ACCESSING, INSPECTING, MAINTAINING AND REPAIRING PRIVATE DRAINAGE FACILITIES IN THE EVENT THE LAND OWNER, ITS SUCCESSORS AND ASSIGNS, INCLUDING ANY HOMEOWNERS ASSOCIATION ESTABLISHED FOR THIS SUBDIVISION, FAILS TO SATISFACTORILY MAINTAIN OR REPAIR SAID FACILITIES.

8. TOTAL NUMBER OF LOTS:
SINGLE FAMILY = 150
MULTIFAMILY OR COMMERCIAL = 2
COMMERCIAL/OFFICE = 2

9. FUTURE STREET CONNECTIONS AT FOLEY ROAD, GATEWAY STREET, SOUTHGATE BOULEVARD, AND MEADOW RUE AVENUE ARE ANTICIPATED.

10. EXISTING TREES IN BLOCK 2 SHALL BE CONSIDERED FOR PRESERVATION WITH THE DESIGN OF THE FINAL DEVELOPMENT PLAN.

SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I WAS IN RESPONSIBLE CHARGE OF THE SURVEY WORK USED IN THE PREPARATION OF THIS PLAT AND THAT ALL BOUNDARY MONUMENTS SHOWN HEREON WERE IN PLACE AS DESCRIBED ON THE ____ DAY OF _____ 2015.

DOUGLAS R. BERUNG, PLS 34594

CITY COUNCIL APPROVAL

THIS IS TO CERTIFY THAT THIS PLAT WAS ACCEPTED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO ON THE _____ DAY OF _____ 2015.

ATTEST: CITY CLERK _____ MAYOR _____

CLERK AND RECORDER'S CERTIFICATE

ACCEPTED FOR FILING IN THE OFFICE OF THE ADAMS COUNTY CLERK AND RECORDER, STATE OF COLORADO.

AT _____ ON THE _____ DAY OF _____, 2015.

CLERK AND RECORDER _____

RECEPTION NO.____

VICINITY MAP

TRACT TABLE

Tract	Area (sq. ft)	Area (acres)	Use	Ownership	Maintained by
A, BLOCK 5	256,547	5.890	DRAINAGE AND LANDSCAPE	METRO DIST	METRO DIST
B, BLOCK 1	15,270	0.351	LANDSCAPE	METRO DIST	METRO DIST
C, BLOCK 2	6,728	0.154	LANDSCAPE	METRO DIST	METRO DIST
D, BLOCK 7	157,875	3.624	PARK	CITY	CITY
LOT 15, BLOCK 7	2,236	0.051	PARK	METRO DIST	METRO DIST
E, BLOCK 8	20,942	0.481	LANDSCAPE	METRO DIST	METRO DIST
F, BLOCK 10	10,421	0.239	LANDSCAPE	METRO DIST	METRO DIST
G, BLOCK 11	35,280	0.810	LANDSCAPE	METRO DIST	METRO DIST
H, BLOCK 13	1,343	0.031	DRAINAGE AND LANDSCAPE	METRO DIST	METRO DIST
I	31,503	0.723	DRAINAGE AND LANDSCAPE	METRO DIST	METRO DIST
J	27,060	0.622	DRAINAGE AND LANDSCAPE	METRO DIST	METRO DIST
Total Tracts	565,234	12.976			

LAND USE TABLE

Type	Area (acres)
RESIDENTIAL	24.858
MULTI-FAMILY	12.718
COMMERCIAL	8.678
R.O.W.	20.582
PARK, LANDSCAPE & DRAINAGE	12.976
Total Tracts	79.812

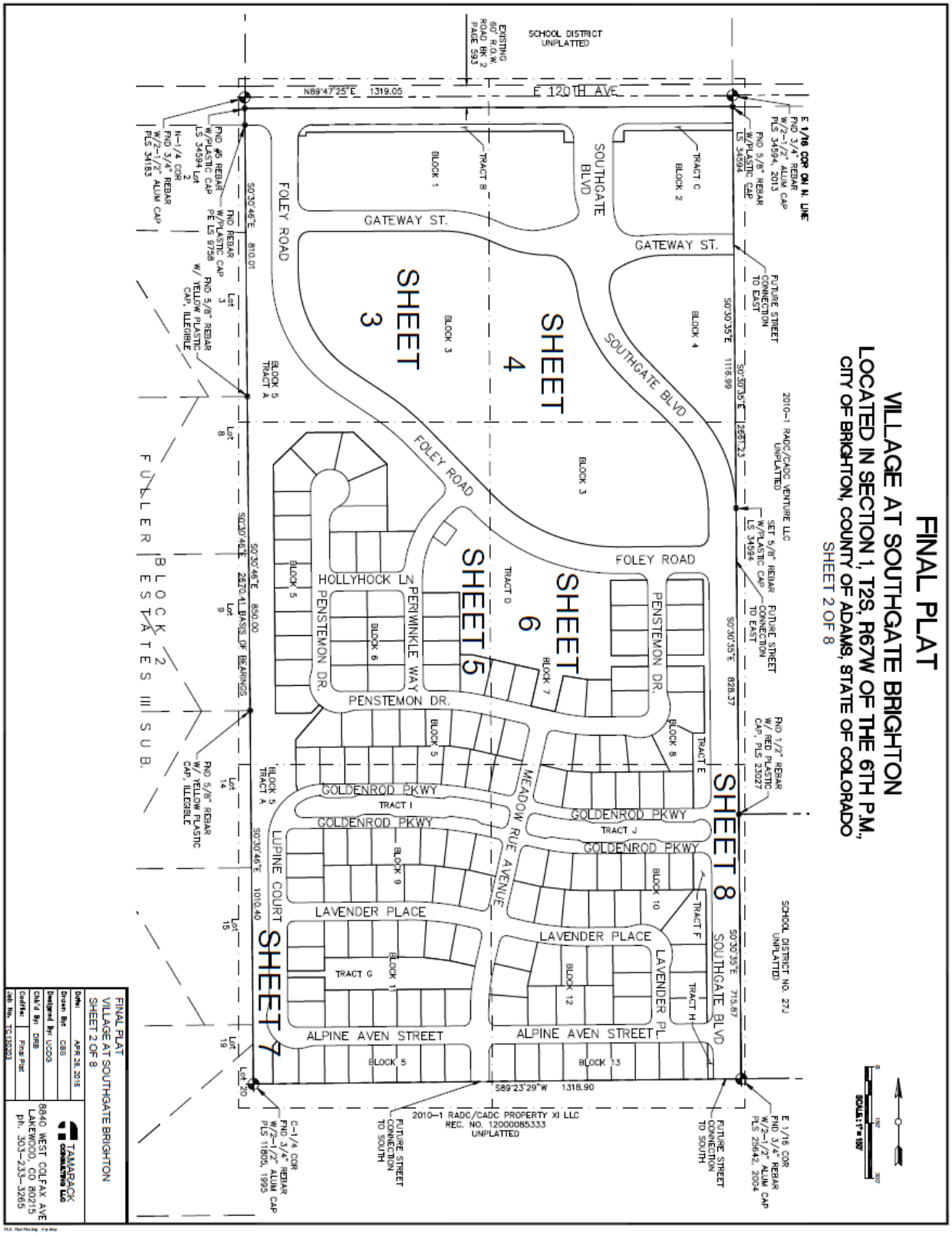
PUBLIC LAND DEDICATION TABLE

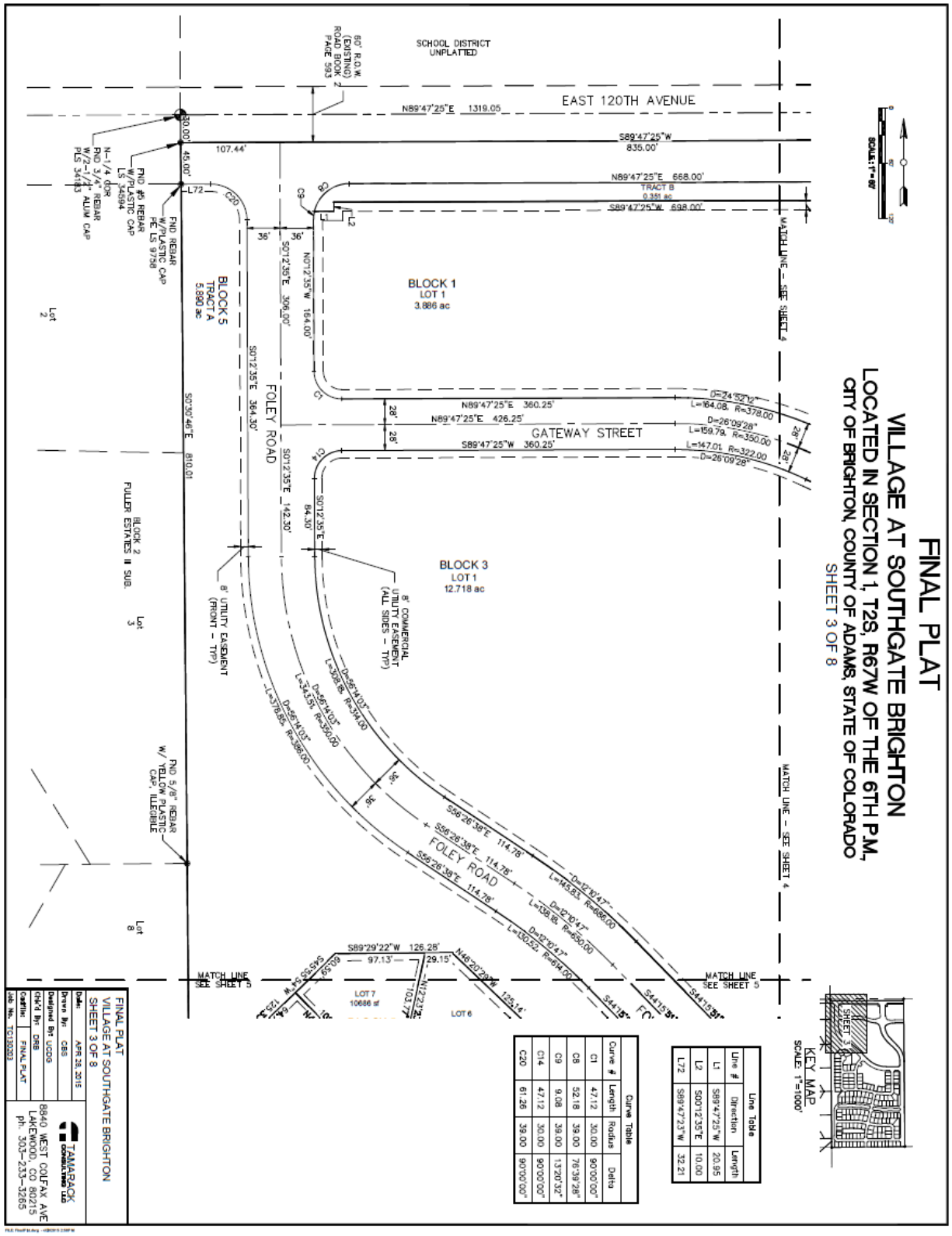
LAND USE TYPE	REQUIRED*	PROVIDED	FEE IN LIEU
OPEN SPACE (OS)	18.20 AC	9.79 AC	8.41 AC
COMMERCIAL	0 AC	0 AC	0 AC
NEIGHBORHOOD PARK	3.64 AC	3.68 AC	0 AC
COMMUNITY PARK	3.64 AC	0 AC	3.64 AC
TOTAL	25.48 AC	13.47 AC	12.05 AC

FINAL PLAT
VILLAGE AT SOUTHGATE BRIGHTON
SHEET 1 OF 8

Date: APR 28, 2015
Drawn By: CBS
Designed By: UCG3
Chk'd By: DRB
Conf/Rel: Final Plat
Job No. TC130303

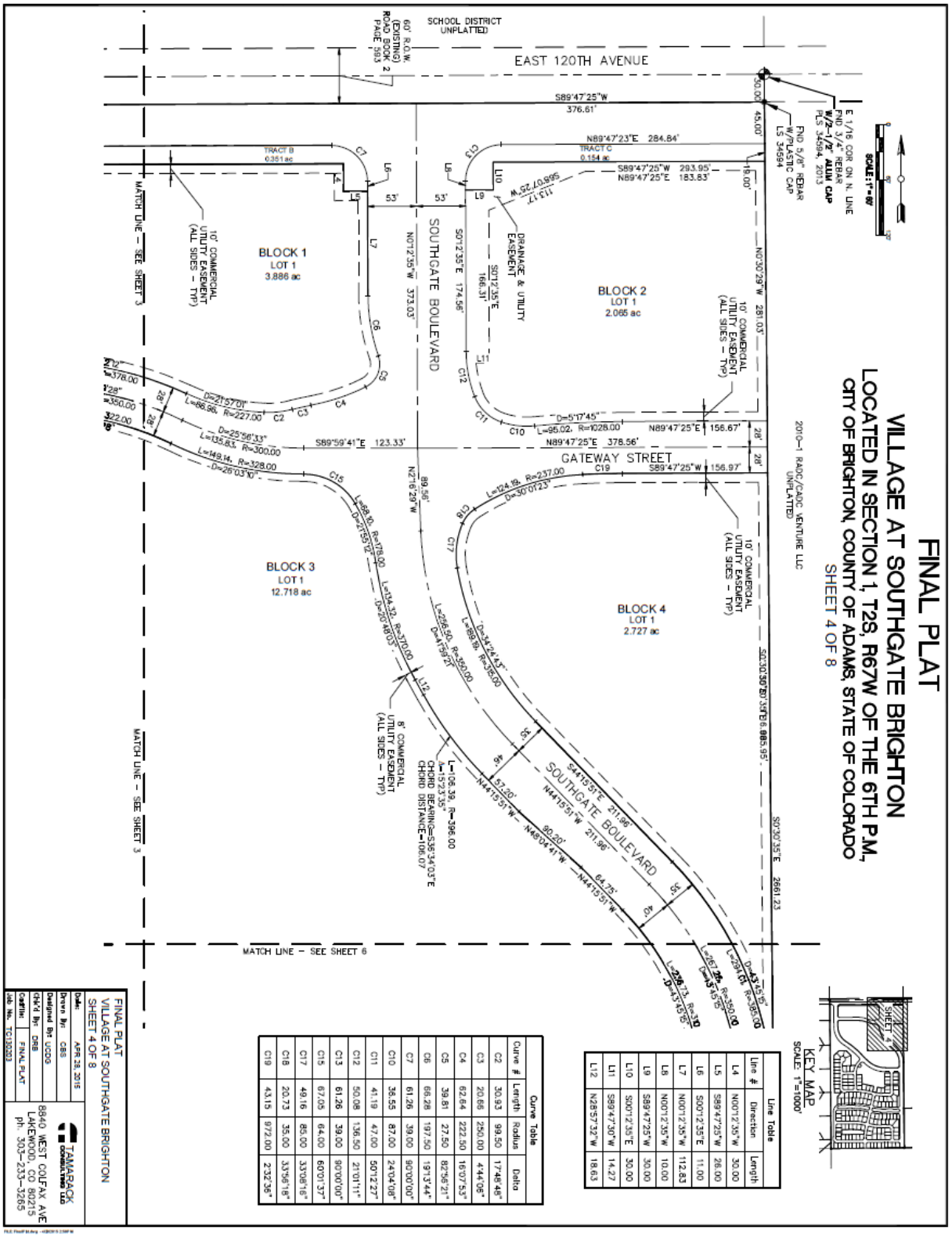
TAMARACK CONSULTING LLC
8840 WEST COLFAX AVE
LAKEWOOD, CO 80215
ph. 303-233-3265

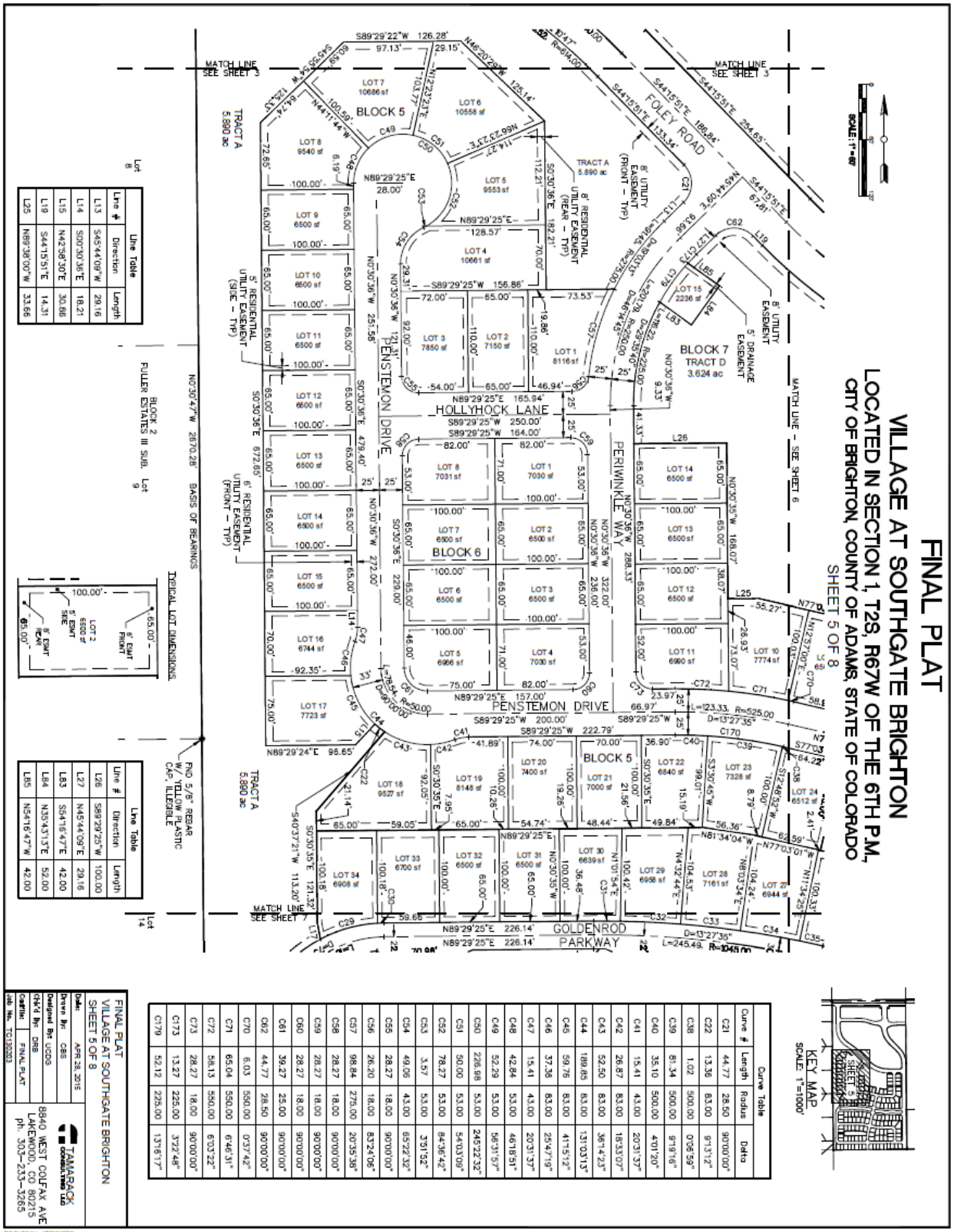

FINAL PLAT
VILLAGE AT SOUTHGATE BRIGHTON
LOCATED IN SECTION 1, T2S, R67W OF THE 6TH P.M.,
CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO
SHEET 2 OF 8
E 120TH AVE
SOUTHGATE BLVD
GATEWAY ST.
FOLEY ROAD
HOLLYHOCK LN
PERIWINKLE WAY
PENSTEMON DR.
GOLDENROD PKWY
MEADOW RUE AVENUE
LUPINE COURT
LAVENDER PLACE
ALPINE AVEN STREET
FULLER BLOCK 2 ESTATES III SUB.
SHEET 3
SHEET 4
SHEET 5
SHEET 6
SHEET 7
SHEET 8
SCHOOL DISTRICT UNPLATTED
2010-1 RADC/CADC VENTURE LLC UNPLATTED
2010-1 RADC/CADC PROPERTY XI LLC REC. NO. 120000853333 UNPLATTED
SCHOOL DISTRICT NO. 27J UNPLATTED
FUTURE STREET CONNECTION TO EAST
FUTURE STREET CONNECTION TO SOUTH
N89°47'25"E 1319.05
S89°23'29"W 1318.90
S00°30'35"E 1116.99
S00°30'35"E 2657.23
S00°30'35"E 828.37
S00°30'35"E 715.87
S00°30'46"E 810.01
S00°30'46"E 2620.41
S00°30'46"E 850.00
S00°30'46"E 1010.40
E 1/16 COR ON N. LINE FND 3/4" REBAR W/2-1/2" ALUM CAP PLS 34594, 2013
FND 5/8" REBAR W/PLASTIC CAP LS 34594
SET 5/8" REBAR W/PLASTIC CAP LS 34594
FND 1/2" REBAR W/ RED PLASTIC CAP, PLS 23027
E 1/16 COR FND 3/4" REBAR W/2-1/2" ALUM CAP PLS 25642, 2004
C-1/4 COR FND 3/4" REBAR W/2-1/2" ALUM CAP PLS 11805, 1995
N-1/4 COR FND 3/4" REBAR W/2-1/2" ALUM CAP PLS 34183
FND #5 REBAR W/PLASTIC CAP LS 34594 Lot 2
FND REBAR W/PLASTIC CAP PE LS 9758 Lot 3
FND 5/8" REBAR W/ YELLOW PLASTIC CAP, ILLEGIBLE
FND 5/8" REBAR W/ YELLOW PLASTIC CAP, ILLEGIBLE
BASIS OF BEARINGS
SCALE: 1" = 150'
FINAL PLAT
VILLAGE AT SOUTHGATE BRIGHTON
SHEET 2 OF 8
Drawn By: CBS
Designed By: UCDG
Ck'd By: DRB
Codifile: Final Plat
Job No. TC-13033
APR 28 2015
TAMARACK CONSULTING LLC
8840 WEST COLFAX AVE
LAKEWOOD, CO 80215
ph. 303-233-3265

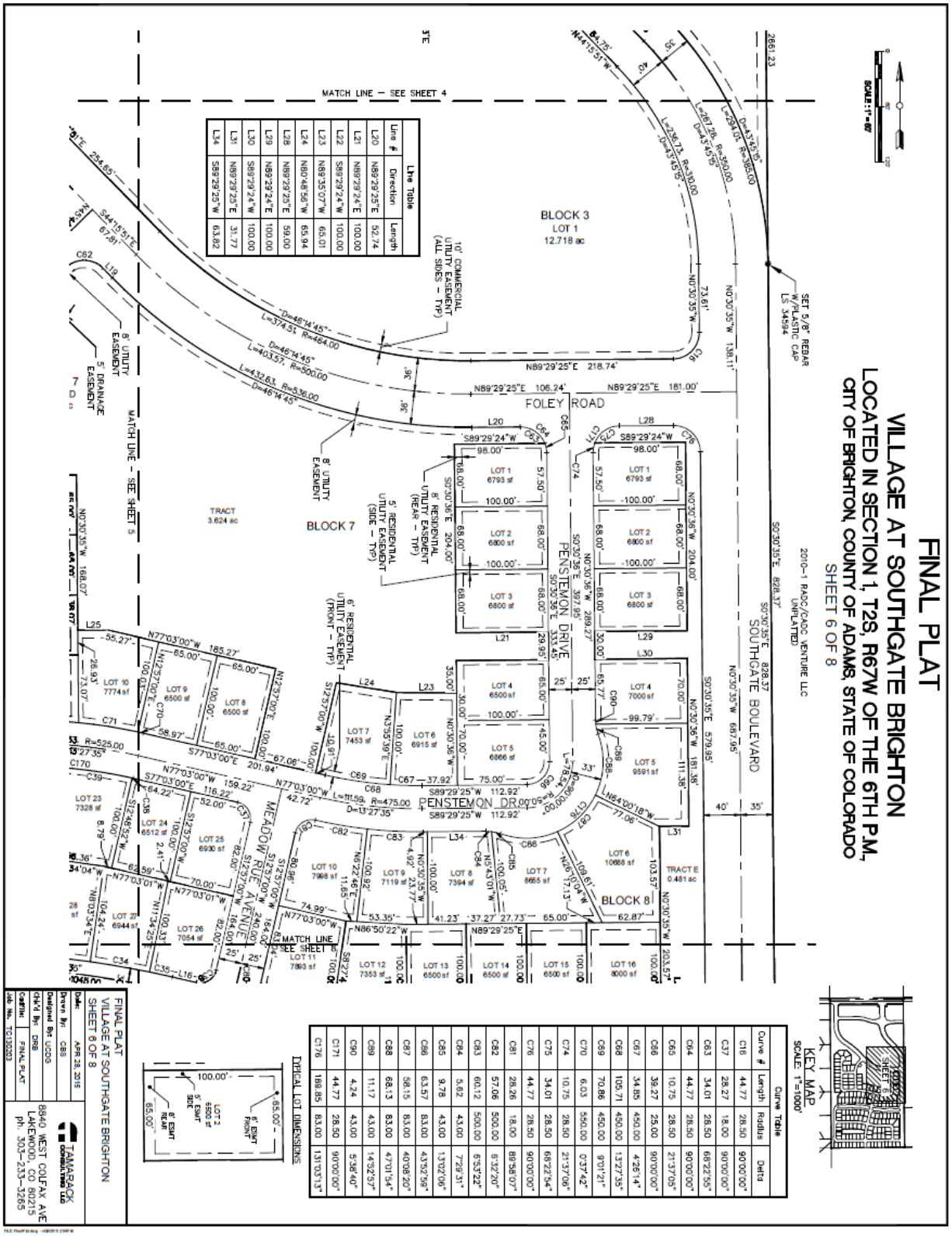


Curve Table			
Curve #	Length	Radius	Delta
C1	47.12	30.00	90°00'00"
C8	52.18	39.00	76°39'28"
C9	9.08	39.00	13°20'32"
C14	47.12	30.00	90°00'00"
C20	61.26	39.00	90°00'00"

Line Table		
Line #	Direction	Length
L1	S89°47'25"W	20.95
L2	S00°12'35"E	10.00
L72	S89°47'23"W	32.21

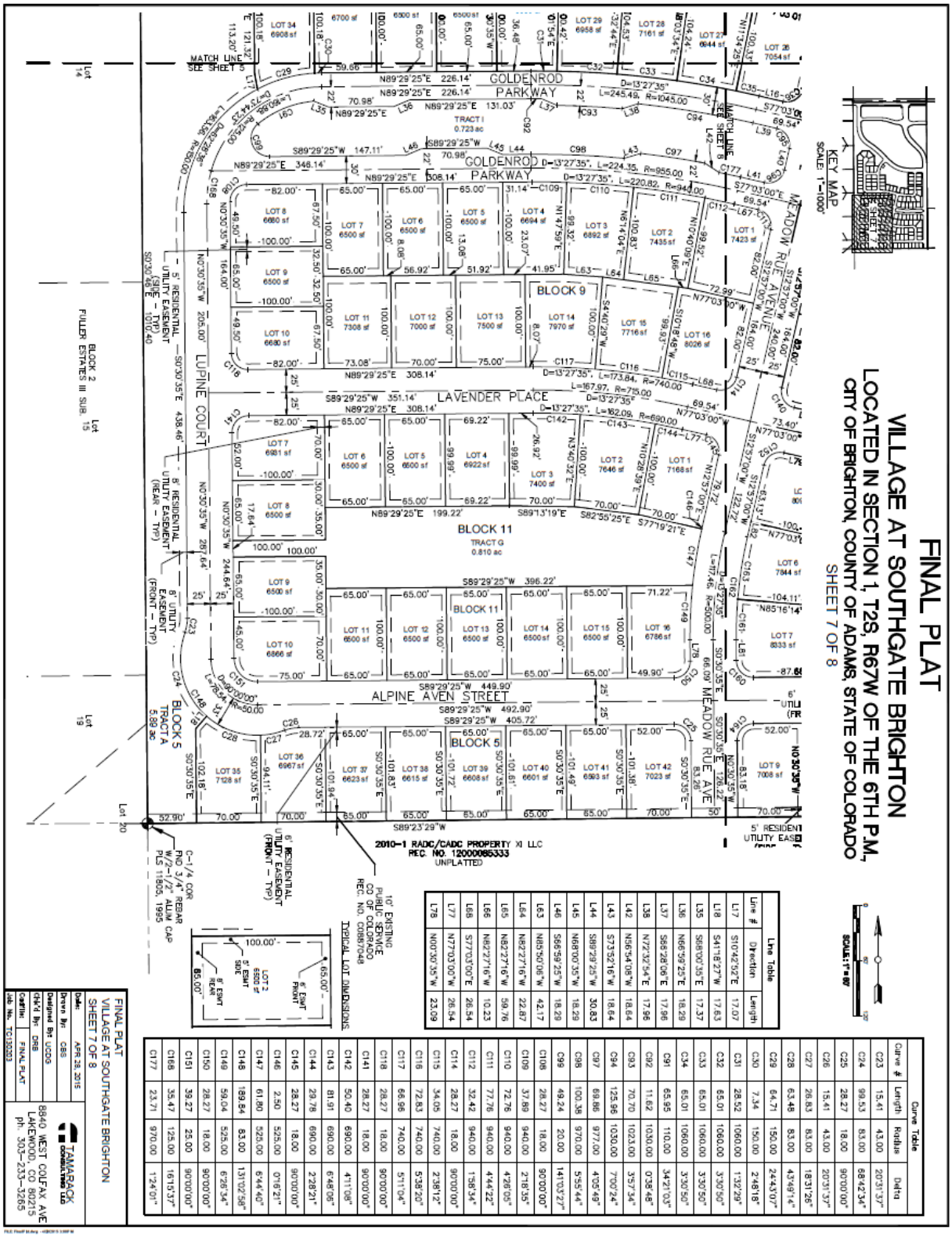

FINAL PLAT
VILLAGE AT SOUTHGATE BRIGHTON
LOCATED IN SECTION 1, T2S, R67W OF THE 6TH P.M.,
CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO
SHEET 4 OF 8
EAST 120TH AVENUE
SCHOOL DISTRICT UNPLATTED
60' R.O.W. (EXISTING) ROAD BOOK 2 PAGE 593
S89°47'25"W 376.61'
N89°47'23"E 284.84'
TRACT B 0.351 ac
TRACT C 0.154 ac
S89°47'25"W 293.95'
N89°47'25"E 183.83'
BLOCK 1 LOT 1 3.886 ac
BLOCK 2 LOT 1 2.065 ac
BLOCK 3 LOT 1 12.718 ac
BLOCK 4 LOT 1 2.727 ac
SOUTHGATE BOULEVARD
GATEWAY STREET
DRAINAGE & UTILITY EASEMENT
10' COMMERCIAL UTILITY EASEMENT (ALL SIDES – TYP)
8' COMMERCIAL UTILITY EASEMENT (ALL SIDES – TYP)
MATCH LINE – SEE SHEET 3
MATCH LINE – SEE SHEET 6
2010-1 RADC/CADC VENTURE LLC UNPLATTED
S00°30'35"E 2661.23
KEY MAP
SCALE: 1"=1000'
Line Table
Curve Table
FINAL PLAT
VILLAGE AT SOUTHGATE BRIGHTON
SHEET 4 OF 8
Date: APR 28, 2015
Drawn By: CBS
Designed By: UCDG
Ck'd By: DRB
Coa/file: FINAL PLAT
Job No. TC150303
TAMARACK CONSULTING LLC
8840 WEST COLFAX AVE
LAKEWOOD, CO 80215
ph. 303-233-3265


FINAL PLAT
VILLAGE AT SOUTHGATE BRIGHTON
LOCATED IN SECTION 1, T2S, R67W OF THE 6TH P.M.,
CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO
SHEET 5 OF 8
BLOCK 5
BLOCK 6
BLOCK 7
TRACT D
3.624 ac
TRACT A
5.890 ac
FOLEY ROAD
PENSTEMON DRIVE
HOLLYHOCK LANE
PERIWINKLE WAY
GOLDENROD PARKWAY
FULLER ESTATES III SUB.
BASIS OF BEARINGS
TYPICAL LOT DIMENSIONS
FND 5/8" REBAR W/ YELLOW PLASTIC CAP, ILLEGIBLE
MATCH LINE SEE SHEET 3
MATCH LINE SEE SHEET 6
MATCH LINE SEE SHEET 7
KEY MAP
SCALE: 1"=1000'
FINAL PLAT
VILLAGE AT SOUTHGATE BRIGHTON
SHEET 5 OF 8
TAMARACK consulting LLC
8840 WEST COLFAX AVE
LAKEWOOD, CO 80215
ph: 303-233-3265



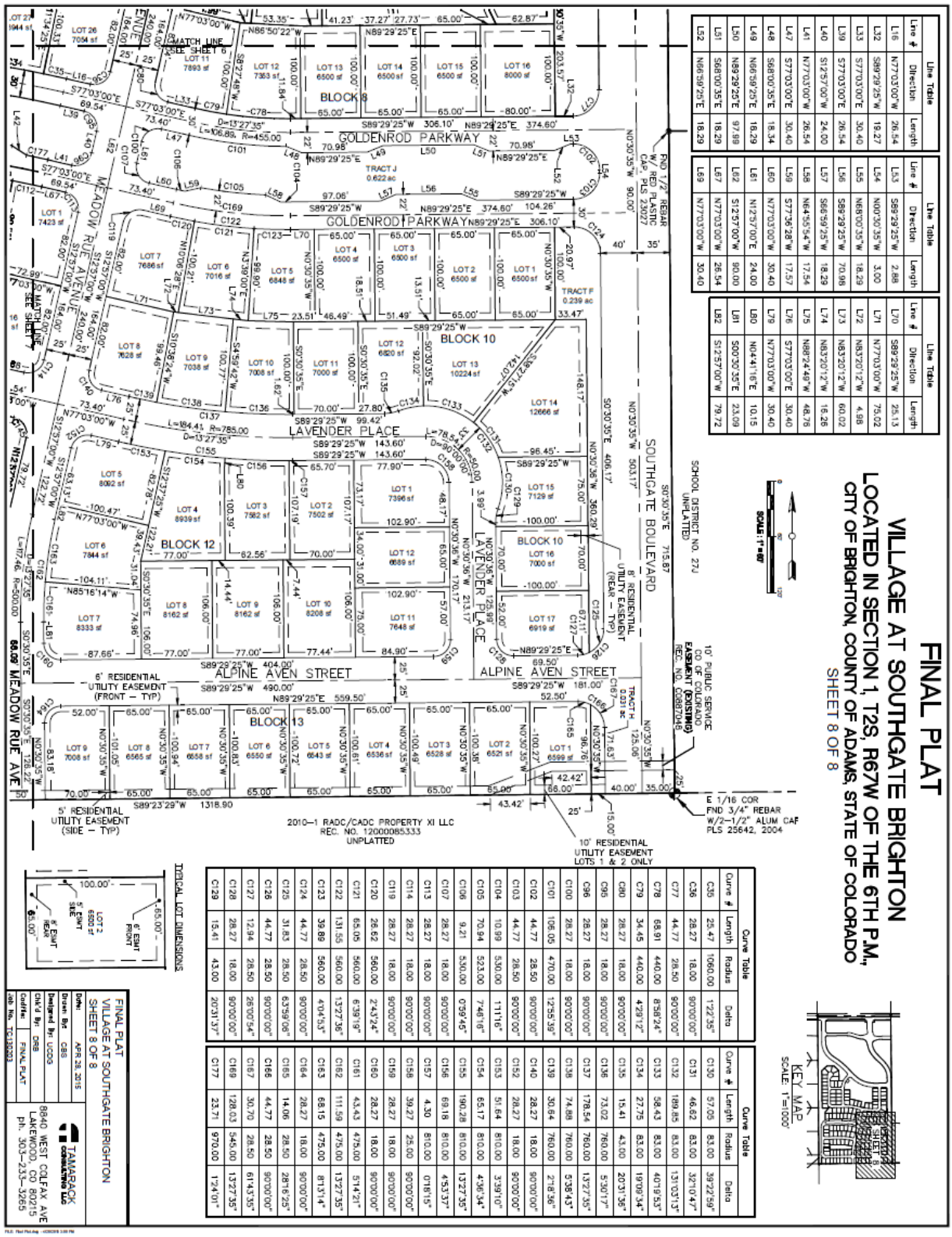
Line Table		
Line #	Direction	Length
L20	N89°29'25"E	52.74
L21	N89°29'25"E	100.00
L22	S89°29'24"W	100.00
L23	N89°35'07"W	65.01
L24	N80°48'56"W	65.94
L28	N89°29'25"E	59.00
L29	N89°29'24"E	100.00
L30	S89°29'24"W	100.00
L31	N89°29'25"E	31.77
L34	S89°29'25"W	63.82

Curve Table			
Curve #	Length	Radius	Delta
C16	44.77	28.50	90°00'00"
C37	28.27	18.00	90°00'00"
C63	34.01	28.50	68°22'55"
C64	44.77	28.50	90°00'00"
C65	10.75	28.50	21°37'05"
C66	39.27	25.00	90°00'00"
C67	34.85	450.00	4°26'14"
C68	105.71	450.00	13°27'35"
C69	70.86	450.00	9°01'21"
C70	6.03	550.00	0°37'42"
C74	10.75	28.50	21°37'06"
C75	34.01	28.50	68°22'54"
C76	44.77	28.50	90°00'00"
C81	28.26	18.00	89°58'07"
C82	57.06	500.00	6°32'20"
C83	60.12	500.00	6°53'22"
C84	5.82	43.00	7°45'31"
C85	9.78	43.00	13°02'06"
C86	63.57	83.00	43°52'58"
C87	58.15	83.00	40°08'20"
C88	68.13	83.00	47°01'54"
C89	11.17	43.00	14°52'57"
C90	4.24	43.00	5°38'40"
C171	44.77	28.50	90°00'00"
C176	169.85	83.00	131°03'13"



Line Table		
Line #	Direction	Length
L17	S10°42'52"E	17.07
L18	S41°18'27"W	17.63
L35	S68°00'35"E	17.37
L36	N66°59'25"E	18.29
L37	S65°28'06"E	17.96
L38	N72°32'54"E	17.95
L42	N56°54'08"W	18.64
L43	S73°52'16"W	18.64
L44	S89°29'25"W	30.83
L45	N68°00'35"W	18.29
L46	S65°59'25"W	18.29
L63	N85°50'06"W	42.17
L64	N82°27'16"W	22.87
L65	N82°27'16"W	59.76
L66	N82°27'16"W	10.23
L68	S77°03'00"E	26.54
L77	N77°03'00"W	26.54
L78	N00°30'35"W	23.09

Curve Table			
Curve #	Length	Radius	Delta
C23	15.41	43.00	20°31'37"
C24	99.53	83.00	68°42'34"
C25	28.27	18.00	90°00'00"
C26	15.41	43.00	20°31'37"
C27	26.83	83.00	18°31'26"
C28	63.48	83.00	43°49'14"
C29	64.71	150.00	24°43'07"
C30	7.34	150.00	2°48'18"
C31	28.52	1060.00	1°32'29"
C32	65.01	1060.00	3°30'50"
C33	65.01	1060.00	3°30'50"
C34	65.01	1060.00	3°30'50"
C91	65.95	110.00	34°21'03"
C92	11.62	1030.00	0°38'48"
C93	70.70	1023.00	3°57'34"
C94	125.96	1030.00	7°00'24"
C97	69.86	977.00	4°05'49"
C98	100.38	970.00	5°55'44"
C99	49.24	20.00	141°03'27"
C106	28.27	18.00	90°00'00"
C109	37.89	940.00	2°18'35"
C110	72.76	940.00	4°26'05"
C111	77.76	940.00	4°44'22"
C112	32.42	940.00	1°58'34"
C114	28.27	18.00	90°00'00"
C115	34.05	740.00	2°38'12"
C116	72.83	740.00	5°38'20"
C117	66.96	740.00	5°11'04"
C118	28.27	18.00	90°00'00"
C141	28.27	18.00	90°00'00"
C142	50.40	690.00	4°11'06"
C143	81.91	690.00	6°48'06"
C144	29.78	690.00	2°28'21"
C145	28.27	18.00	90°00'00"
C146	2.50	525.00	0°16'21"
C147	61.80	525.00	6°44'40"
C148	189.84	83.00	131°02'58"
C149	59.04	525.00	6°26'34"
C150	28.27	18.00	90°00'00"
C151	39.27	25.00	90°00'00"
C158	35.47	125.00	16°15'37"
C177	23.71	970.00	1°24'01"



Line Table		
Line #	Direction	Length
L16	N77°03'00"W	26.54
L32	S89°29'25"W	19.27
L33	S77°03'00"E	30.40
L39	S77°03'00"E	26.54
L40	S12°57'00"W	24.00
L41	N77°03'00"W	26.54
L47	S77°03'00"E	30.40
L48	S68°00'35"E	18.34
L49	N66°59'25"E	18.29
L50	N89°29'25"E	97.99
L51	S68°00'35"E	18.29
L52	N66°59'25"E	18.29

Line Table		
Line #	Direction	Length
L53	S89°29'25"W	2.88
L54	N00°30'35"W	3.00
L55	N68°00'35"W	18.29
L56	S89°29'25"W	70.98
L57	S66°59'25"W	18.29
L58	N64°55'54"W	17.54
L59	S77°36'28"W	17.57
L60	N77°03'00"W	30.40
L61	N12°57'00"E	24.00
L62	S12°57'00"W	80.00
L67	N77°03'00"W	26.54
L69	N77°03'00"W	30.40

Line Table		
Line #	Direction	Length
L70	S89°29'25"W	25.13
L71	N77°03'00"W	75.02
L72	N83°20'12"W	4.88
L73	N83°20'12"W	60.02
L74	N83°20'12"W	16.26
L75	N88°24'49"W	48.78
L76	S77°03'00"E	30.40
L79	N77°03'00"W	30.40
L80	N04°41'16"E	10.15
L81	S00°30'35"E	23.09
L82	S12°57'00"W	79.72

Curve Table			
Curve #	Length	Radius	Delta
C35	25.47	1060.00	1°22'35"
C36	28.27	18.00	90°00'00"
C77	44.77	28.50	90°00'00"
C78	68.91	440.00	8°58'24"
C79	34.45	440.00	4°29'12"
C80	28.27	18.00	90°00'00"
C95	28.27	18.00	90°00'00"
C96	28.27	18.00	90°00'00"
C100	28.27	18.00	90°00'00"
C101	106.05	470.00	12°55'39"
C102	44.77	28.50	90°00'00"
C103	44.77	28.50	90°00'00"
C104	10.99	530.00	1°11'16"
C105	70.94	523.00	7°46'16"
C106	9.21	530.00	0°59'45"
C107	28.27	18.00	90°00'00"
C113	28.27	18.00	90°00'00"
C114	28.27	18.00	90°00'00"
C119	28.27	18.00	90°00'00"
C120	28.52	560.00	2°43'24"
C121	65.05	560.00	6°39'19"
C122	131.55	560.00	13°27'36"
C123	39.89	560.00	4°04'53"
C124	44.77	28.50	90°00'00"
C125	31.83	28.50	63°59'06"
C126	44.77	28.50	90°00'00"
C127	12.94	28.50	26°00'54"
C128	28.27	18.00	90°00'00"
C129	15.41	43.00	20°31'37"

Curve Table			
Curve #	Length	Radius	Delta
C130	57.05	83.00	39°22'59"
C131	46.62	83.00	32°10'47"
C132	189.85	83.00	131°03'13"
C133	58.43	83.00	40°19'53"
C134	27.75	83.00	19°09'34"
C135	15.41	43.00	20°31'36"
C136	73.02	760.00	5°30'17"
C137	178.54	760.00	13°27'35"
C138	74.88	760.00	5°38'43"
C139	30.64	760.00	2°18'36"
C140	28.27	18.00	90°00'00"
C152	28.27	18.00	90°00'00"
C153	51.64	810.00	3°39'10"
C154	65.17	810.00	4°36'44"
C155	190.28	810.00	13°27'35"
C156	69.18	810.00	4°53'37"
C157	4.30	810.00	0°18'15"
C158	39.27	25.00	90°00'00"
C159	28.27	18.00	90°00'00"
C161	43.43	475.00	5°14'21"
C162	111.59	475.00	13°27'35"
C163	68.15	475.00	8°13'14"
C164	28.27	18.00	90°00'00"
C165	14.06	28.50	28°16'25"
C166	44.77	28.50	90°00'00"
C167	30.70	28.50	61°43'35"
C169	128.03	545.00	13°27'35"
C177	23.71	970.00	1°24'01"

EXHIBIT B

SCHEDULE OF PUBLIC IMPROVEMENTS AND PHASING PLAN

TYPE OF IMPROVEMENTS	UNITS	Phase 1	Phase 2	Phase 3	Phase 4	Phase 5	Total Quantity	Unit Cost $	Total Cost
Curb and Gutter	LF	$168,629.26	$26,781.28	$15,485.41	$4,163.03	$261,170.52	35,920	$13.26	$476,229.50
Sidewalk	SF	$304,088.35	$28,196.05	$19,804.51	$5,319.26	$234,906.83	209,566	$2.83	$592,315.00
Streets	SF	$1,357,511.05	$629,195.30	$47,200.68	$12,676.19	$948,024.56	963,146	$3.11	$2,994,607.78
Retaining Walls	LF	$0.00	$0.00	$0.00	$0.00	$53,460.00	1,782	$30.00	$53,460.00
Traffic Signal	EA	$300,000.00	$0.00	$0.00	$0.00	$0.00	1	$300,000.00	$300,000.00
Erosion Control	EA	$193,483.64	$53,745.45	$32,247.27	$32,247.27	$161,236.36	44	$10,749.09	$472,960.00
Sanitary Sewer	LF	$333,804.13	$60,007.70	$0.00	$9,449.56	$424,748.61	13,757	$60.19	$828,010.00
Waterlines	LF	$266,184.43	$43,558.27	$0.00	$27,845.06	$398,202.24	16,436	$44.77	$735,790.00
Storm Sewer	LF	$372,913.18	$17,283.90	$0.00	$0.00	$255,277.93	6,162	$104.75	$645,475.00
Tumbleweed Draw	LF	$275,500.00	$0.00	$0.00	$0.00	$0.00	5,510	$50.00	$275,500.00
Earthwork	CY	$1,589,922.53	$0.00	$0.00	$0.00	$28,889.47	255,294	$6.34	$1,618,812.00
Removals	SF	$104,201.65	$0.00	$0.00	$0.00	$208,976.55	60,095	$5.21	$313,178.20
Park Land Dedicated to City (Tract D)	AC	3.676 ac	0	0	0	0	3.676	N/A	3.676 ac
Trails (within Tract D only)	SF	$57,280.00	$0.00	$0.00	$0.00	$0.00	11,456.000	$5.00	$57,280.00
Fencing (within Tract D only)	LF	$20,175.00	$0.00	$0.00	$0.00	$0.00	1,345.000	$15.00	$20,175.00
Open Space Land Dedicated to City (Tracts A-C & E-J)	AC	9.330 ac	0	0	0	0	9.330	N/A	9.330 ac
Irrigation Systems	SF	$167,405.25	$0.00	$4,777.50	$1,481.25	$15,177.00	251,788.000	$0.75	$188,841.00
Park Improvements	SF	$240,189.00	$0.00	$0.00	$0.00	$0.00	160,126.000	$1.50	$240,189.00
Street Landscape Improvements Dedicated to City	SF	$121,860.00	$0.00	$9,555.00	$2,962.50	$30,354.00	109,821.000	$1.50	$164,731.50
CONTINGENCY 5%		$293,657.37	$42,938.40	$6,453.52	$4,807.21	$151,021.20			$498,877.70
Total		**$6,166,804.84**	**$901,706.35**	**$135,523.90**	**$100,951.33**	**$3,171,445.26**			**$10,476,431.68**


E. 136TH AVENUE
FOLEY ROAD (72' R/W)
SOUTHGATE BLVD (100' R/W)
GATEWAY STREET (66' R/W)
HOLLYHOCK LANE (50' R/W)
PENSTEMON DRIVE (50' R/W)
FERNMEAD WAY (50' R/W)
GOLDENROD PKWY (50' R/W)
LAVENDER PLACE (50' R/W)
LUPINE COURT (50' R/W)
ALPINE AVEN. STREET (50' R/W)
PHASE BOUNDARY (TYP.)
FULLER ESTATES III SUB. BLOCK 2
2010-1 RADCICADC VENTURE LLC UNPLATTED
SCHOOL DISTRICT NO. 27J
NOTES
EXISTING UTILITIES
PROPOSED UTILITIES
LEGEND
PHASE 1
PHASE 2
PHASE 3
PHASE 4
PHASING LEGEND
NORTH
THE VILLAGE AT SOUTHGATE BRIGHTON
PHASING PLAN
PREPARED FOR: PFG AQUISITIONS, LLC
DATE SUBMITTED: 12/19/2014
UNITED CIVIL
Design Group
Civil Engineering & Consulting
1501 Academy Ct. Ste. 203
Fort Collins, CO 80524
(970) 530-4044
www.unitedcivil.com
PH01
813231

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 Adams 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.** Land dedication for a school site is not applicable for The Village at Southgate Brighton Subdivision as the Developer has agreed to provide cash-in-lieu of land dedication to District 27J. The land dedication or cash-in-lieu requirement for this subdivision is now 4.24 acres or $148,443.00.

2. **Community Park Dedication.** The Community Park Land dedication requirement is not applicable for The Village at Southgate Brighton Subdivision. Instead, the Developer shall pay the Community Park Development Fee without land dedication at the time of issuance of each residential building permit at the then effective rate established by City Council. See Exhibit G Special Provisions Section 6.

3. **Neighborhood Park Dedication.** Approximately 3.68 acres described in The Village at Southgate Brighton, as Tract D. See Exhibit G Special Provisions Section 5.

4. **Open Space Dedication.** Open Space land dedication of 9.79 acres provided on-site for The Village at Southgate Brighton Subdivision as shown on the Plat in the Public Land Dedication Table. Payment of cash-in-lieu is required in accordance with City Code for the balance of the Development based on the final development densities. If the multi-family parcels are developed to the maximum allowed density the required fee-in-lieu dedication shall be 8.41 acres. The Open Space Dedication attributed to each development Phase shall be paid as a condition precedent to the issuance of any building permit within the Phase based on the final development density. See Exhibit G Special Provisions Section 7.

EXHIBIT E

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

THIS COVENANT, AGREEMENT, WARRANTY AND EASEMENT are made and given this _____ by _____, Colorado (hereinafter the "Owner"), and accepted by the City of Brighton, a municipal corporation of the County of **Adams,** State of Colorado (hereinafter "Brighton") on the

Owner and/or Owner's assigns entered into an agreement with Brighton dated _____ whereby Owner and/or Owner's assigns agreed to transfer, and Brighton agreed to accept _____share(s) of the Capital Stock of the _____ (the "Water Rights") for Phase ____ of Development for the project, or to purchase raw water from Brighton at the prevailing rate on an individual lot basis at the time the residential building permit is issued, with the determination whether Owner shall dedicate or purchase the water to be made before the initial permit is submitted for each Phase of development. The Owner acknowledges Owner's understanding that the Water Rights are intended to be utilized by Brighton for municipal water uses, and/or for augmentation or exchange purchases, and that in order to effect such uses, the Water Rights will need to be changed in an appropriate proceeding before the District Court, Water Division No. 1, State of Colorado (hereinafter "Water Court") from irrigation to municipal, augmentation and/or exchange purposes.

The Water Rights have historically been used for the irrigation of lands owned by the Owner located in **Adams** County, Colorado. A description of the property where such irrigation use has historically occurred is attached to this covenant as Exhibit A, and is incorporated fully into this covenant by this reference. Owner further understands that the Water Court may require, as a term and condition of such change, that the lands historically irrigated as described in Exhibit A must be dried up and not further irrigated as a term and condition of allowing such change.

THEREFORE, in consideration of the willingness of Brighton to accept the Water Rights, and the making of such acceptance, as well as other good and valuable consideration, receipt of which is hereby acknowledged by Owner, Owner covenants and agrees as follows:

1. From and after the date hereof, except as may be otherwise allowed or required by this document, neither the Water Rights nor any other water shall be used in connection with the property described in Exhibit A without the written consent of Brighton, or its successors or assigns, having been first obtained, which consent may be withheld in Brighton's sole discretion.

2. Owner shall take any action necessary to eliminate any consumptive use of water for irrigation purposes on the property described in Exhibit A (the "land") as may be determined and/or required by the Water Court or other court or tribunal of competent jurisdiction in the judgment and decree entered in any case involving the change or exchange of any of the Water Rights, or by the State Engineer, State of Colorado, in any approval by his office of a substitute water supply plan entered pursuant to the provisions of Section 37-92-308, Colorado Revised Statutes, as the same may be amended or replaced, during the duration of such plan.

3. Owner hereby grants to Brighton a non-exclusive perpetual easement for the purpose of access to and over the land as may be necessary to take actions to effectuate and enforce this covenant, including but not limited to the conducting of any monitoring or testing activity that may be required by the State Engineer or by any court or tribunal of competent jurisdiction to enforce this covenant or that may be a pre-condition for changing the Water Rights.

4. Unless otherwise required by any decree changing the Water Rights, or allowing such rights to be exchanged, or by the conditions of any substitute water supply plan as may be approved by the State Engineer, this covenant shall not prohibit the Owner or Owner's successors and assigns from irrigating the land with water rights which may in the future be transferred to such land and for such use through an appropriate Water Court proceeding, irrigating the land with water from a well or wells to be constructed in the future that are authorized to pump pursuant to a Water Court-approved plan for augmentation, irrigating the land with water that is not tributary to the South Platte River, to include not-nontributary water that is duly augmented, or irrigating the land with treated water supplied by a municipality or a water district.

5. Notwithstanding the provisions of paragraph 4 hereof, the land shall not be planted with, nor have upon it, any alfalfa or similar deep rooted crop, and any alfalfa or similar deep rooted crop presently existing, or which may exist in the future, shall be eradicated by Owner by deep tilling, chemical treatment or other means, unless otherwise allowed by Brighton in a signed writing.

6. This covenant shall burden, attach to and run with the property described in Exhibit A, and shall be binding not only upon the Owner, but also upon Owner's heirs, successors and assigns and any other persons or entities which may acquire an ownership or leasehold interest in all or any portion of the property described in Exhibit A. This covenant shall also run with and benefit the Water Rights. The terms and provisions of this covenant shall not expire and shall be perpetual unless specifically released in writing by Brighton or its successors and assigns. This covenant may be enforced by Brighton or by any party having any right, title or interest in the Water Rights or by the State Engineer of the State of Colorado, at any time in any action at law or in equity.

7. Owner further warrants and represents that this covenant shall entitle Brighton to the first and prior right to claim credit for the dry-up or nonirrigation of the property described in Exhibit A, and agrees to provide Brighton with all assistance Brighton may reasonably require in regard to the above-referenced change of the Water Rights, including but not limited to the provision of testimony before the Water Court in any proceeding involving such change.

8. Owner agrees that it will at its sole expense take all steps necessary to accomplish the full and complete establishment of a self sustaining dry land vegetative ground cover on all of the land within two years from the date of this covenant, and Owner shall thereafter cease all irrigation on such land unless and until a court decree, as referenced in paragraph 4 above, may be duly entered, and then irrigation shall be allowable only to the extent authorized in said paragraph 4. Provided, however, that Brighton may, in its sole discretion, agree in writing with the Owner to a modification of the conditions of this covenant to allow other irrigation practices, or to authorize the use of the lands that were historically irrigated for dry land agricultural practices. Further, Brighton may agree in writing that the need to establish a dry land vegetative ground cover on the historically irrigated lands is unnecessary since such lands have been developed, or the use of such lands has been otherwise so changed that future irrigation as historically occurred will no longer be possible. Any such future agreement shall be recorded in the official records of the County of **Adams** at Owner's expense. Owner further covenants and agrees that it will at its sole expense also take all steps necessary to accomplish revegetation of such lands, or otherwise eliminate irrigation, as may be required by court order or decree in the Water Court proceeding, if such requirements are different from what is required in this paragraph 8. If Owner should fail or refuse to do so, then Brighton shall have the right to come upon the land and take all measures to accomplish the required revegetation or other requirements imposed by the Water Court, and Owner shall reimburse Brighton fully for its costs and expenses in so doing. Owner further agrees that it will not take any actions that would violate such court order or decree. Brighton further agrees to duly record any final decree of District Court, Water Division 1, State of Colorado, or of any other entity or court with the authority to do so, approving the change of the Water Rights to municipal and other uses, at Brighton's expense and promptly upon its entry, in the County of **Adams**.

OWNER OF RIGHTS:

_____

By: [Name of signatory]

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20_____,

_____

By:

WITNESS my hand and official seal:

_____

Notary Public

My commission expires:_____

CITY OF BRIGHTON:

By: _____
Richard N. McLean, Mayor

ATTEST:

By: _____
Natalie Hoel, City Clerk

Approved as to Form:

By: _____
Margaret R. Brubaker, Esq., City Attorney

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 Adams, State of Colorado (the "City") and PFG ACQUISITIONS, LLC (the "Developers").

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 Preliminary Plat for the Property, DEVELPER 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 dedicate water resources as more particularly set forth below for each Phase prior to building permit applications are submitted for each Phase of development.

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. For each Phase of the Development as shown in the Final Plat, and according to the Phasing Plan, The Developer shall transfer to the CITY, prior to any building permit applications for each Phase, the required water dedication as calculated by the CITY. The water shares to be dedicated shall meet the water dedication requirements as set forth in City ordinances and resolutions in effect at the time of dedication. The shares will be reviewed and found acceptable to the City Water Attorney and City Water Rights Engineer. Said water shares shall be free and clear of any and all encumbrances and shall satisfy all of the requirements of Resolution No. 01-160, as the same may be amended from time to time.

2. The Developer will then be able to pay at building permit issuance the "With 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.

3. This Agreement shall be an attachment to The Village at Southgate Brighton Development Agreement and incorporated therein by references.

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

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/OWNER:

By: _____
Name
Title
Company Name

COUNTY OF **Adams**)
) SS
STATE OF COLORADO)

The foregoing Agreement was acknowledged before me this _____ day of

_____, 20_____. By: _____

WITNESS my hand and official seal.

By: _____
Notary Public

My Commission Expires: _____

CITY OF BRIGHTON:

By: _____
Richard N. McLean, Mayor

ATTEST:

By: _____
Natalie Hoel, City Clerk

EXHIBIT G

SPECIAL PROVISIONS

THE FOLLOWING SPECIAL PROVISIONS ARE HEREBY ATTACHED TO AND MADE A PART OF THAT CERTAIN **THE VILLAGE AT SOUTHGATE BRIGHTON DEVELOPMENT AGREEMENT,** BETWEEN THE CITY OF BRIGHTON, COLORADO, AND PFG ACQUISITIONS, LLC. 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" shall refer to: Civil Plans, Civil Construction Plans, Construction Plans, or any of the aforementioned combinations 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 illustrative only and is intended to include all plans, drawings and reports required by and submitted to the City for the Development that are reasonably included within the scope of Civil Engineering.
   B. The term, "RGPS" shall mean Residential Growth Pacing System (see Article 17-60 of the Municipal Code/Land Use Development Code).
   C. The term, "Common-Interest Management Association" shall mean a Home Owners Association (HOA) or other entity established for the purpose of owning and maintaining privately owned common-interest areas and infrastructure that are not maintained by individual property owners or 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.
   D. The term, "Builder" shall mean any person(s) and/or entity that constructs residential housing for lots within The Village at Southgate Brighton Subdivision.
   E. The term, "Metropolitan District" or "MSD" means a special district duly organized pursuant to Title 32 of the Colorado Revised Statues that provides for the inhabitants thereof any two or more of the following services: fire protection; mosquito control; parks and recreation; safety protection; sanitation; solid waste disposal facilities or collection and transportation of solid waste; street improvement; television relay and translation; transportation; water, including without limitation, the Village at Southgate Metropolitan District, the Service

Plan of which was approved by the Brighton City Council pursuant to Resolution # 2014-92 on October 7, 2014.

F. The term "General Improvement District" or "GID" means a quasi-municipal corporation and political subdivision of the State pursuant to Article 25 of Title 31, Part 6, of the Colorado Revised Statutes that provides services to the inhabitants thereof, including, without limitation, the South Brighton General Improvement District duly formed by the Brighton City Council pursuant to Ordinance #1817, on August 3, 2004.

G. The term, "Service Plan" shall mean the approved Service Plan for the MSD, as same may be amended from time to time.

H. The term, "South Brighton Infrastructure Improvements" means public water and wastewater infrastructure improvements designed, constructed and installed by the City of Brighton which will provide service to the Village at Southgate Brighton Development and for which the Developer has a reimbursement obligation.

I. The term, "Common Areas" means areas that are defined on the Final Plat as areas of common use that are privately maintained.

2. **Phasing Plan.** The Phasing Plan, attached as **Exhibit B** to the Development Agreement (referred to herein as **Exhibit B**), sets forth the intended phasing of the Improvements to be constructed by the Developer for the Development. No amendments or alterations to the Phasing Plan may be made without the prior written consent of the City Manager or the Manager's designee.

3. **Temporary Uses.** Temporary uses refer to, but are not limited to, a temporary sales office, temporary construction office, construction yard (including soil stockpiling), and model homes. Temporary uses are allowed, with approval of a temporary use permit, for a period of one year, with renewal after that year determined by the Director of Community Development.

4. **City Regulations.** Developer agrees to develop the Property in conformance with any and all City Regulations and/or Ordinances, as the same may be subsequently amended from time to time, including, but not limited to Chapters 12-17 of the Brighton Municipal Code, specifically: Article 17-16, the Zone District Regulations, Article 17-60, the RGPS and the amended RGPS, Article 17-44, the Residential Design Standards; and Article 17-48, the Commercial Design Standards and the Public Works Design and Construction Standards and Specifications Manual, current edition.

5. **Neighborhood Park.** The Developer shall dedicate 3.68 acres of land within the Development for a Neighborhood Park site, designated as Tract D and Lot 15, Block 7 on the Final Plat. Developer agrees to transfer ownership of this land to the City consistent with the requirements of Section 4.1 of the Development Agreement, provided such conveyance shall be made after a Final Plat for all or any portion of the Development is

approved by the City and as a condition precedent to the issuance of any residential building permit for Phase 1 of the Development.

A. The Developer shall construct all Improvements for the Neighborhood Park consistent with the approved Final Plat, Construction Plans, Neighborhood Park Plans, and the Neighborhood Park Standards and Specifications in the City's Park Master Plan in effect at the time of construction. The Developer shall commence construction of the Neighborhood Park and receive written acceptance thereof from the City prior to, and as a condition precedent to, the issuance of any residential building permit within Phase 1 of the Development; provided if the Neighborhood Park is not completed prior to issuance of a residential building permit, the City, at its sole discretion, shall either require the Developer to complete the improvements or determine whether to accept a performance guaranty from the Developer, and, if so, such guaranty shall be in the form of a bond or other surety acceptable to the City, to ensure completion of the Neighborhood Park.

B. Once the Developer has completed construction of the Neighborhood Park and the same has been finally accepted by the City, the City will reimburse Developer for its actual costs of construction of said Park, up to a maximum of the total amount of Neighborhood Park Development Fees paid to the City by the Developer for the Development. Said reimbursement by the City shall occur annually, on or before December 1st of each year, and shall be limited to the extent of the Neighborhood Park Development Fees paid to the City for the Development by Developer during said year. In no event shall the total reimbursement exceed the lesser of the total amount of Neighborhood Park Development Fees paid to the City by Developer for the Development or the actual costs expended by the Developer to construct the Neighborhood Park.

C. Developer shall construct and install water and sanitary sewer service line stubs into the Neighborhood Park site, at a point on the Neighborhood Park boundary in a location acceptable to the City.

D. For all landscape areas in the Development that are to be constructed and maintained by the Village at Southgate Metropolitan District, in particular, Tracts A-C, and E-J as designated on the approved Final Plat, the Developer shall either (i) acquire and dedicate to the City sufficient Water Rights or (ii) pay the applicable fee at the prevailing rate..

E. The Developer or the Metropolitan District shall maintain the completed Neighborhood Park until a building permit is issued for the 143rd single family lot, or when ninety-five percent of the building permits for lots designated for single family residential use have been issued (whichever is less), and building permits have been issued for fifty percent of the land area designated for multifamily development. Upon issuance of residential building permits consistent with the build-out described above, the Neighborhood Park shall be dedicated to the City for future operation and maintenance.

F. If the residential densities in the Development increase from those approved in the Final Plat, thus requiring the dedication of additional land for the Neighborhood

Park, said additional dedication of land for the Neighborhood Park may be satisfied by the dedication of additional acceptable land or payment of a fee in lieu of dedication, as determined at the sole discretion of the City. The amount of such fee-in-lieu shall be determined in accordance with the City of Brighton Parks standards and procedures in effect at the time payment is made, based on the final density that will be constructed in each Phase of the Development. The dedication of additional land for the Neighborhood Park and/or the payment of cash in lieu of dedication, if required, shall be completed prior to the approval of any revisions or amendments to the Final Plat for the final tract in the Development and shall be a condition precedent to said approval. Except as provided herein, no credits or refunds will be forthcoming from the City if an excess in the dedication of land or payment in lieu of dedication occurs. The City agrees that the Developer shall receive a credit toward its required Open Space dedication for the 0.036 acres of additional land contained in Tract "D"/Neighborhood Park Site in excess of the required dedication. (See ¶7 below)

G. The Developer agrees to allow the City of Brighton to use the Neighborhood Park for City recreation activities during the period prior to the City's final acceptance and ownership of the Park. The parties shall cooperate with respect to the scheduling of such use and any associated liability.

H. The Developer agrees that the Parks and Recreation Department Director shall be permitted to review the design of the Neighborhood Park from the initial design submittal to the final City approved design.

6. **Community Park.** Developer shall pay the Community Park Impact Fee without land dedication prior to, and as a conditional precedent to, the issuance of any residential building permit for each Phase of the Development.

A. If the residential densities in the Development increase from those approved in the Final Plat, thus requiring the dedication of additional land for the Community Park, said additional dedication of land for the Community Park may be satisfied by the dedication of additional acceptable land or payment of a fee in lieu of dedication, as determined at the sole discretion of the City. The amount of such fee in lieu shall be determined in accordance with the City of Brighton Parks standards and procedures in effect at the time payment is made. The fee-in-lieu shall be based on the final development density to be constructed in each Phase of the Development determined at the time the City issues a permit for the infrastructure for that Phase The dedication of additional land for the Community Park and/or the payment of cash in lieu of dedication, if required, shall be completed prior to the approval of any revisions or amendments to the Final Plat for the final tract in the Development and shall be a condition precedent to said approval. No credits or refunds will be forthcoming from the City if an excess in the dedication of land or payment in lieu of dedication occurs, provided any excess payment or dedication attributed to one Phase of development may be credited against the dedication or payment required for any future Development Phase.

7. **Open Space Land Dedication**. The approved Planned Unit Development (PUD) for the Village at Southgate sets forth a maximum density of 410 residential units. According to the City requirements, the required dedication of open space for the Development is 18.20 acres. Pursuant to ¶5.F above, the Developer is being granted a credit of 0.036 acres toward the required Open Space dedication requirement for the Development. Therefore, the Developer shall dedicate on the Final Plat 9.79 acres of land for open space when the Final Plat is approved. Developer shall satisfy the remaining portion of the 8.41 acres of open space required by payment of a fee-in-lieu of dedication. The amount of such fee in lieu shall be determined in accordance with the City of Brighton Parks standards and procedures in effect at the time payment is made. Said payment shall be paid prior to, and as a condition precedent to, the issuance of any residential building permit within the applicable building Phase, according to the phasing depicted in the Phasing Plan, attached as **Exhibit B,** based on the percentage of open space acreage that is required to be dedicated for the actual, approved development occurring in the particular Phase.

   A. The 9.79 acres of open space land dedicated within The Village at Southgate Brighton, is more particularly identified as portions of Tracts A, B, C, E, F, G, H, I, and J on the Final Plat and further described in the Public Land Dedication Table and Tract Table herein.
   B. Developer, at its sole cost and expense, shall construct to completion all of the open space Improvements within each Phase of the Development and receive written acceptance thereof from the City, prior to, and as a condition precedent to, the issuance of any residential building permit within the applicable Phase, according to the Phasing Plan, attached as **Exhibit B,** and in accordance with the approved Final Plats, Construction Plans, Open Space Plans, and all other applicable City specifications in effect at the time of construction. If the open space Improvements are not complete prior to issuance of a building permit, Developer may construct the Improvements while construction is ongoing, provided that if they are not completed prior to issuance of a residential building permit, the City, at its sole discretion, shall either require the Developer to complete the improvements or determine whether to accept a performance guaranty from the Developer, and, if so, such guaranty shall be in the form of a bond or other surety acceptable to the City, to ensure completion of the Improvements.
   C. If the residential densities in the Development increase from those approved in the Final Plat(s), thus requiring the dedication of additional land for Open Space, said additional dedication of land for Open Space, may be satisfied by the dedication of additional land acceptable to the City or payment of a fee in lieu of dedication, as determined at the sole discretion of the City. The amount of such fee in lieu shall be determined on a phased basis in accordance with the City of Brighton Parks standards and procedures in effect at the time payment is made, based on the final development density to be constructed in any Phase of the development

determined when the City issues a permit for the infrastructure for that Phase. The dedication of additional land for Open Space and/or the payment of cash in lieu of dedication, if required, shall be completed prior to the approval of any revisions or amendments to the Final Plat for the final tract in the Development and shall be a condition precedent to said approval. Except as provided herein, no credits or refunds will be forthcoming from the City if an excess in the dedication of land for Open Space or payment in lieu of dedication occurs.

8. **Trails Construction**. Developer, at its sole cost and expense, shall construct to completion all of the trails within each Phase of the Development and receive written acceptance thereof from the City, prior to, and as a condition precedent to, the issuance of any residential building permit within the applicable building Phase, according to the phasing depicted in the Phasing Plan, attached as **Exhibit B,** and in accordance with the Final Plat, Open Space Plans, Construction Plans, and applicable City specifications in effect at the time of construction. If the trails are not complete prior to issuance of a building permit, Developer may construct the trails while construction is ongoing, provided that if it is not completed prior to issuance of a residential building permit, the City, at its sole discretion, shall either require the Developer to complete the improvements or determine whether to accept a performance guaranty from the Developer, and, if so, such guaranty shall be in the form of a bond or other surety acceptable to the City, to ensure completion of the trails.

9. **Design and Construction of Roads.** Developer, at its sole cost and expense, shall design and construct to completion, all roads listed below as local streets and depicted in the Phasing Plan, Final Plats, Construction Plans, Open Space Plans, and other applicable City Specifications as follows:
   A. Phase 1
      a. Southgate Boulevard, portions of, as depicted in the Phasing Plan.
      b. Meadow Rue Avenue, portions of, as depicted in the Phasing Plan.
      c. Foley Road
      d. Periwinkle Way
      e. Penstemon Drive
      f. Hollyhock Lane
   B. Phase 2
      a. Gateway Street, portions of, as depicted in the Phasing Plan
   C. Phase 3
      a. Gateway Street, portions of, as depicted in the Phasing Plan
   D. Phase 4
      a. Southgate Boulevard, remaining portions of, as depicted in the Phasing Plan.
      b. Meadow Rue Avenue, remaining portions of, as depicted in the Phasing Plan.

c. Lavender Place
d. Lupine Road
e. Alpine Aven Street
f. Goldenrod Parkway

A. **Southgate Boulevard and 120th Avenue /Signalization/ Escrow.** Developer, at its sole cost and expense, shall construct to completion, in accordance with the Final Plat, Phasing Plan, Construction Plans, Open Space Plans, and other applicable City Specifications in effect at the time of construction, the Southgate Boulevard and 120th Avenue intersection (including the requisite signalization) and the acceleration and deceleration lanes on 120th Avenue (the "Southgate/120th Intersection Improvements"). The construction of the Southgate/120th Intersection Improvements shall be commenced prior to the issuance of a building permit within any portion of Phase 1. No certificate of occupancy shall be issued for any Phase of the Development until such time as the construction of the Southgate/120th Intersection Improvements have been completed.

B. If not sooner completed, Developer agrees to escrow funds with the City for the costs to design and construct that portion of 120th Avenue that is directly adjacent to the Development, for curb and gutter, final lane configuration, and median landscaping and irrigation, if applicable. The Developer shall present a detailed breakdown of said costs to the City for review and approval prior to the approval of the Final Plat. The escrow amount shall be approved by the City, and shall be submitted for deposit prior to the issuance of the first permit for construction in Phase I. The escrow shall be in the form of certified funds that may be drawn by the City if Developer does not complete the design and construction.

10. **Construction and Maintenance of Drainage Infrastructure.** As described in the Final Plat, Construction Plans, and Landscape Plans, the Developer, at its sole cost and expense, shall construct to completion, as depicted in the Phasing Plan, attached hereto as **Exhibit B**, the specified drainage facilities for the Development, including ponds, storm water culverts, and related Drainage Infrastructure in Tracts A, D, G, H, I and J.

The drainage infrastructure shall be maintained by the Developer or an HOA or Metropolitan District, at such a time as an HOA or Metropolitan District is duly formed that assumes such maintenance responsibility in full compliance with the *Stormwater Maintenance Agreement* attached hereto as Exhibit H. By means of illustration only and not as limitation, 'maintenance' shall include, routine maintenance and cleaning of the culverts and associated infrastructure to ensure proper functioning of the drainage system, as well as repair and replacement, as needed.

The Urban Drainage and Flood Control District's Master Plan of the area includes two large upstream discharge contributors that affect the Village at Southgate Brighton Subdivision. The Developer must design and construct any and all drainage infrastructure to carry said discharges to the design points as described in the UDFCD

Master Plan and City-approved Construction Plans and the costs to oversize any drainage infrastructure to carry off-site discharge may be recouped from the benefitted parties pursuant to a Cost Recovery Agreement.

11. **Water Main and Sanitary Sewer Construction.** As described in the Final Plat, Construction Plans, and Landscape Plans, the Developer, at its sole cost and expense, shall construct to completion, that portion of water and sanitary sewer mains necessary for the Development, as depicted in the Phasing Plan, attached as **Exhibit B**.

12. **"With Water" Plant Investment Fee/Water Dedications.** The required water dedication for full build-out of the Development as set forth on the Final Plat is 125.18 acre-feet. The Developer shall satisfy the water dedication necessary for development with either Fulton Irrigation Ditch or Burlington/Wellington paired shares, or other water rights acceptable to the City or by acquisition from the City of the water required for development on a phased basis. Any water proposed for dedication will be reviewed for acceptability and approved by the City of Brighton. Satisfaction of the required water dedication can be phased, based upon the densities constructed pursuant to the approved Final Plat, and specifically set forth in a written Phasing Plan, approved by the City. If the actual density of any Phase of the Development is less than or more than the full build-out contemplated in the Final Plat, the water dedication or tap acquisition requirements shall be consistent with the phasing plan. Transfer of the dedicated water shares to the City shall be by Special Warranty Deed, and in satisfaction of all the requirements in the Restrictive Dry-Up Covenant, Grant of Easement, attached as Exhibit E.

13. **Community Landscaping Areas.** The Developer shall either dedicate the Water Rights necessary for landscaping purposes or purchase water taps for all landscape areas and tracts designated on the Final Plat as portions of Tracts A, B, C, E, F, G, H, I, and J. The landscape areas shall not include impermeable curb, gutter and road surfaces. Developer shall complete the installation of all landscaping for said landscape areas, in accordance with the approved Landscape Plans, prior to the completion of each Phase of the Development, as depicted in the Phasing Plan, attached as **Exhibit B**. Developer shall install sustainable landscaping in order to minimize water use and maximize use of renewable resources. If the landscaped areas and tracts are to be developed, owned, and/or maintained by the Developer, an HOA, or a Metropolitan District, the party obligated for maintenance shall ensure all landscaping improvement obligations, including without limitation, the maintenance (including, without limitation, routine mowing, pruning, trimming, repair, and replacement) thereof. The installation of landscaping for each Phase of the Development shall be completed and approved by the City before construction shall begin on a subsequent Phase.

    A. The Developer, HOA, or Metropolitan District, as applicable, shall maintain all landscaping within the landscape areas that are contained within Tracts A, B, C, E, F, G, H, I and J in good condition, including the replacement of all dead landscaping within the particular Phase for a period of one year from the date on

which the last Certificate of Occupancy is issued within the applicable Phase of the Development.

B. Developer shall install all street trees, turf, ground cover, and sidewalks for each portion of the landscape areas that are contained within Tracts A, B, C, E, F, G, H, I and J in accordance with the approved Landscape Plans, prior to, and as a condition precedent to, the issuance of a Certificate of Occupancy for the adjacent residential lot.

C. If landscaping installation is delayed or prohibited due to inclement weather, optimal planting season or unforeseeable circumstances is not completed prior to issuance of a residential building permit, the City, at its sole discretion, shall either require the Developer to complete the improvements or determine whether to accept a performance guaranty from the Developer, and, if so, such guaranty shall be in the form of a bond or other surety acceptable to the City, to ensure completion of the required landscaping.

14. **Landscaping and Fencing.** The Developer or Builder shall install a minimum of one (1) tree and three (3) shrubs, together with irrigated sod in the front yard and side yard (for corner lots) for all single-family detached lots in Phases 1and 3 prior to, and as a condition precedent to, the City's issuance of a Certificate of Occupancy (CO) for each particular lot. Perimeter fencing and the requisite adjacent Common Area landscaping (see 13.B above) shall also be installed by the Developer upon the commencement of development for each Phase prior to, and as condition precedent to, the issuance of a Certificate of Occupancy for the adjacent residential lot.

15. **Planting Strips and Street Trees.** Along the lot lines of each lot which adjoins public streets, there are "Utility Easement" areas designated on the Final Plat. The Developer or Builder shall plant and initially maintain all landscaping, in accordance with the approved Landscaping Plans, in the area generally between the edge of the street right-of-way and the detached sidewalk for one year from the date on which the Certificate of Occupancy for the lot is issued, after which time the responsibility shall be with the adjacent property owner. The care and maintenance of the trees and other landscaping within these areas shall be the responsibility of the property owner on which the Utility Easement is located. The City shall have no duty to maintain such landscaping improvements.

16. **School Land Dedication/Transfer.** The Developer and School District 27J have agreed that the Developer may provide a cash-in-lieu payment to the District in satisfaction of dedicating land for a school for the Development. Developer shall provide written confirmation to the City that said payment has been made prior to, and as condition precedent to, the issuance of a residential building permit for Phase 1 of the Development.

17. **Brighton School District Capital Facility Fee.** The Developer is aware of the School District Capital Facility Fee Foundation, whose purpose is to administer the collection from various Development Entities of a "Capital Facility Fee" for disbursal to School

District 27J to fund a portion of the costs of providing additional capital facilities to service new growth, and has voluntarily agreed to be a participating Development Entity in that process and, accordingly, enter into a Participant Agreement with the School District. Fees payable to the Foundation shall be paid directly to the School District as part of the each residential building permit. After establishment and assessment of any school fees as aforesaid, as a condition of approval of any residential building permit, the Developer shall provide evidence to the City that such fees have been paid to the Foundation in accordance with this section, prior to the release of a residential building permit.

18. **City Reimbursement Agreement.** A portion of the Development is adjacent to South Brighton Infrastructure Improvements. Developer acknowledges and agrees that it has a reimbursement obligation for certain costs incurred by the City for the design, construction and installation of public improvement infrastructure that was constructed and installed by the City of Brighton, which infrastructure benefits the Developer. The City and Developer have discussed the possibility that the reimbursement obligation may be satisfied by the establishment and imposition of a mill levy equitably assessed upon the benefitted property pursuant to the City's GID, or through the dedication to the City of a portion of the Metropolitan District mill levy necessary to recoup a portion of the costs of the South Brighton Infrastructure Improvements that may be equitably assessed to the Development. The Developer and City agree to negotiate in good faith and enter into a written agreement memorializing the Developer's reimbursement obligation (the "Reimbursement Agreement"), which Reimbursement Agreement may be recorded in the real estate records of Adams County. Execution of the Reimbursement Agreement is a condition precedent to the issuance of any infrastructure permits for the Development by the City.

19. **Establishment of a Common-Interest Community Association.** The Developer intends to provide for the maintenance of those parcels identified in the Final Plat as being landscape areas, drainage areas or open space owned and maintained by the Community Association. Such construction and maintenance obligations shall initially be assumed by the Developer or the Metropolitan District consistent with the Service Plan. To the extent such obligations are not undertaken by the Metropolitan District, the Developer will establish a Common-Interest Community Association consistent with the Colorado Common Interest Ownership Act through the recording of a Declaration and associated community documents including as appropriate Covenants, Conditions and Restrictions ("CC&Rs"), confirming that the Common-Interest Community Association shall be responsible for Common Area expenses. The City of Brighton assumes no responsibility for the construction or maintenance of any landscape areas, drainage areas or open space owned or the enforcement of the Covenants, Declarations and/or CC&Rs associated with the Common Areas. The Community Association may not be dissolved without the written consent by the City unless appropriate provisions are made to satisfy the obligations of the Common-Interest Community Association, provided the obligations of the Community Association may be assumed and undertaken by a duly organized

Metropolitan District, and the costs of such maintenance authorized in the City-approved Service Plan for the Metropolitan District.

20. **Village at Southgate Brighton Metropolitan District.** The Southgate Metropolitan District Service Plan was approved by the Brighton City Council on October 7, 2014 by Resolution No. 2014-92. To the extent that the Metropolitan District Service Plan authorizes the construction and maintenance of certain public improvements within the Development, and the Developer and District so agree, the City will recognize the Metropolitan District's obligation in that regard.

21. **Irrigation Ditch.** The irrigation ditch on the northeast corner of the Property is owned by School District 27J and used by said District and other shareholders for irrigation purposes. The Developer agrees that it shall not damage, obstruct, or otherwise interfere with said ditch and its normal operation. If the Developer desires to underground the ditch to accommodate development, the design and construction related thereto shall be confirmed with and approved in writing by the School District and all users thereof, and a copy provided to the City.

22. **Existing Barn and Silo on the Property.**

A. **Demolition**. All existing structures on the Property may be demolished and removed from the Property, with the following exceptions:

1. Prior to demolition, the Developer shall give the Brighton Historic Preservation Commission and any designee or contractor reasonable access to the Property to remove historic artifacts, items, building materials, equipment, etc., from the site for the purpose of preserving and displaying the history of the Foley Farm.
2. The existing barn located along 120th Avenue which is approximately 1,300 square feet shall be owner, maintained, relocated, and reused according to the provisions below.
3. Developer agrees to also coordinate with the City to consider alternatives for the relocation and repurposing any portion of the silo located adjacent to the historic barn that may be reasonably salvaged for future use.

B. **Relocation of Barn**. The Developer agrees to relocate the existing barn (approximately 1,300 square feet) at the time of construction of the first Phase of improvements for the Development. The barn shall be relocated to Lot 15 of Block 7, as indicated on the Final Plat. The Developer shall be responsible for hiring a contractor experienced with moving historic structures, and shall be responsible for taking all reasonable precautions to prevent damage or further deterioration to the structure during the relocation process. If during the relocation process the barn is destroyed or its integrity compromised so much so that rehabilitation and repurposing is not possible, the Developer shall not be eligible to receive a credit for the full Credit Costs as outlined

below, but the City will review the reasonable costs incurred by the Developer during the relocation process and calculate a revised credit amount.

C. **Relocation of the Silo**. The Developer/Owner agrees to re-locate a portion of the existing silo to the Neighborhood Park to be repurposed for public restroom facilities. The City agrees to 'credit' the Developer for the reasonable costs incurred by the Developer to re-locate and repurpose the silo, as set forth below

D. **Designation of Barn**. The Developer/Owner shall cooperate with the Brighton Historic Preservation Commission to nominate the barn for designation as a local historic landmark once the barn has been relocated, and prior to any restoration or rehabilitation of the structure, provided any such designation shall be limited to the exterior façade and features, recognizing the Developer may undertake interior renovations in consultation with the City Parks and Recreation Department.

E. **Relocation of Silo**. The Developer/Owner agrees to relocate a portion of the existing silo to the Neighborhood Park to be repurposed for public restroom facilities. The City agrees to "credit" the Developer for the reasonable costs incurred by the Developer to relocate and repurpose the silo as set forth below.

F. **Credit for Relocation, Rehabilitation and Repurposing Costs**. The City agrees to "credit" the Developer for the reasonable costs incurred by the Developer to (i) relocate, rehabilitate and repurpose the barn; and (ii) relocate and repurpose the silo by granting a credit against the open space fee in lieu requirements owed by the Developer pursuant to ¶¶22.A and 22.B above. Credit Costs, as used herein, shall include: the (i) reasonable costs to relocate the barn, (ii) reasonable costs of the design and construction of a new foundation for the barn at the relocation site; (iii) reasonable costs to rehabilitate and repurpose the barn for future community use; and (iv) the reasonable costs to re-locate and repurpose the silo.

Full build-out of the Development would require payment in lieu of dedication for 8.41 acres of open space. Calculated at the current rate, the amount due for open space in lieu of dedication for full build-out is Three Hundred Thirty Six Thousand Four Hundred Dollars ($336,400.00).

Developer shall provide an estimate of the Credit Costs to the City for approval in advance of undertaking the work. The City and the Developer believe the Credit Costs should not exceed $200,000.00. If the Credit Costs exceed $200,000.00, the Developer shall present a budget detailing the revised rehabilitation costs for City approval. In no event shall the Credit Costs exceed the required open space fee-in-lieu dedication amount for full build-out. .

G. **Design and Maintenance of Barn and Silo**. The Developer shall be responsible for completing the design and plans to repurpose the barn for future community use and the

silo for a public restroom facility. The plans shall be provided to the City for approval prior to the issuance of any building permit for the Development and the prior to the City granting any credit against certain open space fees as set forth above. The long-term ownership, maintenance and care of the barn shall be the responsibility of the Community Association or the Village at Southgate Metro District.

23. **Reimbursement From Benefited Properties.** A portion of the Development is adjacent to an undeveloped 41 acre tract located immediately south of the Development (the "South 41 Acre Tract") and an undeveloped 50 acre tract located immediately east of the Development (the "East 50 Acre Tract"), both as identified on Exhibit G-1 attached hereto. Any public improvements constructed by Developer that benefit the South 41 Acre Tract and/or the East 50 Acre Tract shall be subject to a claim by the Developer to be reimbursed for a portion of the actual costs of the construction of said public improvements from the owner of the benefitted property on a fair and reasonable basis. The reimbursement obligation shall be memorialized in a Reimbursement Agreement between the Developer and the owner of the benefited tract, which Reimbursement Agreement shall be executed, and a copy thereof provided to the City, prior to approval of a final plat for either benefited tract. The estimated costs for construction of the public improvements and the proportionate share attributed to each of the benefitted tracts is set forth on Exhibit G-2 attached hereto and made a part hereof. The execution of the Reimbursement Agreement shall be a condition precedent to City approval and recordation of a final plat(s) for the benefitted tracts. Developer acknowledges, represents, and agrees that other than set forth herein the City shall have no legal obligations under the Reimbursement Agreement, nor any responsibility for implementation or enforcement thereof, or for any legal agreements among Developer and the benefitted property.

24. **Subdivision's Marketing Name.** The final subdivision name or the "marketing name" for the Development shall be the Village at Southgate Brighton to identify the subdivision as within the City of Brighton's city limits.

EXHIBIT G-1
COST RECOVERY VICINITY MAP

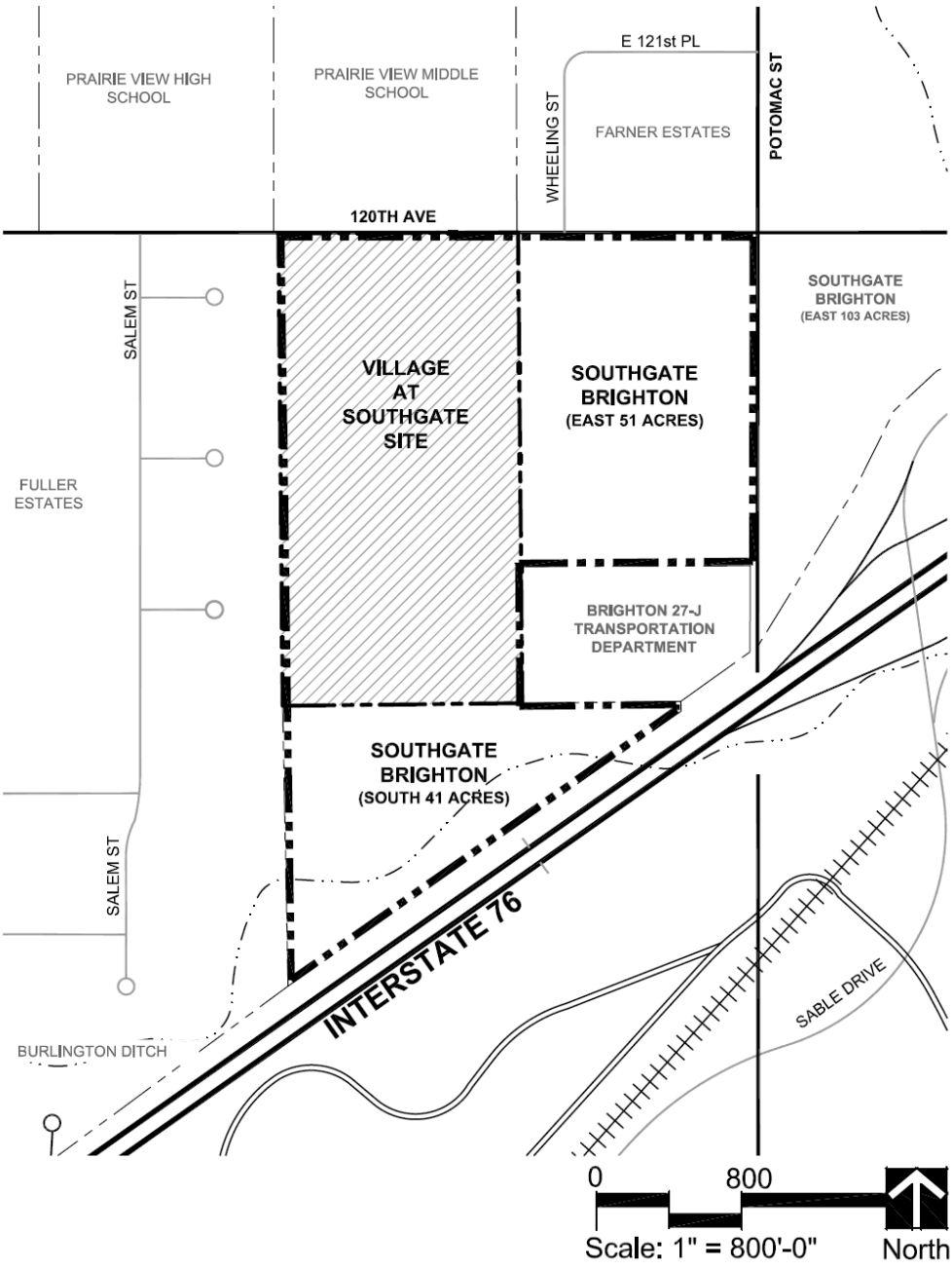


EXHIBIT G-2
BENEFITTED PROPERTY
COST RECOVERY

EXHIBIT G-2
The Village at Southgate
Recovery Items

	TYPE OF IMPROVEMENTS	Percent of Cost Allocated to Property			Total Estimated Cost
		Village At Southgate	Property to the East (51 Acres)	Property to the South (41 Acres)	
1	Traffic Signal	66.00%	19.00%	15.00%	$300,000.00
2	Southgate Boulevard	82.00%	0	18.00%	$761,945.00
3	12" Waterline	84.00%	0	16.00%	$200,340.00
4	12" Sanitary Sewer	86.00%	0	14.00%	$133,600.00

EXHIBIT H

STORMWATER FACILITIES MAINTENANCE AGREEMENT FOR TREATMENT AND DRAINAGE FACILITIES LOCATED ON PRIVATE PROPERTY

THIS AGREEMENT is made this ___ day of _____, 20___, between **_____,** hereinafter referred to as the "Owner," and the City of Brighton, a Colorado municipal corporation, hereinafter referred to as "City."

RECITALS

WHEREAS, The ordinances and regulations of the City require that stormwater treatment and drainage facilities located on private property shall be operated, maintained, repaired, and replaced as necessary by the landowner and/or other responsible party, or their successors and assigns as agreed to by the City; and

WHEREAS, This Stormwater Facilities Maintenance Agreement is entered into by the parties to provide for the continued operation, maintenance, repair, and replacement as necessary of the stormwater treatment and drainage facilities located on the property described in **Exhibit H1**, by the Owner and/or other Responsible Party as identified in **Exhibit H2**; and

WHEREAS, This Agreement specifies the stormwater facilities management requirements necessary for the operation, maintenance, repair, or replacement of stormwater treatment and drainage facilities in accordance Chapter 14, Storm Drainage, of the Brighton Municipal Code as it is amended from time to time.

COVENANTS

THE PARTIES COVENANT AND AGREE AS MORE FULLY SET FORTH HEREIN.

Section 1. Subject Property

The subject property on which the stormwater treatment and drainage facilities to be operated, maintained, repaired or replaced by the Owner and/or the Responsible Party, is more fully described in **Exhibit H1**, attached hereto and by this reference is made a part hereof (hereinafter referred to as "Property").

Section 2. Facilities

The stormwater treatment and drainage facilities located on the Property to be operated, maintained, repaired or replaced by the Owner, and/or the Responsible Party, are more fully described in **Exhibit H3**, attached hereto and by this reference is made a part hereof (hereinafter referred to as "Facilities").

Section 3. Site Specific Maintenance Plan

The Owner and/or Responsible Party agree that unless expressly assumed by the City in writing, the long-term routine and extraordinary maintenance of all Facilities installed on Property, are continuing obligations of the Owner and/or the Responsible Party in accordance with the terms of this Agreement and attached exhibits, including the Site Specific Maintenance Plan contained in **Exhibit H4**, attached hereto and which by this reference is made a part hereof (hereinafter referred to as "Plan").

Section 4. Obligations of Owner and/or Responsible Party

The Owner and the Responsible Party agree to the following:

A) All Facilities on the Property shall be maintained to meet erosion control, groundwater recharge, and stormwater runoff quantity and quality standards of Chapter 14, Storm Drainage, the Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual Volume 3, and the City of Brighton Standards and Specifications Manual, Chapter 3, Drainage and Flood Control, as the same may be amended from time to time.

B) To operate, maintain, repair, and replace as necessary all facilities, including routine and non-routine maintenance, as the same may be required by this Agreement, the ordinances, rules and regulations of the City as they may be amended from time to time. Preventative and corrective maintenance repair and replacement shall be performed to maintain the function and integrity of the Facilities.

C) To keep the Facilities in good condition and repair, free of trash, debris, algae, standing water and other conditions that would constitute a nuisance. Such maintenance shall include, but not limited to slope stabilization, bank grading, sediment removal, mowing, repairs of mechanical and structural components, installation and maintenance of adequate landscaping as well as adequate provision for weed control and replacement of dead plant material. In the event that any detention or retention area within the Property contains standing water for more than ninety-six (96) continuous hours, the Owner and/or Responsible Party shall install an aeration or other appropriate mitigation system acceptable to the City, in order to minimize or prevent algae blooms, mosquitoes, and any other conditions that may constitute a nuisance or otherwise adversely affect the public health, safety and welfare.

D) The Owner and/or Responsible Party shall perform regular inspections in accordance with the Plan on all required Facilities and document maintenance, repair, and replacement needs to ensure compliance with the requirements of this Agreement.

E) Upon written notification by the Director of Utilities, the Owner and/or Responsible Party shall, at their own cost and within a reasonable time period determined by the Director, have an inspection of the Facilities conducted by a qualified professional; file with the Director a

copy of the written report of inspection prepared by the professional; and, within the time period specified by the Director complete any maintenance, repair, or replacement work recommended in the report to the satisfaction of the Director.

F) Maintenance and inspection records shall be retained by the Owner and/or Responsible Party for at least five (5) years, and shall be readily available to the Director upon request.

G) All Facilities, whether structural and non-structural, shall be maintained and the Owner and/or Responsible Party in perpetuity, unless otherwise specified in writing by the Director.

H) To perform all additional maintenance, repair, and replacement as set forth in **Exhibit G of the Development Agreement**, Special Provisions, attached hereto and which by this reference is made a part hereof.

Section 5. City Access to Property

By the terms of this Agreement, the Owner irrevocably grants the Director complete access to the Facilities over and across the privately owned streets or additional areas within the Property, at any reasonable time, upon notice to undertake inspections, sampling, testing, repairs or other preventative measures required to enforce the terms of this Agreement at the Owner's expense. The City may, in its sole discretion, access the site without advanced notice for the purpose of inspection, sampling and testing of the facilities in an emergency circumstance to protect the public health, safety and welfare.

Section 6. Remediation

A) If the Director determines that operation, maintenance, and repair standards for the Facilities are not being met; or, maintenance, repairs, or replacement of Facilities is required, the Director may, in writing, direct the Owner and/or Responsible Party of the operation failures, needed maintenance, repair, replacement and/or the necessity to install any Facilities in order to keep the stormwater treatment and drainage facilities in acceptable working condition.

B) Should the Owner and/or Responsible Party fail within thirty (30) days of the date of the notice specified in 7(A) above, the Director may enter the Property and perform or cause to be performed the required abatement and assess the reasonable cost and expenses for such work against the Owner and/or other Responsible Party as provided in Section. 14-2-100 City Inspections; Costs of Remediation, of the Brighton Municipal Code, as the same may be amended from time to time. Such costs may include the actual cost of any work deemed necessary by the Director, in order to comply with this Agreement, plus reasonable administrative, enforcement, and inspection costs.

C) The Owner and/or Responsible Party shall be jointly and severally responsible for payment of the actual cost of any work deemed necessary by the Director, in order to comply with this Agreement, plus reasonable administrative, enforcement, and inspection costs.

D) In the event the City initiates legal action occasioned by any default or action of Owner or a Responsible Party, then Owner and/or the Responsible Party agree to pay all costs incurred by City in enforcing the terms of this Agreement, including reasonable attorney's fees and costs, and that the same may become a lien against the Property.

Section 7. Notification of Change of Ownership and/or Responsible Party

The owner and the Responsible Party shall notify the City in writing of any changes in ownership as the same is defined herein or change in the Responsible Party within thirty (30) days of the effective date of the conveyance, change, or assignment and shall provide to the City a verified statement from the new Owner or Responsible Party that it has received a copy of this Agreement and the attached exhibits and assumes the responsibilities expressed hereunder. Should the Owner or Responsible Party fail to so notify the City of such change or provide the verified statement from the new Owner or Responsible Party, the conveyance, change, or assignment shall not relieve the new Owner and/or Responsible Party of any obligations hereunder.

Section 8. Notice

All notices provided under this Agreement shall be effective when personally delivered or mailed first class mail, postage prepaid and sent to the following addresses:

If Owner:	*If Responsible Party:*
To Owner or Responsible Party as stated on **Exhibit H2.**	
If City:	*With Copy To:*
Director of Utilities City of Brighton 500 South 4th Avenue Brighton, CO 80601 303.655.2033	City Manager City of Brighton 500 South 4th Avenue Brighton, CO 80601 303.655.2001

Section 9. Definitions

A) **"Director**" means the Director of Utilities of the City of Brighton, or his or her designee.

B) "**Routine"** maintenance procedures includes, but are not limited to, inspections, debris and litter control; mechanical components maintenance, repair, and replacement; vegetation management; and, other routine tasks.

C) "**Non-routine procedures"** include, but are not limited to, those associated with removing accumulated sediments from stormwater quality facilities, restoration of eroded areas,

snow and ice removal, fence repair or replacement, restoration of vegetation and long term structural repair, maintenance and replacement.

D) "**Owner"** means the legal or beneficial owner of the subject, including those persons holding the right to purchase or lease the Property or any other person holding proprietary rights in the Property as identified in **Exhibit H2**, including their agents, representatives, successors and assigns.

E) "**Responsible Party"** means the party, person or entity that is responsible for the maintenance of the facilities as required by this Agreement as identified in **Exhibit H2**. Including their agents, representatives, successors and assigns. Unless otherwise specified in this Agreement and the exhibits attached hereto, the obligations of the Responsible Party and the Owner are joint and several.

F) **"Stormwater treatment and drainage facilities"** include, but are not limited to, storm sewer inlets, pipes, culverts, channels, ditches, hydraulic structures, rip-rap, detention basins, micro-pools, water quality facilities and on-site control measure(s) to minimize pollutants in urban runoff as more fully set forth in **Exhibit H3**.

G) "**Unit Owner's Association"** means an association organized under C.R.S. §38-33.3-301 as a common interest community which may be a Responsible Party under the terms and conditions of this Agreement.

H) All the definitions and requirements of Chapter 14 of the Brighton Municipal Code are incorporated by reference into this Agreement.

Section 10. Miscellaneous

A) The burdens and benefits in this Agreement constitute covenants that run with the Property and are binding upon the parties and their heirs, successors and assigns. Owner will notify any successor to title of all or part of the Property about the existence of this Agreement. Owner will provide this notice before such successor obtains an interest in all or part of the Property. Owner will provide a copy of such notice to City at the same time such notice is provided to the successor.

B) The Owner shall record this Agreement in the records of the Clerk and Recorder of the appropriate and return a copy of the recorded Agreement to the City with the recording information reflected thereon.

C) The parties agree that the interpretation and construction of this Agreement shall be governed by the laws of the State of Colorado and venue for any dispute hereunder shall be in the District Court for Weld County, Colorado.

D) Except as provided in Section 7. (D) Above, in the event of any litigation between the parties regarding their respective rights and obligations hereunder, the substantially prevailing party shall be entitled to receive reasonable attorney fees and costs incurred in connection with such action.

E) If any portion of this Agreement is declared by a court of competent jurisdiction to be void or unenforceable, such portion shall be deemed as severed from this Agreement, and the balance of this Agreement shall remain in effect.

F) Each of the parties hereto agrees to take all actions, and to execute all documents, that may be reasonably necessary or expedient to achieve the purposes of this Agreement.

G) This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the Effective Date.

[Signatures begin on the next page**]**

BRIGHTON:

CITY OF BRIGHTON, a Colorado municipal corporation

By: _____
Curtis Bauers, Director of Utilities

Attest:

By: _____
Natalie Hoel, City Clerk

Approved as to Form:

_____
Margaret R. Brubaker, Esq.
City Attorney

OWNER:

By: _____
Name: _____
Title: _____

RESPONSIBLE PARTY:

By: _____
Name: _____
Title: _____

EXHIBIT H1
Property Description

EXHIBIT H2
Owner/Responsible Party Contact Information

EXHIBIT H3
Facilities Description and Location Map

1) Pond:

2) Swales:

3) Storm sewer inlet pipes, boxes and Manholes, etc.:

4) Emergency Spillways:

5) Manifold under Brighton Lateral

6) Evacuation Pond System

EXHIBIT H4
Site Specific Maintenance Plan
(Use UDFCD Recommendation)

In order for stormwater facilities to be effective, proper maintenance is essential. Maintenance includes both, routinely scheduled activities, as well as non-routine repairs that maybe required after large storms, or as a result of other unforeseen problems. Planning level maintenance for the individual stormwater facilities is included in this Site Specific Maintenance Plan

1) Retention/Detention Ponds:

Responsibilities:

The Owner is solely responsible for long-term maintenance of Pond 1A, 1B and 2 and any inlet or outlet infrastructure, including re-connection to the future outfall system.

Inspection

Inspect the pond at least annually. Note the amount of sediment in the forebay and look for debris at the outlet structure.

Debris and Litter Removal

Remove debris and litter from the pond as needed. This includes floating debris that could clog the outlet or overflow structure.

Aquatic Plant Harvesting

Harvesting plants will permanently remove nutrients from the system, although removal of vegetation can also resuspend sediment and leave areas susceptible to erosion. Additionally, the plants growing on the safety wetland bench of a retention pond help prevent drowning accidents by demarking the pond boundary and creating a visual barrier. For this reason, harvesting vegetation completely as routine maintenance is not recommended. However, aquatic plant harvesting can be performed if desired to maintain volume or eliminate nuisances related to overgrowth of vegetation. When this is the case, perform this activity during the dry season (November to February). This can be performed manually or with specialized machinery. If a reduction in cattails is desired, harvest them annually, especially in areas of new growth. Cut them at the base of the plant just below the waterline, or slowly pull the shoot out from the base. Cattail removal should be done during late summer to deprive the roots of food and reduce their ability to survive winter

Mosquito Control

Mosquito control may be necessary if the pond is located in proximity to outdoor amenities. The most effective mosquito control programs include weekly inspection for signs of mosquito breeding with treatment provided when breeding is found. These inspections and treatment can be performed by a mosquito control service and typically start in mid-May and extend to mid-September. The use of larvicidal briquettes or "dunks" is not recommended for ponds due to their size and configuration.

Sediment Removal from the Forebay

Remove sediment from the forebay before it becomes a significant source of pollutants for the remainder of the pond. More frequent removal will benefit long-term maintenance practices. For dry forebays, sediment removal should occur once a year. Sediment removal in wet forebays should occur approximately once every four years or when build up of sediment results in excessive algae growth or mosquito production. Ensure that the sediment is disposed of properly and not placed elsewhere in the pond.

Sediment Removal from the Pond Bottom

Removal of sediment from the bottom of the pond may be required every 10 to 20 years (for retention ponds) or 15-25 years (for detention ponds) to maintain volume and deter algae growth. This typically requires heavy equipment, designated corridors, and considerable expense. Harvesting of vegetation may also be desirable for nutrient removal. When removing vegetation from the pond, take care not to create or leave areas of disturbed soil susceptible to erosion. If removal of vegetation results in disturbed soils, implement proper erosion and sediment control practices until vegetative cover is reestablished. For constructed wetland ponds, reestablish growth zone depths and replant if necessary.

Sediment Removal from the Trickle Channel, and Micropool

Remove sediment from the trickle channel annually. Sediment removal from the micropool is required about once every one to four years, and should occur when the depth of the pool has been reduced to approximately 18 inches. Small micropools may be vacuumed and larger pools may need to be pumped in order to remove all sediment from the micropool bottom. Removing sediment from the micropool will benefit mosquito control. Ensure that the sediment is disposed of properly and not placed elsewhere in the basin.

Erosion and Structural Repairs

Repair basin inlets, outlets, trickle channels, and all other structural components required for the basin to operate as intended. Repair and vegetate eroded areas as needed following inspection.

2) Swales:

Responsibilities

The Owner is responsible for long-term maintenance of any swale within the owner's property; the City is responsible for long-term maintenance of any swale within the City's Property.

Inspection

Grass buffers and swales require maintenance of the turf cover and repair of rill or gully development. Healthy vegetation can often be maintained without using fertilizers because runoff from lawns and other areas contains the needed nutrients. Periodically inspecting the vegetation over the first few years will help to identify emerging problems and help to plan for long-term restorative maintenance needs. Inspect vegetation at least twice annually for uniform cover and traffic impacts. Check for sediment accumulation and rill and gully development.

Debris and Litter Removal

Remove litter and debris to prevent rill and gully development from preferential flow paths around accumulated debris, enhance aesthetics, and prevent floatables from being washed offsite. This should be done as needed based on inspection, but no less than two times per year.

Aeration

Aerating manicured grass will supply the soil and roots with air. It reduces soil compaction and helps control thatch while helping water move into the root zone. Aeration is done by punching holes in the ground using an aerator with hollow punches that pull the soil cores or "plugs" from the ground. Holes should be at least 2 inches deep and no more than 4 inches apart. Aeration should be performed at least once per year when the ground is not frozen. Water the turf thoroughly prior to aeration. Mark sprinkler heads and shallow utilities such as irrigation lines and cable TV lines to ensure those lines will not be damaged. Avoid aerating in extremely hot and dry conditions. Heavy traffic areas may require aeration more frequently.

Mowing

When starting from seed, mow native/drought-tolerant grasses only when required to deter weeds during the first three years. Following this period, mowing of native/drought tolerant grass may stop or be reduced to maintain a length of no less than six inches. Mowing of manicured grasses may vary from as frequently as weekly during the summer, to no mowing during the winter.

Irrigation Scheduling and Maintenance

Irrigation schedules must comply with the City of Brighton water regulations. The schedule must provide for the proper irrigation application rate to maintain healthy vegetation. Less irrigation is typically needed in early summer and fall, with more irrigation needed during July and August. Native grass should not require irrigation after establishment, except during prolonged dry periods when supplemental, temporary irrigation may aid in maintaining healthy vegetation cover. Check for broken sprinkler heads and repair them, as needed. Do not overwater. Signs of overwatering and/or broken sprinkler heads may include soggy areas and unevenly distributed areas of lush growth.

Completely drain and blowout the irrigation system before the first winter freeze each year. Upon reactivation of the irrigation system in the spring, inspect all components and replace damaged parts, as needed.

Fertilizer, Herbicide, and Pesticide Application

Use the minimum amount of biodegradable nontoxic fertilizers and herbicides needed to establish and maintain dense vegetation cover that is reasonably free of weeds. Fertilizer application may be significantly reduced or eliminated by the use of mulch-mowers, as opposed to bagging and removing clippings. To keep clippings out of receiving waters, maintain a 25-foot buffer adjacent to open water areas where clippings are bagged. Hand-pull the weeds in areas with limited weed problems.
Frequency of fertilizer, herbicide, and pesticide application should be on an as-needed basis only and should decrease following establishment of vegetation.

Sediment Removal

Remove sediment as needed based on inspection. Frequency depends on site-specific conditions. For planning purposes, it can be estimated that 3 to 10% of the swale length or buffer interface length will require sediment removal on an annual basis.

- **For Grass Buffers**: Using a shovel, remove sediment at the interface between the impervious area and buffer.
- **For Grass Swales**: Remove accumulated sediment near culverts and in channels to maintain flow capacity. Spot replace the grass areas as necessary.

Reseed and/or patch damaged areas in buffer, sideslopes, and/or channel to maintain healthy vegetative cover. This should be conducted as needed based on inspection. Over time, and depending on pollutant loads, a portion of the buffer or swale may need to be rehabilitated due to sediment deposition. Periodic sediment removal will reduce the frequency of revegetation required. Expect turf replacement for the buffer interface area every 10 to 20 years.

3) Storm sewer inlet pipes, boxes and manholes:

Responsibilities

The property owner is hereby accepting long-term maintenance responsibilities of storm sewer pipes, inlets and MH located in private property.

Inspection

Frequent inspections of storm pipes, inlets and manholes are recommended in the first two years, and then annually. Look for debris and strong odors indications.

Debris and Litter removal

Remove silt and flow blocking debris as soon as possible. Remove sediment and waste collected from cleaning activities of the drainage system in appropriate containers to approved odd-site disposal areas. A vac-jet truck maybe needed to perform this work by properly trained personnel.

Erosion and Structural Repairs

Repair all structural components required for the pipe, inlet and manhole to operate as intended.

4) Emergency Spillways:

Responsibilities

The Owner is solely responsible for long-term maintenance of all permanent ponds' spillways.

Inspection

Inspect annually.

Erosion and Structural Repairs

Repair all structural components required for the spillway to operate as intended.