

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:  
City of Brighton City Clerk

THIS SPACE FOR RECORDER'S USE ONLY

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**DEVELOPMENT AGREEMENT  
BRIGHTON CROSSING FILING NO. 6 SUBDIVISION**

**THIS DEVELOPMENT AGREEMENT BRIGHTON CROSSING FILING NO. 6 SUBDIVISION** (this “Agreement”) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2023 by and between the CITY OF BRIGHTON, COLORADO, a home rule municipality of the Counties of Adams and Weld, State of Colorado (the “City”), Brookfield Residential (Colorado), LLC, a Nevada limited liability company (the “Developer”), and the Brighton Crossings Operation Board, a Colorado special district (the “District”).

**WHEREAS**, the Developer has submitted a Final Plat (the “Final Plat”), Brighton Crossing, Filing No. 6 Subdivision (the “Development” or “Property”), attached hereto as **Exhibit A** and incorporated herein by reference. Said Final Plat has been reviewed and approved by the City Council of the City of Brighton; and

**WHEREAS**, Developer is the owner of a 68.088-acre parcel of land to be platted into 63.821 acres with a remainder parcel comprised of the remaining acreage, more particularly described in **Exhibit A** attached hereto and by this reference made a part hereof; 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  
DEFINITIONS**

**Definitions.** The following terms and definitions shall apply to this Agreement and the exhibits and attachments hereto. If there is a conflict between the following definitions and a specific provision of this Agreement or any exhibit or attachment, the more restrictive shall apply.

- 1.1** “*Benefited Landowner*” for reimbursement purposes means the landowner or developer that will directly benefit by the availability of an off-site public improvement constructed pursuant to this Agreement for connection, protection and/or service for the proposed development of the benefited property, whether connected or not, and but for its prior

construction the Benefited Landowner would have been required to build the public improvement.

- 1.2** “*City Manager*” means the City Manager of the City of Brighton or his or her designee.
- 1.3** “*City Specifications*” shall mean the City of Brighton Parks and Recreation Department and/or Public Works Standards and Specifications, as applicable.
- 1.4** “*Civil Engineering Documents*” includes civil plans, construction plans, or any combinations thereof with drawings replacing the word “plans,” and shall mean any graphic representation of the following: demolition plans, grading plans, drainage plans, water system plans, sanitary sewer plans, streets plans, or any combination thereof. This list is not exhaustive in nature and should include any plans and reports included in the civil engineering scope.
- 1.5** “*Common-Interest Management Association*” means a Unit Owner’s Association created pursuant to Article 33.3, of Title 38, C.R.S. *Colorado Common Interest Ownership Act*, including 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.
- 1.6** “*Completion of Construction*” means the date the City has certified in writing that all three of the following have occurred:
- 1.6.1** Construction is complete in accordance with the construction specifications and the requirements of this Agreement;
  - 1.6.2** The City has issued Final Acceptance; and
  - 1.6.3** The City can fully occupy or utilize the work for the purpose for which it is intended.
- 1.7** “*Initial Acceptance*” means the City’s acceptance of ownership of public improvements that have been dedicated to the City, subject to the applicable warranty period and resolution of any warranty matters arising during such warranty period and prior to the City’s final acceptance for all ownership, operations, maintenance, repair, and capital replacement obligations with respect to such land (or real property interests therein) and, upon expiration of the applicable warranty period and resolution of any warranty matters arising during this period, such public improvements.
- 1.8** “*Construction permit*” includes building permits, infrastructure permits, temporary use permit; and permits for grading, excavating, drainage, erosion and sediment control and the moving of structures.

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

**1.9.1** It must be reasonable, i.e., the cost is generally recognized as necessary for the performance of the project and is one that a prudent person would consider reasonable given the same set of circumstances;

**1.9.2** It must be allocable to the applicable improvement project, i.e., the cost is incurred for the benefit of only one project or the item can be easily assigned to multiple benefiting projects; and

**1.9.3** A specific project may only be charged that portion of the cost which represents the direct benefit to that project.

The term “*Costs*” or “*Actual Costs*” shall not include indirect costs for overhead, administration and general staff expenses, equipment rental, maintenance, and similar expenses.

**1.10** “*Developer*” means the landowner, person, firm, partnership, joint venture, limited liability company, association, corporation, construction agent or other agent who has applied for approval of land development as reflected in this Agreement and the attachments hereto.

**1.11** “*Final acceptance*,” pursuant to Section 2.10 herein, means the City’s acceptance of the project from the Developer after the entire work is completed, tested, and inspected in accordance with the contract requirements.

**1.12** “*Improvement guarantee*” means cash, bond, or a letter of credit in a format provided by the City, as further specified in Section 2.13 herein.

**1.13** “*Improvements*” – see definition for “Public Improvements.”

**1.14** “*Phase*” means a designated portion of property in the Development within which all or designated Public Improvements specified in Section 2.3 herein and set forth in **Exhibit B**, attached hereto, will be constructed as required in this Agreement.

**1.15** “*Phasing Plan(s)*” – see definition for “Public Improvements.”

**1.16** “*Public Improvements*” shall mean a detailed listing of the design, construction, installation, and phasing of which is the sole responsibility of the Developer, described in **Exhibit B**, attached hereto and incorporated herein by this reference, as well as 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.

## SECTION 2 GENERAL CONDITIONS

- 2.1 Development Obligation.** Developer shall be responsible for the performance of the covenants set forth herein.
- 2.2 Development Impact Fees and Other Fees.** Developer shall pay all fees related to development of the property described in the Final Plat(s) at the time of issuance of a building permit for any or all portions of the Development. The amount of the fees shall be the amount in effect at the time construction permits are issued. Any amendment to the kinds of fees or the amounts of said fees enacted by the City after the date of this Agreement are incorporated into this Agreement as if originally set forth herein.
- 2.3 Schedule of Improvements.** For this Agreement, the term “Schedule of Improvements” and/or “Phasing Plan(s)” shall mean a detailed listing of all of the Public Improvements, the design, construction, installation, and phasing of which is 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 (which list is not exhaustive), the type, size, general location, and estimated cost of each improvement and the development Phase in which the Public Improvement is to be built:
- Water Lines
  - Sanitary Sewer Lines
  - Storm Sewer Lines
  - Drainage Retention/Detention Ponds
  - Streets/Alleys/Rights-of-Way
  - Curbs/Gutters
  - Sidewalks
  - Bridges and Other Crossings
  - Traffic Signal Lights
  - Street Lights
  - Signs
  - Fire Hydrants
  - Guard Rails
  - Neighborhood Parks/Community Parks
  - Open Space
  - Trails and Paths
  - Street Trees/Open Space and/or Common Area Landscaping
  - Irrigation Systems
  - Wells
  - Fencing/Retaining Walls
  - Parking Lots
  - Permanent Easements
  - Land Donated and/or Conveyed to the City
  - Value of Land Beneath All Infrastructure Improvements
  - Value of Water Donated and/or Conveyed to the City

- 2.4 Engineering Services.** Developer agrees to furnish, at its sole expense, all necessary engineering services and civil engineering documents relating to the design and construction of the Development and the Public Improvements set forth in the Schedule of Improvements and/or Phasing Plan(s) described in **Exhibit B**, attached hereto and incorporated herein by this reference (the “Improvements” and/or the “Schedule of Public Improvements” and/or the “Phasing Plan(s)”). Said engineering services shall be performed by, or under the supervision of, a Registered Professional Engineer, or a Registered Land Surveyor, or other professionals as appropriate, licensed by the State of Colorado, and in accordance with applicable Colorado law, and shall conform to the standards and criteria for Public Improvements as established and approved by the City as of the date of submittal to the City.
- 2.5 Construction Standards.** Developer shall construct all Improvements required by this Agreement, and any other Improvements constructed in relation to the Development, in accordance with the plans and specifications approved in writing by the City, and with the approved Final Plat(s), and in full conformity with the City’s construction specifications applicable at the time of construction plan approval.
- 2.6 Development Coordination.** Unless specifically provided in this Agreement to the contrary, all submittals to the City or approvals required of the City in connection with this Agreement shall be submitted to or rendered by the City Manager, who shall have general responsibility for coordinating development with the Developer.
- 2.7 Plan Submission and Approval.** Developer shall furnish to the City complete civil engineering documents and plans for all Improvements to be constructed in each Phase of the Development, as defined in Section 2.16 below, and obtain approval of the plans for each Phase prior to commencing any construction work thereon. The City shall issue its written approval or disapproval of said 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.
- 2.8 Initial Acceptance and Warranty.**
- 2.8.1** No later than ten (10) days after construction of Public 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.
- 2.8.2** 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 the completed Improvements listed on the Schedule of Improvements, including satisfactory documentation to support said actual costs.
- 2.8.3** Developer shall provide “as built” drawings and a certified statement of construction costs no later than thirty (30) days after an Improvement is completed, or

prior to a reduction in the Improvement Guarantee (see Section 2.13 below), whichever occurs earlier.

**2.8.4** 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 2.16 herein, the City may exercise its rights to secure performance as provided in Section 10.1 of this Agreement.

**2.8.5** If the Improvements completed by Developer are satisfactory, the City shall grant Initial 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 Initial 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 Initial Acceptance can be granted, and the City shall provide written notice to Developer of the acceptability or unacceptability of such work prior to proceeding to complete any such work at Developer's expense. If Developer does not complete the repairs, replacements, construction, or other work required within thirty (30) days of said notice, the City may exercise its right to secure performance as provided in Section 10.1 of this Agreement. The City reserves the right to schedule re-inspections, depending upon the scope of deficiencies.

**2.8.6** No residential building permits shall be issued by the Building Division of the Community Development Department prior to Initial Acceptance of Public Improvements unless expressly permitted in **Exhibit D** of this document. No commercial building certificates of occupancy shall be issued by the Community Development Department prior to Initial Acceptance of Public Improvements unless expressly permitted in **Exhibit D** of this document.

**2.9** **Maintenance of Improvements.** For a two (2) year period from the date of Initial 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 right to secure performance as provided in Section 10.1 of this Agreement.

**2.10** **Final Acceptance.** At least thirty (30) days before two (2) years have elapsed from the issuance of Initial 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.

**2.11** **Reimbursement to the City.** The City may complete construction, repairs, replacements, testing, maintenance or other work for Developer, pursuant to Sections 2.8, 2.9 or 2.10 of

this 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 this Agreement and the City may exercise its rights under Section 10.1 of this Agreement.

- 2.12 Testing and Inspection.** Developer shall employ, at its own expense, a licensed and registered testing company, 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. 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 Community Development Department. If the request is approved, the Developer shall reimburse the City for all direct costs of the after-hours inspection services. If the request is denied, the work shall not proceed after the hours listed above.

**2.13 Improvement Guarantees.**

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

- A. Prior to City approval of Public Improvements Construction Plans – 115%
- B. Upon Initial Acceptance prior to Final Acceptance – 15%
- C. After Final Acceptance – 0%

**2.13.2** 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 Developer fails to extend or replace any such Improvement Guarantee at least thirty (30) days prior to expiration of such Improvement Guarantee, or fails to otherwise comply with the Improvement Guarantee. 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.

**2.13.3** In the event the Improvement Guarantee expires, or the entity issuing the Improvement Guarantee becomes non-qualifying, or the cost of the Improvements and related construction is reasonably determined by the City to be greater than the amount of the security provided, then the City shall furnish written notice to the Developer of the

condition, and within thirty (30) days of receipt of such notice, the Developer shall provide the City with a substituted qualifying Improvements Guarantee or augment the deficient security as necessary to bring the security into compliance with the requirements of this Section 2.13. If such an Improvement Guarantee is not submitted or maintained, then Developer is in default of this Agreement and is subject to the provisions of Section 10.1 of this Agreement, as well as the suspension of the development activities by the City, including but not limited to the issuance of construction permits of any kind including infrastructure permits, building permits, and construction or final acceptance, or certificates of occupancy or completion.

**2.14 Indemnification and Release of Liability.**

**2.14.1** Developer hereby indemnifies and holds harmless the City, its officials, officers, employees, agents, and contractors, and agrees to pay any and all judgments rendered against the City and/or said persons on account of any suit, action, or claim caused by, arising from, or on account of acts or omissions by the Developer, its officers, employees, agents, consultants, contractors and subcontractors, and to pay to the City and said persons their reasonable expenses, including, but not limited to, reasonable attorney's fees and reasonable expert witness fees incurred in defending any such suit, action, or claim; provided, however, that Developer's obligation herein shall not apply to the extent said action, suit, or claim results from any negligent or willful acts or omissions of officers, employees, agents or servants of the City or the conformance with the requirements imposed by the City. Said obligation of Developer shall be limited to suits, actions, or claims based upon conduct prior to "final acceptance" by the City of the construction work.

**2.14.2** Developer acknowledges that the City's review and approval of plans for development is done in furtherance of the public's health, safety, and welfare and that no immunity is waived and no specific relationship with, or duty of care to, the Developer or third parties is assumed by such approval. The parties hereto understand and agree that the City of Brighton, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$387,000 per person and \$1,093,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to the City of Brighton, its officers or its employees.

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

**2.16 Phasing.** It is anticipated that the Development will be developed sequentially, in Phases, including the Public Improvements specified in **Exhibit B**. The City hereby approves Developer's Phasing Plan for the Public Improvements, which is a part of the attached **Exhibit B**. The completion of each Phase of the Development, including public and private Improvements, shall be in accordance with said Phasing Plan and completion schedules, or



City-approved modifications thereof. All modifications shall be in writing and signed by the City Manager.

### SECTION 3 CONSTRUCTION OF IMPROVEMENTS

- 3.1 Rights-of-way, and Easements.** Before City may approve construction plans for any Improvements herein agreed upon, Developer shall acquire, at its own expense, and convey to the City all necessary land, rights-of-way and easements required by the City for the construction of the proposed Improvements related to the Development. All such conveyances shall be free and clear of liens, taxes, and encumbrances except for ad valorem real property taxes for the current year and thereafter and shall be by plat or Special Warranty Deed in form and substance acceptable to the City Attorney. The City at the Developer's expense shall record all title documents. The Developer shall also furnish, at its own expense, an ALTA title policy, for all interest(s) so conveyed, subject to approval by the City Attorney.
- 3.2 Construction.** Developer shall furnish and install, at its own expense, all of the Improvements listed on the "Schedule of Improvements" attached as **Exhibit B**, in conformance with the civil drawings, plans, and specifications approved by the City prior to construction and the applicable ordinances, regulations, and specifications of the City. If Developer does not meet the above obligations, then Developer shall be in default of this Agreement and the City may exercise its rights under Section 10.1 of this Agreement.
- 3.3 Utility Coordination and Installation.** In addition to the Improvements described in **Exhibit B**, Developer shall also be responsible for coordination of, and payment for, and the installation of on-site and off-site electric, street lights, natural gas, telephone, and other utilities. All utilities shall be placed underground, to the extent required by City Code or other applicable law.
- 3.4 Reimbursement.** To the extent that roads, water lines, sewer lines, drainage channels, trails, crossings and other Public Improvements specified in **Exhibit B** are constructed by Developer, that will benefit landowners, developers, and persons other than the Developer ("Benefited Landowner," as that term is defined in Section 1.1), the City, for a period of fifteen (15) years following the completion of construction of such Improvements, will withhold approval and recording of Final Plats of other Benefited Landowners, developers, and pending reimbursements payment or reimbursement agreement for a pro rata reimbursement to the Developer. The actual costs of these off-site Improvements shall be submitted to the City after the Improvements are constructed by the Developer and Final Acceptance is issued by the City. Property owners, Developers, and/or other persons submitting plats or development plans that are adjacent to or directly benefiting from these Improvements shall pay the required sums directly to the Developer before a Final Plat for any portion of their property is approved or recorded. The City agrees not to approve or record said Final Plat until the payments are made, but assumes no responsibility for and hereby assigns to Developer the right, if any, for collecting the reimbursements from the affected property owners.

**3.4.1** 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 City 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:

- A. 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;
- B. Copies of paid receipts or other satisfactory evidence of payment of the costs claimed for the improvement(s), unless previously submitted;
- C. A verified statement from the Developer and/or contractor, subcontractor, engineer, architect, or consultant certifying that final payment has been paid and/or received;
- D. As-built map or plan satisfactory to the City which shows:
  - i. The location of the improvement(s) as constructed, unless previously submitted;
  - ii. The name and address of the owner of each property which the Developer asserts has or will be benefited by the improvement(s);
  - iii. The amount of frontage each property has adjacent to the improvement(s);
  - iv. The acreage and parcel number of each property, which the Developer asserts has or will be benefited by the improvement(s);
  - v. A reference to the book and page and/or reception number from the county records where the information for each property was obtained;
  - vi. 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
  - vii. Any other information deemed necessary by the City Manager, or the Manager's designee.
- E. If the foregoing information is not submitted by the Developer within the ninety (90) days after Final Acceptance, then all rights and claims for reimbursement shall be deemed waived, and reimbursement will thereafter be denied. If the information is submitted in a timely manner, the City Manager, or the Manager's designee, will review it and, if approved as submitted or modified by the City Manager, prepare a reimbursement agreement to be signed by the Developer and the City Manager. If the Developer fails or refuses to sign the reimbursement agreement with the City within thirty (30) days of preparation by the City Manager, then all rights and claims for reimbursement shall be deemed waived, and reimbursement will thereafter be denied.

**3.4.2** The City Manager, or the City 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 City Manager's designee, may make such adjustments, as the City Manager or the City Manager's designee, in their sole discretion, determines to be necessary if the costs are deemed to be in excess of reasonable and necessary costs at then prevailing rates and/or the proposed cost recovery plan is not appropriate or reasonable. If the City Manager, or the City Manager's designee, does not notify the Developer in writing of any adjustments thereto within thirty (30) days after the materials and proposed plan

were submitted, or if backup documentation is requested within thirty (30) days, within thirty (30) days after the requested back up documentation is submitted, then the costs and the recovery plan will be deemed approved as submitted and a reimbursement agreement shall prepared and executed as provided in subsection 5 above.

**3.4.3** The reimbursement agreement shall include, but not be limited to:

- A. A description of the improvement(s) for which the Developer will be reimbursed;
- B. A recitation of all reimbursable costs;
- C. A list of properties, owners and descriptions that are or will be benefited by the improvement(s);
- D. The manner or formula that will be applied to determine the amount of reimbursement owed by the owners or developers of benefited properties;
- E. 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 approve or recorded;
- F. The City agrees not to approve a proposed development; approve or record a final subdivision plat, or issue a building permit for an identified benefited property until the payments are made to the Developer or a reimbursement agreement between the original Developer and benefited landowner, developer or other person has been executed, but assumes no responsibility therefore and hereby assigns to Developer the right, if any, for collecting the reimbursements from the benefited property owners and/or developers; If the benefited landowner, developer or other person fails or refuses to pay the reimbursement costs or execute the reimbursement agreement which reflects the reimbursement agreement terms with the City within sixty (60) days of submission of the agreement, no further approvals shall be granted by the City as more specifically set forth in Sections 3.4 and 3.5;
- G. 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; and
- H. 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.

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

**3.4.5** It is the responsibility of the Developer or its successors or assigns to notify the City in writing of any changes in address for notices and other matters under Section 3.5 of this Agreement. Upon receipt of an application for development of a benefited property, the City shall mail a notice of application for development, building permit or final plat, to the Developer or assigns by regular mail using the Developer, its successors or assigns last known address provided to the City. If no response is received within thirty (30) days, after the date of the notice, then the City shall be authorized to approve the application for approval of the development, building permit, or final plat and release the owner, or developer, or other person of the benefited property from further reimbursement

obligations and the Developer, its successor or assign will forfeit all rights to reimbursement from the owner and/or developer of the specified property.

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

**3.5.1** The Developer agrees to use its best efforts and work in good faith to reach an agreement regarding reimbursement for such shared improvements, and assumes sole responsibility for the administration and collection of any and all moneys payable under shared improvements reimbursement agreement(s). A fully executed shared improvements reimbursement agreement shall be a condition precedent to the City's approval of an application for development, building permit, or approval and recording of a Final Plat, related to the benefited property subject to such reimbursement agreement(s).

**3.5.2** If the Developer is unable to secure a fully executed shared improvements reimbursement agreement prior to the issuance of Final Acceptance, the City may set the amount of the reimbursement obligation as provided in Section 3.5 of this Agreement.

**3.5.3** The cost recovery period in a shared improvement reimbursement obligation shall not exceed fifteen (15) years following the Final Acceptance of such improvement(s).

## **SECTION 4 STREET IMPROVEMENTS**

**4.1 Specifications.** The Developer shall construct street improvements 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, as specified in Section 4.3 and in **Exhibit D.**

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

**4.3 Streets.** Developer shall construct all internal and external streets in accordance with the City of Brighton's approved *Transportation Master Plan* and *Public Works Standards and Specifications*, as the same may be amended from time to time, and the approved construction plans, and shall be constructed in accordance with the Public Improvements Phasing Plan, as set forth in **Exhibit B.**

## SECTION 5 PUBLIC LAND CONVEYANCE AND LANDSCAPING

### 5.1 **Public Land Conveyance.**

**5.1.1** Developer shall convey to the City all lands for public use as shown in the Final Plat(s). Such conveyance of lands for public use shall be completed after the Final Plat for all or any portion of the Development is approved by the City and as a condition precedent to the recording of any such Final Plat. No final plat(s) shall be recorded or implemented until said conveyance is complete. Said conveyances shall be by plat or by special warranty deed (statutory exceptions applicable) in form and substance satisfactory to the City Attorney.

**5.1.2** As part of its application for a final plat for all or any portion of the Development, the Developer shall also furnish, at its own expense, an ALTA title commitment, for all interest(s) to be conveyed, subject to approval by the City Attorney. The City shall accept for public use only those lands which, pursuant to the title commitment, are free and clear of all liens, taxes, and encumbrances, except for ad valorem real property taxes for the current year and thereafter. The City shall not accept lands for public use with encumbrances, either surface or underground, as revealed on the title commitment or upon physical inspection, which limit the property for its intended public use. The Developer shall, at its sole expense, cause a title policy in conformance herewith to be delivered to the City at the time of the conveyance.

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

## SECTION 6 WATER

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

### 6.2 **Water Dedications.** Developer shall comply with all requirements associated with the dedication of water for the Development, as applicable.

## SECTION 7 SEWER LINES

### 7.1 **Specifications.** All sewer lines and appurtenances thereto shall be constructed and installed, at the minimum, pursuant to City-approved plans, City Specifications and the

Schedule of Improvements, attached hereto as **Exhibit B**, including both on-site and off-site improvements.

## SECTION 8 OTHER IMPROVEMENTS

- 8.1 Street Lights.** The total cost of street light installation, as shown on the approved construction plans for the Development, shall be the Developer's obligation. Developer shall cause, at its own expense, United Power, or the applicable utility company, to install all required street lighting pursuant to City-approved plans and City Specifications.
- 8.2 Drainage and Stormwater Improvements.**
- 8.2.1** Developer shall construct drainage and stormwater improvements and facilities, both on-site and off-site, as required to provide for, and to reasonably regulate, the proper drainage and control of flood and surface waters within the Development in order that storm and surface water may be properly drained and controlled, pollution may be reduced, and the environment protected and enhanced. Such drainage and stormwater improvements and facilities shall comply with Chapter 14, "Storm Drainage," of the Brighton Municipal Code, all applicable state and federal stormwater regulations, as additionally described in **Exhibit E**, all City-approved plans and City Specifications, and the Schedule of Improvements, attached hereto as **Exhibit B**.
- 8.2.2** Developer shall initiate no overlot grading until the City approves the required drainage improvement plans in writing and a permit is issued. Drainage improvements shall not cause any damage to adjacent or downstream properties resulting from erosion, flood, or environmental impact during construction and/or after construction completion. Drainage improvements not constructed by the Developer and specific for each lot shall be constructed by the owner of said lot, at the minimum, in accordance with plans approved at the time of Final Plat approval. Said plans shall conform to the City's then-existing drainage, stormwater and floodplain regulations.
- 8.3 Post-Construction Stormwater Management.** Post construction stormwater management by the Developer shall comply with Article 14-8, "Post-Construction Stormwater Management," of the Brighton Municipal Code, as additionally described in **Exhibit E and attachments E1-E4**. All private drainage facilities shall be operated, repaired, maintained, and replaced by the Developer according to the Maintenance Agreement for Private Drainage Structures, **Exhibit E and attachments E1-E4**, to ensure facilities continue serving their intended function in perpetuity, unless or until the City relieves the Developer of that responsibility in writing. The Developer shall ensure access to drainage facilities at the site for the purpose of inspection and repair.

## SECTION 9 SPECIAL PROVISIONS

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

## **SECTION 10 BREACH OF AGREEMENT**

- 10.1** In the event 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.
- 10.2** 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.
- 10.3** 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.
- 10.4** In the event the Improvement Guarantee is not available or is in an insufficient amount, the City shall use its best efforts to notify Developer at the earliest practical date and time.
- 10.5** 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.
- 10.6** Nothing herein shall be construed to limit the City from pursuing any other remedy at law or in equity, which may be appropriate under City, state, or federal law. Failure to timely complete construction of Improvements solely due to force majeure, as that term is defined herein, shall not be considered a breach of this Agreement. All costs incurred by the City, including, but not limited to, administrative costs and reasonable attorneys' fees, in pursuit of any remedies due to the breach by the Developer shall be the responsibility of the Developer. The City may deduct these costs from the Improvement Guarantee and seek indemnification and reimbursement from the Developer if the Improvements Guarantee does not cover the same.

## **SECTION 11 MISCELLANEOUS TERMS**

- 11.1 Recording of Agreement.** The City shall record this Agreement at Developer's expense in the office of the Clerk and Recorder in the county in which the Property is located, and the City shall retain the recorded Agreement.
- 11.2 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.
- 11.3 Assignment, Delegation and Notice.** Developer shall provide to the City, for approval, written notice of any proposed transfer of this Agreement obligations to any successor, as well as arrangements, if any, for delegation of the Improvement obligations hereunder. Until written City approval of the transfer and delegation of obligations, Developer and its successors and assigns shall be jointly and severally liable for the obligations of Developer under this Agreement.
- 11.4 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.
- 11.5 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  
Attn: City Manager  
500 South 4th Avenue  
Brighton, CO 80601

Developer/District:

Brookfield Residential (Colorado) LLC  
Attn: Chris Bremner  
6465 S. Greenwood Plaza, Suite 700  
Centennial, CO 80111

Brighton Crossings Operations Board  
Attn: Jesse Mestrovic  
550 W. Eisenhower Blvd  
Loveland, CO 80537

With a copy to:

City of Brighton  
Attn: City Attorney  
500 South 4<sup>th</sup> Avenue  
Brighton, CO 80601

With a copy to:

Foster Graham Milstein & Calisher  
Attn: David Foster  
360 So. Garfield Street, #600  
Denver, CO 80209



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.

- 11.6 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.
- 11.7 Approvals.** Whenever approval or acceptance of a matter is required or requested of the City, pursuant to any provisions of this Agreement, the City shall act reasonably in responding to such matter.
- 11.8 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 the Development. If any prior agreements conflict with this Agreement, then this Agreement controls.
- 11.9 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.
- 11.10 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 this 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.
- 11.11 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.

[Signatures begin on the next page]





**CITY OF BRIGHTON, COLORADO**

\_\_\_\_\_  
By: Gregory Mills, Mayor

ATTEST:

\_\_\_\_\_  
Natalie Hoel, City Clerk

Approved as to Form:

\_\_\_\_\_  
Alicia Calderon, City Attorney

**EXHIBIT A**

Condensed Image of  
**BRIGHTON CROSSING FILING NO. 6 SUBDIVISION**

*[Final Plat begins on the next page.]*



FINAL PLAT OF  
BRIGHTON CROSSING FILING NO. 6  
A PORTION OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN,  
CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

TRACT SUMMARY TABLE			
TRACT	AREA (SQ.FT)	AREA (AC ±)	USE OWNED BY / MAINTAINED BY
TRACT A	279,894	6.407	DRINKAGE B.C.O.B. / B.C.O.B.
TRACT B	2,692	0.060	LANDSCAPE B.C.O.B. / B.C.O.B.
TRACT C	161,723	3.713	PARK B.C.O.B. / B.C.O.B.
TRACT D	44,370	1.019	LANDSCAPE B.C.O.B. / B.C.O.B.
TRACT E	3,212	0.074	LANDSCAPE B.C.O.B. / B.C.O.B.
TRACT F	35,668	0.819	LANDSCAPE B.C.O.B. / B.C.O.B.
TRACT G	19,412	0.446	LANDSCAPE B.C.O.B. / B.C.O.B.
TRACT H	4,980	0.112	LANDSCAPE B.C.O.B. / B.C.O.B.
TOTAL	550,931	12.650	B.C.O.B. - DRINKAGE OPERATIONS BOARD

NOTES:

- [illegible]

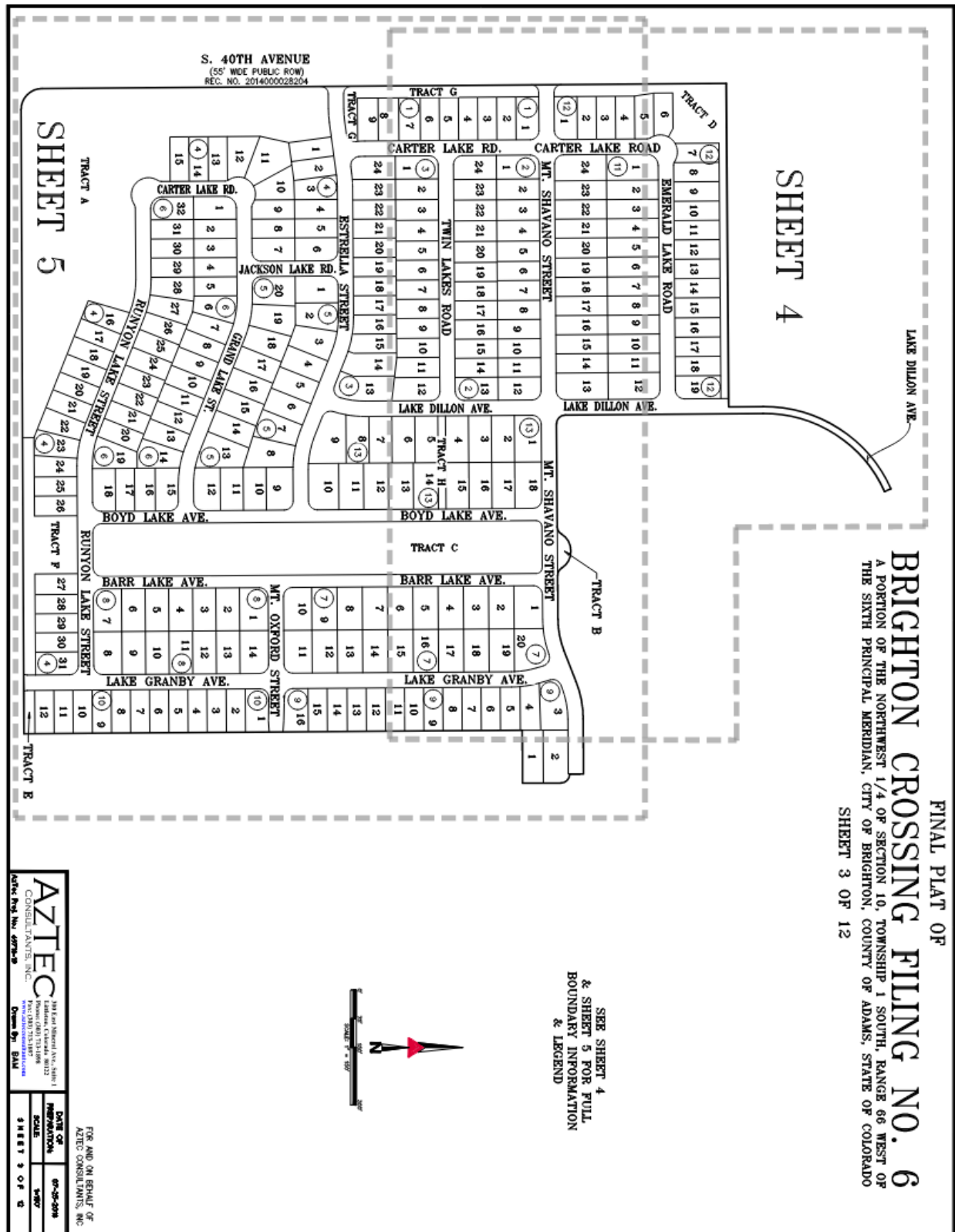
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03	572110*	23.00	23.02	
04	1142116*	53.00	108.07	
05	572110*	23.00	23.02	
06	2029633*	232.00	84.80	
07	210451*	268.00	98.61	
08	9000000*	23.00	36.15	
09	895046*	55.00	86.25	
010	340939*	15.00	8.94	
011	282824*	19.00	9.33	
012	282824*	19.00	9.42	
013	9000000*	23.00	36.15	
014	874725*	23.00	35.21	
015	834165*	23.00	37.43	
016	9000000*	23.00	36.15	
017	895945*	19.00	29.84	
018	9000000*	23.00	36.15	
019	9000000*	23.00	36.15	
020	340939*	15.00	8.94	
021	9000000*	23.00	36.15	
022	893245*	23.00	36.15	
023	9000015*	19.00	29.85	
024	9000000*	23.00	36.15	
025	9000000*	23.00	36.15	

	CHARGE	DELTA	PAUSE	LENGTH
C26	90701.57	23.00	36.14	
C27	89795.47*	23.00	36.12	
C28	90701.57	23.00	36.12	
C29	89795.47*	15.00	23.66	
C30	90701.57	16.00	23.57	
C31	89795.47*	23.00	36.12	
C32	85731.36*	23.00	37.68	
C33	85700.00*	23.00	34.12	
C34	90700.00*	23.00	36.15	
C35	89795.47*	23.00	36.12	
C36	90701.57	23.00	36.15	
C37	90701.57	23.00	36.14	
C38	89795.46*	18.00	23.84	
C39	90700.015	19.00	23.85	
C40	90700.01	23.00	36.15	
C41	95737.50*	23.00	38.39	
C42	86711.45*	23.00	34.55*	
C43	90700.00*	23.00	36.13	
C44	90700.00*	23.00	36.15	
C45	90700.00*	23.00	36.13	
C46	90700.00*	23.00	36.15	
C47	90700.00*	23.00	36.13	
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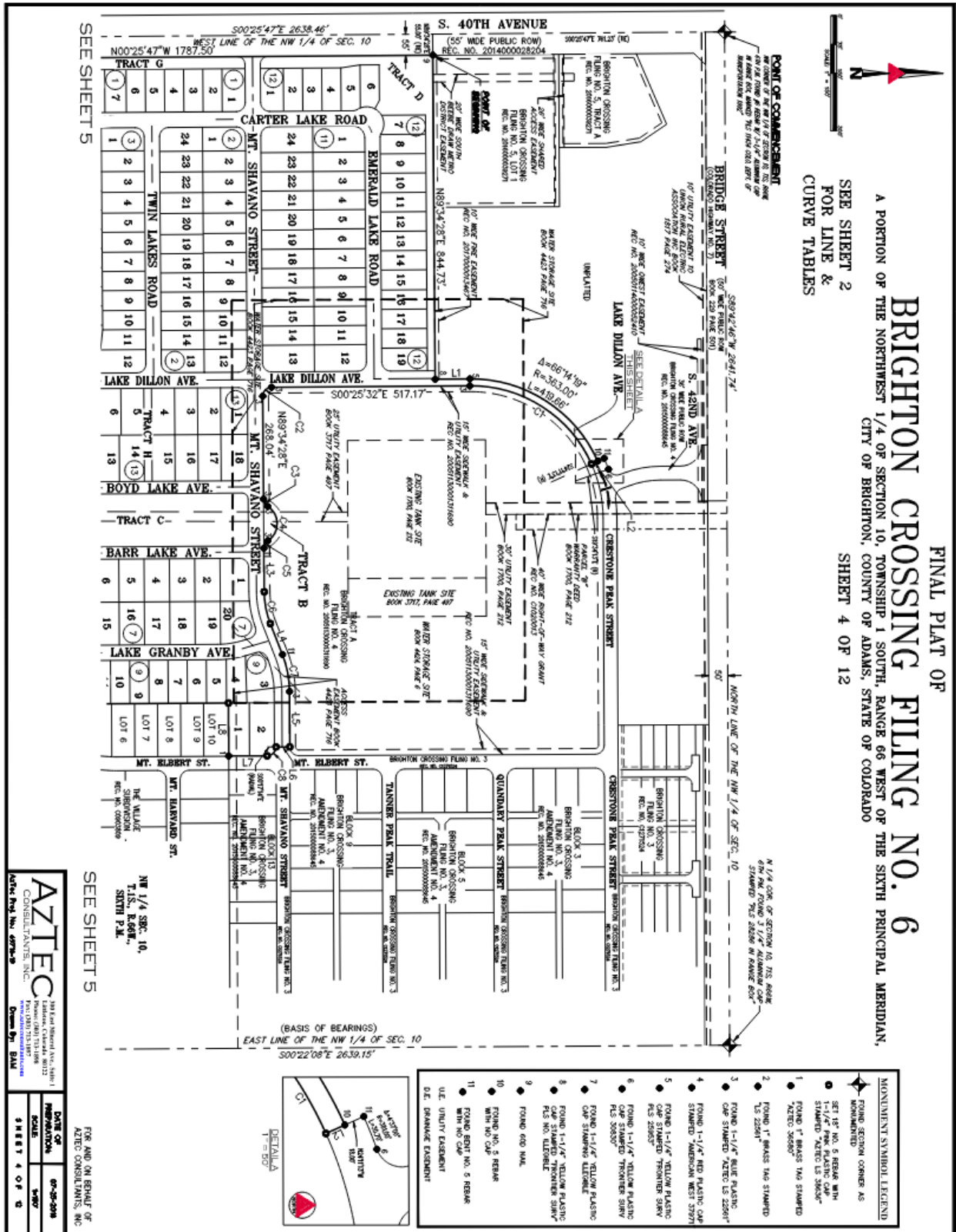
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C07	90700700	23.00	36.13	
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C14	34070597	15.00	8.94	
C15	90700700	30.00	47.12	
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C18	90700700	23.00	36.13	
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C22	90700700	23.00	36.13	
C23	90700700	23.00	36.13	
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C25	34070597	15.00	8.94	
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C33	90700700	23.00	36.13	
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LINE TABLE		
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L2	S24°11'32"E	183.00
L3	N09°34'28"E	113.84
L4	N68°37'59"E	86.88
L5	N09°42'46"E	144.37
L6	S00°17'4"E	36.00
L7	S00°17'4"E	100.34
L8	S89°43'03"W	138.28
L9	S00°17'4"E	4.00
L10	N08°46'07"E	3.50

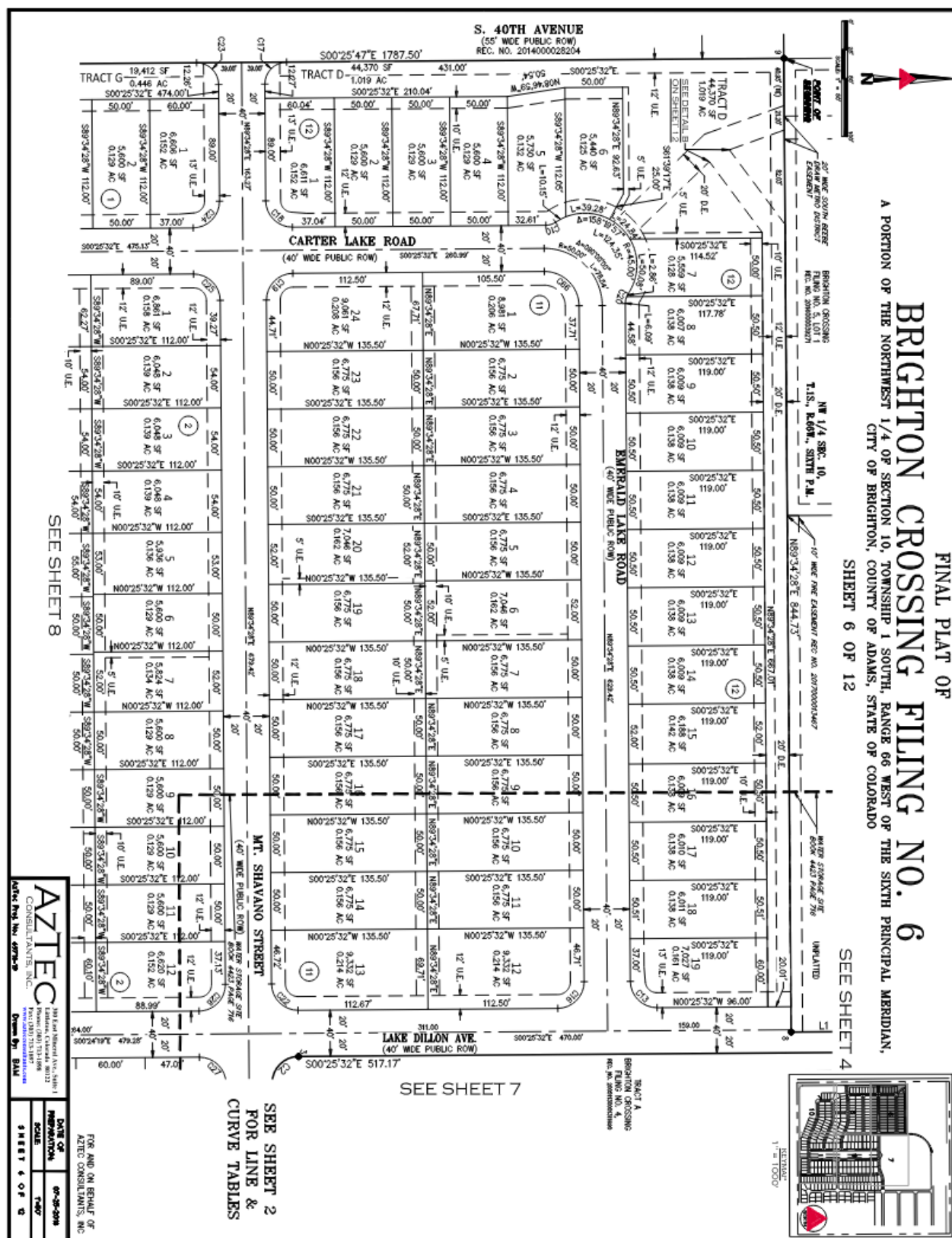
<b>AZTEC</b> CONSULTANTS, INC. 390 East Mineral Ave., Suite 1 Lakeland, Colorado 80122 Phone: (303) 753-1898 Fax: (303) 753-1897 <a href="http://www.aztecconsultants.com">www.aztecconsultants.com</a>	DATE OF REGISTRATION	09-30-2016
	SCALE	N/A
Office Proj. No. 45737-0 Drawn By: BAM Sheet 2 of 2		



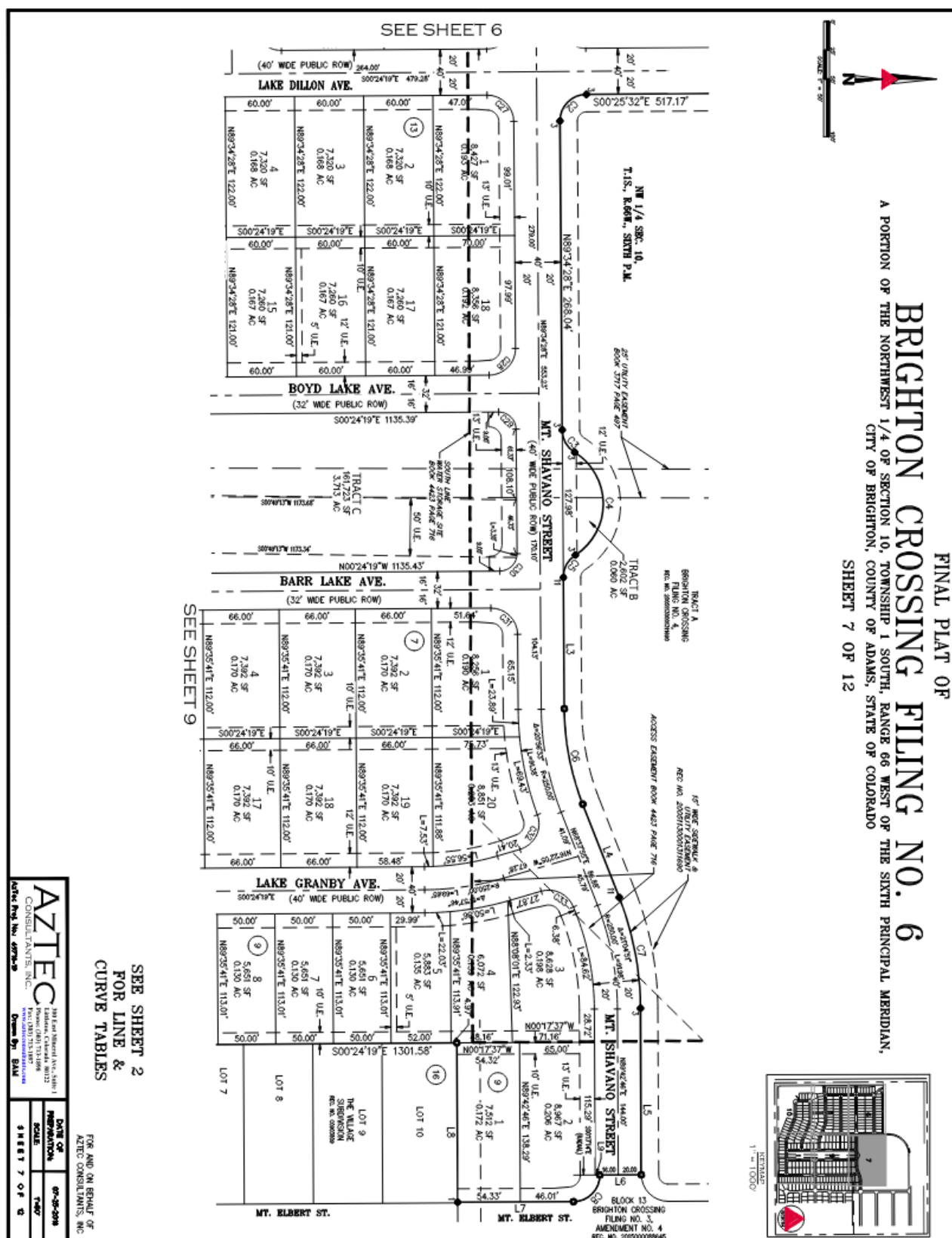


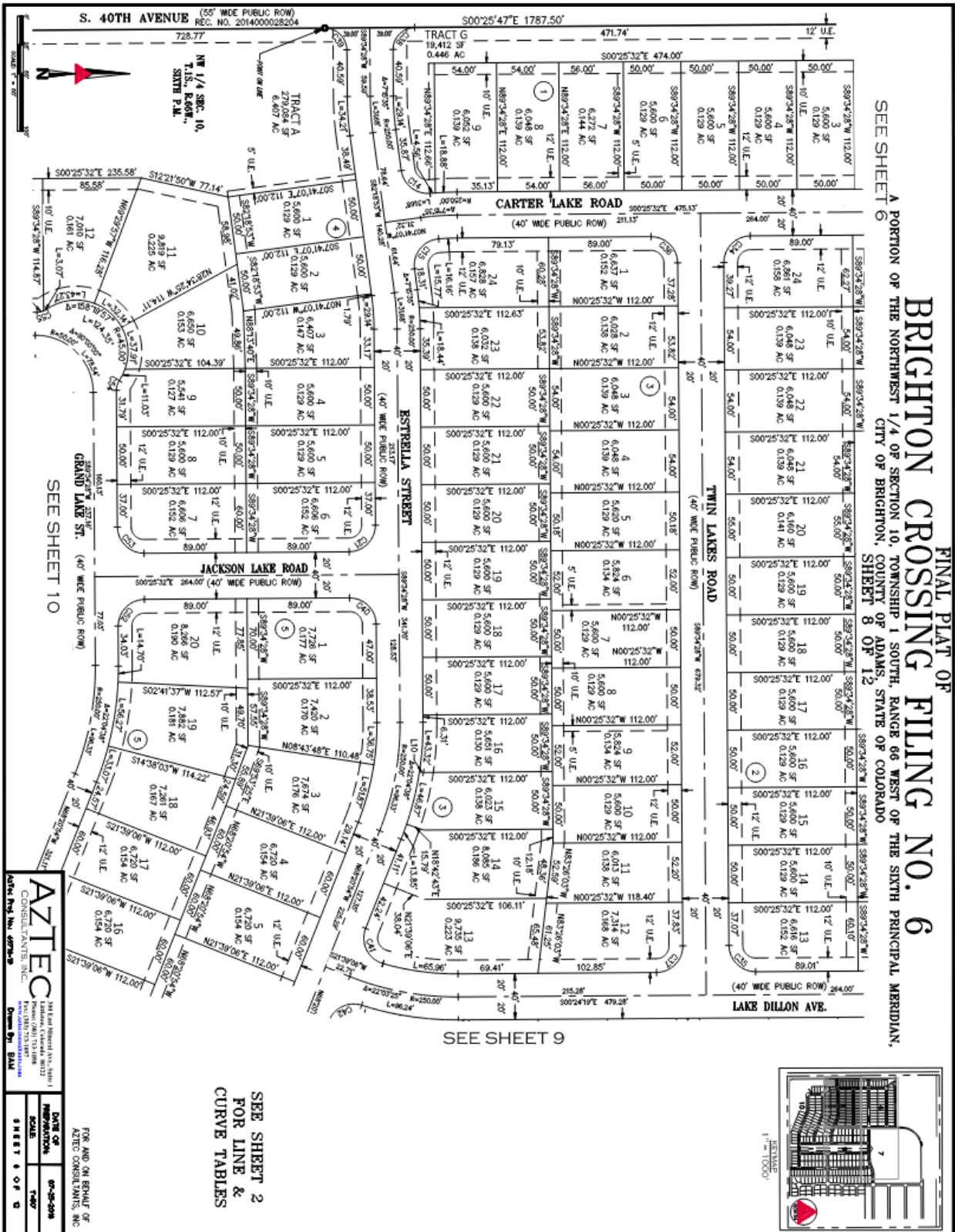


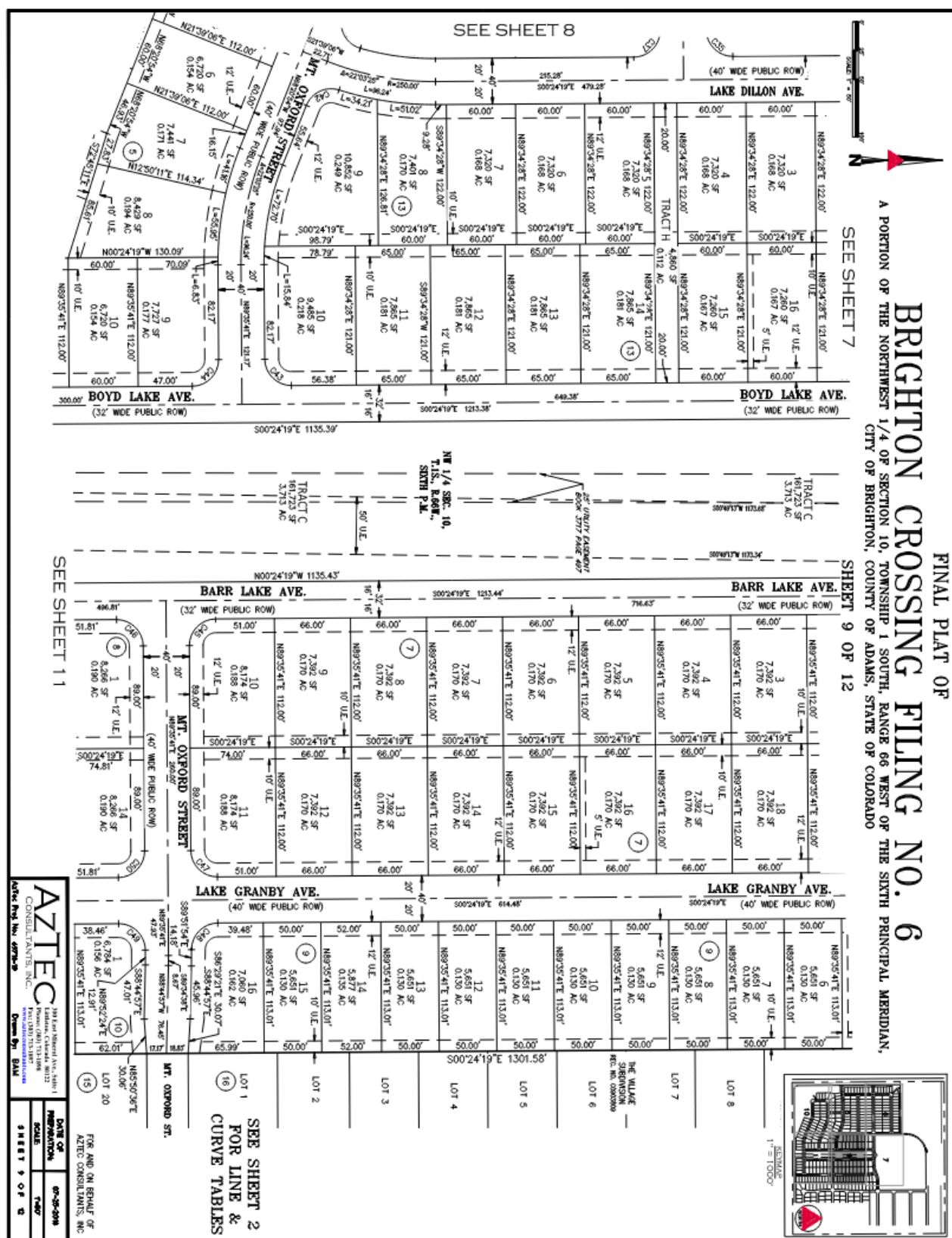




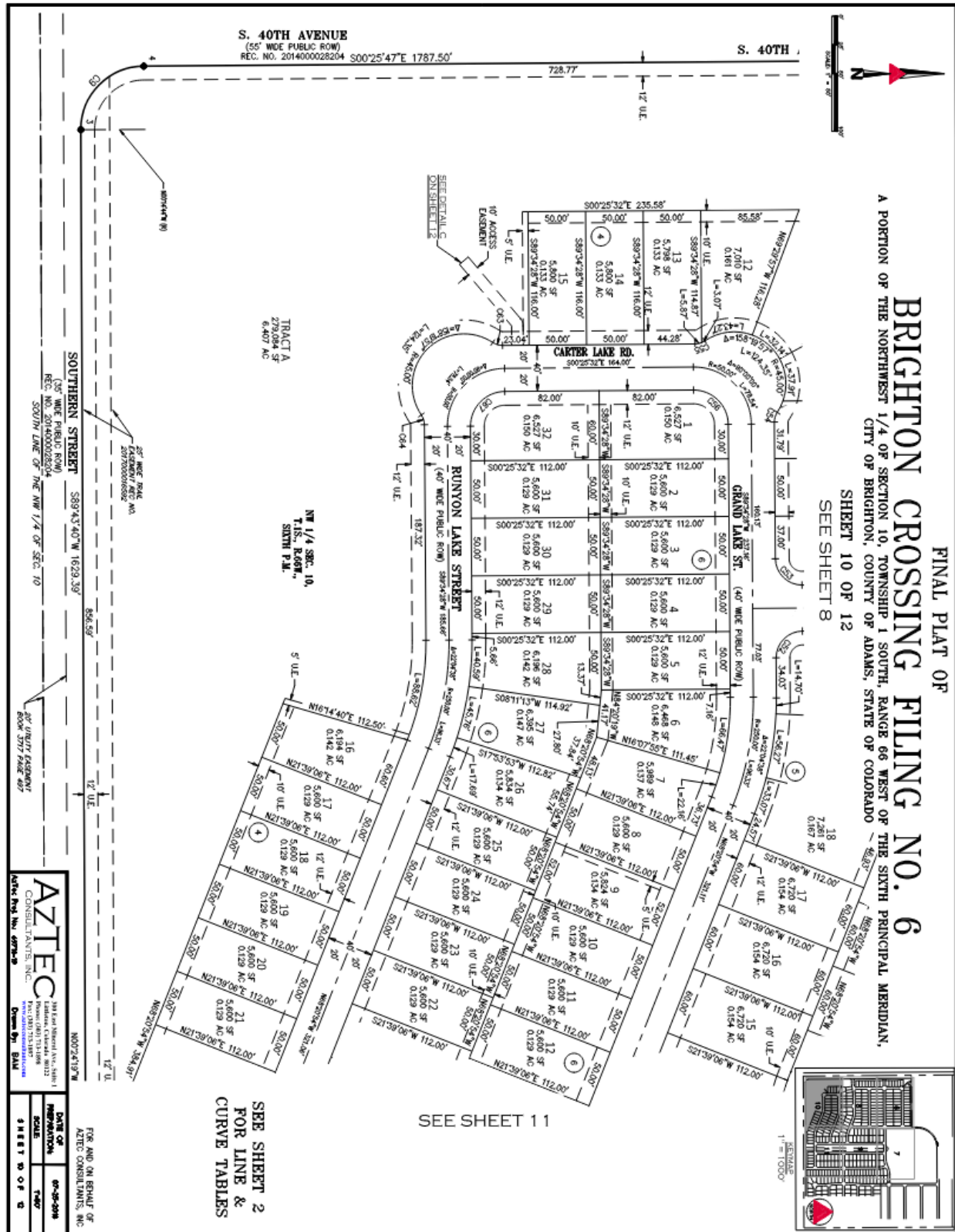












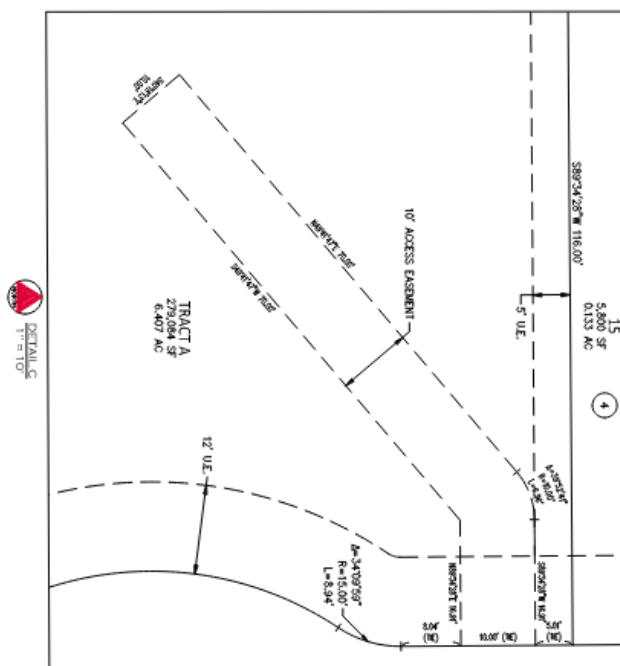
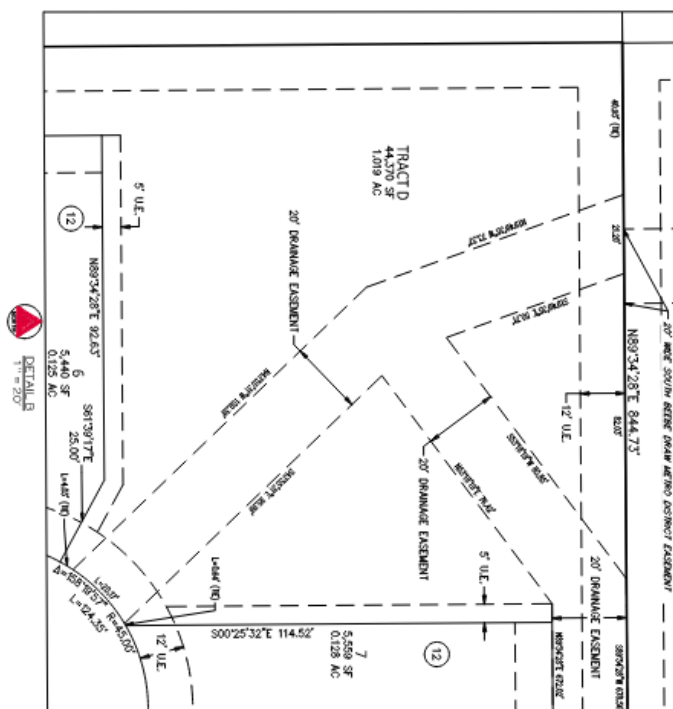




FINAL PLAT OF  
BRIGHTON CROSSING FILING NO. 6  
THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE SIXTH PRIN

A PORTION OF THE NORTHWEST 1/4 OF SECTION 10, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN,  
CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

SHEET 12 OF 12



**AZTEC**  
CONSULTANTS, INC.  
300 East Mineral Ave., Suite  
Eastbrook, Chicago 80122  
Phone (312) 713-1898  
Fax (312) 713-1897  
[www.aztecconsultants.com](http://www.aztecconsultants.com)  
Dennis J. BAW

FOR AND ON BEHALF OF AZTEC CONSULTANTS, INC.	
DATE OF PREPARATION	07-26-2016
SCALE	N/A
SHEET 2 OF 2	

**EXHIBIT B****SCHEDULE OF PUBLIC IMPROVEMENTS AND PHASING PLAN***Onsite:***EXHIBIT B****BRIGHTON CROSSING FILING 6  
PHASE 1**

<b>Type of Improvements</b>	<b>Quantity/ Length</b>	<b>Unit</b>	<b>Unit Cost</b>	<b>Total Estimate by Line Item</b>	<b>Total Actual Cost at Construction Acceptance</b>
Internal Streets	16,550	SY	\$40	\$662,000	
Alleys	0	SY		\$0	
Curb/Gutter/Sidewalks	9,010	LF	\$45	\$405,450	
Medians and Landscaping	0	SF		\$0	
Bridges/Crossings/Culverts	0	LF		\$0	
Guard Rails	0	LF		\$0	
Street Lights	13	EA	\$6,000	\$78,000	
Traffic Signal Lights (40th/South)	1	EA	\$28,500	\$28,500	
Traffic Signal Lights (40th/Bridge)	1	EA	\$17,000	\$17,000	
Park Landscaping	0	SF		\$0	
Park Amenities	0	EA		\$0	
Trails/Paths	TBD	LF		\$0	
Fencing	TBD	LF		\$0	
Retaining Walls	0	FF		\$0	
Public Parking Lots		SF	\$5	\$0	
Fire Hydrants	8	EA	\$7,500	\$60,000	
Potable Water Lines	4,990	LF	\$45	\$224,550	
Non-Potable Water Lines	0	LF		\$0	
Irrigation Systems	TBD	LS		\$0	
Sanitary Sewer Lines	3,963	LF	\$60	\$237,780	
Storm Sewer Lines	2,650	LF	\$160	\$424,000	
Retention and Detention	1	LS	\$70,000	\$70,000	
Traffic Signs	43	EA	\$150	\$6,450	
Public Landscape	TBD	SF		\$0	
Subtotal				\$2,213,730	
Contingency (15%)				\$332,060	
TOTAL				\$2,545,790	

TBD = Information to be updated with Landscape Design

**EXHIBIT B**BRIGHTON CROSSING FILING 6  
PHASE 2

Type of Improvements	Quantity/ Length	Unit	Unit Cost	Total Estimate by Line Item	Total Actual Cost at Construction Acceptance
Streets	16,325	SY	\$40	\$653,000	
Alleys	0	SY		\$0	
Curb/Gutter/Sidewalks	8,985	LF	\$45	\$404,325	
Medians and Landscaping	0	SF		\$0	
Bridges/Crossings/Culverts	0	LF		\$0	
Guard Rails	0	LF		\$0	
Street Lights	13	EA	\$6,000	\$78,000	
Traffic Signal Lights	0	EA		\$0	
Park Landscaping	0	SF		\$0	
Park Amenities	0	EA		\$0	
Trails/Paths	TBD	LF		\$0	
Fencing	TBD	LF		\$0	
Retaining Walls	0	FF		\$0	
Public Parking Lots		SF	\$5	\$0	
Fire Hydrants	7	EA	\$7,500	\$52,500	
Potable Water Lines	4,812	LF	\$45	\$216,540	
Non-Potable Water Lines	0	LF		\$0	
Irrigation Systems	TBD	LS		\$0	
Sanitary Sewer Lines	3,851	LF	\$60	\$231,060	
Storm Sewer Lines	2,180	LF	\$160	\$348,800	
Retention and Detention	0	LS	\$70,000	\$0	
Traffic Signs	40	EA	\$150	\$6,000	
Public Landscape	TBD	SF		\$0	
Subtotal				\$1,990,225	
Contingency (15%)				\$298,534	
TOTAL				\$2,288,759	

TBD = Information to be updated with Landscape Design

**EXHIBIT B**BRIGHTON CROSSING FILING 6  
PHASE 3

Type of Improvements	Quantity/ Length	Unit	Unit Cost	Total Estimate by Line Item	Total Actual Cost at Construction Acceptance
Streets	14,095	SY	\$40	\$563,800	
Alleys	0	SY		\$0	
Curb/Gutter/Sidewalks	7,697	LF	\$45	\$346,365	
Medians and Landscaping	0	SF		\$0	
Bridges/Crossings/Culverts	0	LF		\$0	
Guard Rails	0	LF		\$0	
Street Lights	12	EA	\$6,000	\$72,000	
Traffic Signal Lights	0	EA		\$0	
Park Landscaping	0	SF		\$0	
Park Amenities	0	EA		\$0	
Trails/Paths	TBD	LF		\$0	
Fencing	TBD	LF		\$0	
Retaining Walls	0	FF		\$0	
Public Parking Lots		SF	\$5	\$0	
Fire Hydrants	9	EA	\$7,500	\$67,500	
Potable Water Lines	4,201	LF	\$45	\$189,045	
Non-Potable Water Lines	0	LF		\$0	
Irrigation Systems	TBD	LS		\$0	
Sanitary Sewer Lines	3,349	LF	\$60	\$200,940	
Storm Sewer Lines	2,230	LF	\$160	\$356,800	
Retention and Detention	0	LS	\$70,000	\$0	
Traffic Signs	32	EA	\$150	\$4,800	
Public Landscape	TBD	SF		\$0	
Subtotal				\$1,801,250	
Contingency (15%)				\$270,188	
TOTAL				\$2,071,438	

TBD = Information to be updated with Landscape Design

BRIGHTON CROSSING FILING 6  
FUTURE LAKE DILLON

Type of Improvements	Quantity/ Length	Unit	Unit Cost	Total Estimate by Line Item	Total Actual Cost at Construction Acceptance
Streets (Asphalt)	1,938	SY	\$40	\$77,511	
Alleys	0	SY		\$0	
Curb/Gutter/Sidewalks	1,090	LF	\$45	\$49,050	
Medians and Landscaping	0	SF		\$0	
Bridges/Crossings/Culverts	0	LF		\$0	
Guard Rails	0	LF		\$0	
Street Lights	0	EA	\$6,000	\$0	
Traffic Signal Lights	0	EA		\$0	
Park Landscaping	0	SF		\$0	
Park Amenities	0	EA		\$0	
Trails/Paths	TBD	LF		\$0	
Fencing	TBD	LF		\$0	
Retaining Walls	0	FF		\$0	
Public Parking Lots	0	SF	\$5	\$0	
Fire Hydrants	0	EA	\$7,500	\$0	
Potable Water Lines	545	LF	\$45	\$24,525	
Non-Potable Water Lines	0	LF		\$0	
Irrigation Systems	TBD	LS		\$0	
Sanitary Sewer Lines	0	LF	\$60	\$0	
Storm Sewer Lines	572	LF	\$160	\$91,520	
Retention and Detention	0	LS	\$70,000	\$0	
Traffic Signs	5	EA	\$150	\$750	
Public Landscape	TBD	SF		\$0	
Subtotal				\$243,356	
Contingency (15%)				\$36,503	
TOTAL				\$279,860	

*Offsite:*

<b>BRIGHTON CROSSING FILING 6 OFFSITE IMPROVEMENTS</b>					
<b>N. 40TH AVENUE &amp; SOUTHERN STREET IMPROVEMENTS</b>					
<b>PHASE 1 &amp; 3 COST ESTIMATE EXHIBIT</b>					
<b>JR ENGINEERING</b>					
<b>3/7/2023</b>					
<b>ITEM NO.</b>	<b>DESCRIPTION</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>UNIT PRICE</b>	<b>ITEM COST</b>
<b>PHASE 1 (40th Ave)</b>					
1	Mobilization	LS	1	\$ 20,000.00	\$ 20,000.00
2	Traffic Control	LS	1	\$ 20,000.00	\$ 20,000.00
3	Clearing and Grubbing (Includes Removal of Gravel)	LS	1	\$ 5,000.00	\$ 5,000.00
4	Unclassified Excavation (Complete In Place)	CY	9876	\$ 10.50	\$ 103,698.00
5	Unclassified Excavation (Complete In Place) (Pond Grading)	CY	36659	\$ 10.50	\$ 384,919.50
6	Removal of Pipe	LF	140	\$ 27.30	\$ 3,822.00
7	Removal of End Section	EACH	3	\$ 525.00	\$ 1,575.00
8	Removal of Area Inlet	EACH	1	\$ 2,000.00	\$ 2,000.00
9	Removal of Asphalt Mat (Full Depth)	SY	404	\$ 12.00	\$ 4,848.00
10	Removal of Asphalt Trail (Full Depth)	SY	81	\$ 12.00	\$ 972.00
11	Removal of Asphalt Mat (Milling)	SY	1544	\$ 5.00	\$ 7,720.00
12	Relocation of Ground Sign	EACH	3	\$ 125.00	\$ 375.00
13	Removal of Epoxy Striping	SF	1562	\$ 4.00	\$ 6,248.00
14	Adjust Manhole	EACH	6	\$ 600.00	\$ 3,600.00
15	Adjust Valve Box	EACH	7	\$ 400.00	\$ 2,800.00
16	Silt Fence	LF	1954	\$ 2.50	\$ 4,885.00
17	Check Dams	EACH	13	\$ 500.00	\$ 6,500.00
18	Concrete Washout Structure	EACH	1	\$ 2,500.00	\$ 2,500.00
19	Storm Drain Inlet Protection	EACH	5	\$ 300.00	\$ 1,500.00
20	Storm Drain Outlet Protection	EACH	3	\$ 300.00	\$ 900.00
21	Vehicle Tracking Pad	EACH	2	\$ 2,000.00	\$ 4,000.00
22	Stabilized Staging Area	EACH	1	\$ 5,000.00	\$ 5,000.00
23	Sediment Basin	EACH	1	\$ 3,000.00	\$ 3,000.00
24	Seeding (Native)	ACRE	2.3	\$ 1,500.00	\$ 3,450.00
25	Soil Conditioning	ACRE	2.3	\$ 2,500.00	\$ 5,750.00
26	Mulching (Weed Free) w/ Tackifier	ACRE	2.3	\$ 2,500.00	\$ 5,750.00
27	Reconditioning	SY	9680	\$ 5.25	\$ 50,820.00
28	Aggregate Base Course (Class 6)	TON	696	\$ 21.00	\$ 14,616.00
29	Hot Mix Asphalt Overlay (Grading S) (75) (PG 64-22) (2 inch Depth)	TON	196	\$ 88.00	\$ 17,248.00
30	Hot Mix Asphalt Overlay (Grading SX) (75) (PG 64-22) (2 inch Depth)	TON	196	\$ 88.00	\$ 17,248.00
31	Hot Mix Asphalt (Grading S) (75) (PG 64-22) (6 inch Depth)	TON	3307	\$ 88.00	\$ 291,016.00
32	Hot Mix Asphalt (Grading SX) (75) (PG 64-22) (2 inch Depth)	TON	1050	\$ 88.00	\$ 92,400.00

<b>BRIGHTON CROSSING FILING 6 OFFSITE IMPROVEMENTS</b>					
<b>N. 40TH AVENUE &amp; SOUTHERN STREET IMPROVEMENTS</b>					
<b>PHASE 1 &amp; 3 COST ESTIMATE EXHIBIT</b>					
<b>JR ENGINEERING</b>					
<b>3/7/2023</b>					
<b>ITEM NO.</b>	<b>DESCRIPTION</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>UNIT PRICE</b>	<b>ITEM COST</b>
33	18 Inch Reinforced Concrete Pipe (Complete in Place)	LF	255	\$ 63.00	\$ 16,065.00
34	14"x24" Horizontal Elliptical Reinforced Concrete Pipe (Complete in Place)	LF	33	\$ 150.00	\$ 4,950.00
35	24 Inch Reinforced Concrete Pipe (Complete in Place)	LF	742	\$ 84.00	\$ 62,328.00
36	24"x38" Horizontal Elliptical Reinforced Concrete Pipe (Complete in Place)	LF	154	\$ 200.00	\$ 30,800.00
37	Forebay (Includes Type M Riprap, Toe Wall, and Headwall)	LS	1	\$ 30,000.00	\$ 30,000.00
38	Inlet Type R L5 (5 Foot)	EACH	1	\$ 8,000.00	\$ 8,000.00
39	Inlet Type R L10 (5 Foot)	EACH	2	\$ 10,000.00	\$ 20,000.00
40	Inlet Type R L15 (5 Foot)	EACH	2	\$ 12,600.00	\$ 25,200.00
41	4' Manhole (5 Foot)	EACH	1	\$ 3,500.00	\$ 3,500.00
42	5' Manhole (5 Foot)	EACH	3	\$ 4,200.00	\$ 12,600.00
43	6' Manhole (5 Foot)	EACH	2	\$ 7,000.00	\$ 14,000.00
44	Type M Soil Riprap [24-inch Depth]	CY	724	\$ 90.00	\$ 65,160.00
45	8" PVC	LF	84	\$ 52.50	\$ 4,410.00
46	12" PVC	LF	431	\$ 75.00	\$ 32,325.00
47	16" PVC	LF	540	\$ 100.00	\$ 54,000.00
48	8" Gate Valve	EACH	2	\$ 2,200.00	\$ 4,400.00
49	16" Butterfly Valve	EACH	2	\$ 5,000.00	\$ 10,000.00
50	8" Water Line Plug w/ Blow-off	EACH	2	\$ 2,000.00	\$ 4,000.00
51	12" Air Vac/Valve Assembly	EACH	1	\$ 7,700.00	\$ 7,700.00
52	16"x12" Reducer	EACH	1	\$ 2,000.00	\$ 2,000.00
53	Connect to Existing Water Line	EACH	3	\$ 2,000.00	\$ 6,000.00
54	Concrete Pavement (6 Inch Depth)	SY	282	\$ 78.75	\$ 22,207.50
55	Concrete Sidewalk (6 Inch)	SY	1895	\$ 52.50	\$ 99,487.50
56	Concrete Curb Ramp	SY	92	\$ 157.50	\$ 14,490.00
57	Curb & Gutter Type 2 (Section I-B)	LF	1896	\$ 20.00	\$ 37,920.00
58	Curb & Gutter Type 2 (Section II-B)	LF	3224	\$ 26.25	\$ 84,630.00
59	Median Cover Material (4 Inch Concrete)	SF	13350	\$ 10.00	\$ 133,500.00
60	Street Light M26-250AP	EACH	11	\$ 12,000.00	\$ 132,000.00
61	Sign Panel (Class I)	SF	29	\$ 25.00	\$ 725.00
62	Sign Panel (Class II)	SF	27	\$ 35.00	\$ 945.00
63	Steel Sign Support (2 1/2 Inch Round)(Post & Slip Base)	EACH	7	\$ 200.00	\$ 1,400.00
64	Steel Sign Support (2 1/2 Inch Round)(Post & Slip Base w/ Backing Zees)	EACH	4	\$ 250.00	\$ 1,000.00
65	Epoxy Pavement Marking	GAL	22	\$ 130.00	\$ 2,860.00
66	Performed Plastic Pavement Marking (Type I)(Inlaid)	SF	506	\$ 20.00	\$ 10,120.00
<b>Phase 1 Project Cost Subtotal:</b>				<b>\$</b>	<b>2,052,883.50</b>
<b>CONTINGENCY</b>				<b>15.0%</b>	<b>\$ 307,932.53</b>
<b>TOTAL ESTIMATED PHASE 1 SOUTH PROJECT COST</b>				<b>\$</b>	<b>2,360,816.03</b>



<b>BRIGHTON CROSSING FILING 6 OFFSITE IMPROVEMENTS</b>					
<b>N. 40TH AVENUE &amp; SOUTHERN STREET IMPROVEMENTS</b> <b>PHASE 1 &amp; 3 COST ESTIMATE EXHIBIT</b> <b>JR ENGINEERING</b> <b>3/7/2023</b>					
ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	ITEM COST
<b>PHASE 3 (Southern St)</b>					
67	Clearing and Grubbing (Includes Removal of Gravel)	LS	1	\$ 5,000.00	\$ 5,000.00
68	Unclassified Excavation (Complete In Place)	CY	1803	\$ 10.50	\$ 18,931.50
69	Removal of Asphalt Mat (Full Depth)	SY	576	\$ 12.00	\$ 6,912.00
70	Removal of Asphalt Trail (Full Depth)	SY	1663	\$ 12.00	\$ 19,956.00
71	Removal of Ground Sign	EACH	1	\$ 60.00	\$ 60.00
72	Removal of Epoxy Striping	SF	2243	\$ 4.00	\$ 8,972.00
73	Removal of Striping (Preformed)	SF	20	\$ 10.00	\$ 200.00
74	Relocate Street Light	EACH	1	\$ 5,250.00	\$ 5,250.00
75	Adjust Manhole	EACH	1	\$ 800.00	\$ 800.00
76	Construction Fence	LF	97	\$ 5.00	\$ 485.00
77	Silt Fence	LF	1683	\$ 2.50	\$ 4,207.50
78	Seeding (Native)	ACRE	1	\$ 1,500.00	\$ 1,500.00
79	Soil Conditioning	ACRE	1	\$ 2,500.00	\$ 2,500.00
80	Mulching (Weed Free) w/ Tackifier	ACRE	1	\$ 2,500.00	\$ 2,500.00
81	Reconditioning	SY	1800	\$ 5.25	\$ 9,450.00
82	Aggregate Base Course (Class 6)	TON	71	\$ 21.00	\$ 1,491.00
83	Hot Mix Asphalt (Grading S) (75) (PG 64-22) (3 inch Depth)	TON	245	\$ 84.00	\$ 20,580.00
84	Hot Mix Asphalt (Grading SX) (75) (PG 64-22) (3 inch Depth)	TON	223	\$ 84.00	\$ 18,732.00
85	Concrete Pavement (6 Inch Depth)	SY	66	\$ 78.75	\$ 5,197.50
86	Concrete Sidewalk (6 Inch)	SY	1766	\$ 52.50	\$ 92,715.00
87	Concrete Curb Ramp	SY	29	\$ 157.50	\$ 4,567.50
88	Curb & Gutter Type 2 (Section II-B)	LF	1650	\$ 26.25	\$ 43,312.50
89	Type M Soil Riprap [24-inch Depth]	CY	4	\$ 90.00	\$ 360.00
90	Mobilization	LS	1	\$ 15,000.00	\$ 15,000.00
91	Epoxy Pavement Marking	GAL	27	\$ 130.00	\$ 3,510.00
92	Performed Plastic Pavement Marking (Type I)(Inlaid)	SF	132	\$ 20.00	\$ 2,640.00
93	Traffic Control	LS	1	\$ 10,000.00	\$ 10,000.00
				<b>Phase 2 Project Cost Subtotal:</b>	<b>\$ 304,829.50</b>
				<b>CONTINGENCY 15.0%</b>	<b>\$ 45,724.43</b>
				<b>TOTAL ESTIMATED PHASE 3 PROJECT COST</b>	<b>\$ 350,553.93</b>
<b>TOTAL COMBINED ESTIMATED PROJECT COST</b>					<b>\$ 2,711,369.95</b>

**LEGEND**

Color	Phase	Approx. Area (sq. ft.)	Approx. Lots
Orange	Phase 1 (Construction Limits)	150,000	150
Yellow	Phase 2 (Construction Limits)	45,000	45
Blue	Phase 3 (Construction Limits)	25,000	25

**TOTAL LOTS: 220**

**PHASE 1**

**PHASE 2**

**PHASE 3**

**BRIGHTON CROSSING**  
FILING NO. 6  
CONSTRUCTION PHASE LIMITS

900 South Broadway  
Denver, CO 80209  
p 303.961.3333  
www.malcomb.com

**WARE MALCOMB**  
LEADING DESIGN FOR COMMERCIAL REAL ESTATE

**EXHIBIT C****IRREVOCABLE LETTER OF CREDIT FORM**

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**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.**

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**LENDER'S  
LETTERHEAD**

TO: City of Brighton, Colorado  
500 South 4<sup>th</sup> 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,

[Signatures begin on the next page]

(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****SPECIAL PROVISIONS**

THE FOLLOWING SPECIAL PROVISIONS ARE HEREBY ATTACHED TO AND MADE A PART OF THAT CERTAIN BRIGHTON CROSSING FILING NO. 6 SUBDIVISION DEVELOPMENT AGREEMENT, AMONG THE CITY OF BRIGHTON, COLORADO, BROOKFIELD RESIDENTIAL (COLORADO), LLC, AND THE BRIGHTON CROSSINGS OPERATION BOARD. SHOULD THERE BE ANY CONFLICT BETWEEN THE DEVELOPMENT AGREEMENT AND THE SPECIAL PROVISIONS SET FORTH IN THIS **EXHIBIT D**, THE TERMS OF THIS **EXHIBIT D** SHALL CONTROL.

1. **Definitions.** The following terms and definitions shall apply to this **EXHIBIT D**, Special Provisions:
  - a. The term “Brighton Crossing Filing 6” shall mean the Final Plat that was approved by and attached to City of Brighton Resolution No. \_\_\_\_\_ that governs the Final Plat of Brighton Crossing Filing No. 6 Subdivision.
  - b. The term “District” shall refer to the Brighton Crossings Operations Board, Brighton Crossing Metropolitan District No. 5, and or its/their successors and assigns.
  - c. The term “Property” shall mean the property within the Brighton Crossing Filing No. 6 Subdivision Final Plat.
  - d. The term “Development” shall mean the property within the Brighton Crossing Filing No. 6 Subdivision Final Plat and all improvements related to it as outlined in **EXHIBIT B**.
  - e. The term “Construction Plans” shall mean the Brighton Crossing Filing No. 6 Subdivision Construction Plans reviewed and approved by the City of Brighton.
  - f. The term "Landscape Plans" shall mean the Landscape Plans approved as part of the Construction Plans.
  - g. The term “Annexation Agreement” shall mean the Annexation Agreement for Bromley Park, dated June 4, 1985, and recorded in Adams County records Reception Number 1985020589624; the First Amendment to Annexation Agreement, dated December 16, 1986, and recorded in Adams County records Reception Number 1987020732604; the Second Amendment to Annexation Agreement, dated November 11, 1994, and recorded in Adams County records Reception Number 1984030032256; the Third Amendment to Annexation Agreement, dated May 28, 1996, and recorded in Adams County records Reception Number 1996030186570; the Fourth Amendment to Annexation Agreement, dated November 4, 1997, and recorded in Adams County records Reception Number 1997030338660.
  - h. The term “Agreement” shall mean this Agreement and the provisions herein.
2. **Annexation Agreement.** The terms and provisions of the Annexation Agreement are incorporated herein by reference. Any provisions of the Annexation Agreement not specifically addressed in this Agreement shall survive and remain applicable and

enforceable. Should there be any conflict between the terms of this Agreement and the Annexation Agreement, the terms of this Agreement shall control.

3. **Schedule of Improvements.** Public and Private Improvements shall be built in accordance with the approved Schedule of Improvements and Phasing Plan as shown in **Exhibit B** and the approved Final Plat and Construction Plans at the applicable Party's sole cost and expense unless noted otherwise in this Agreement.
4. **Phasing Plan.** The Schedule of Improvements and Phasing Plan, to this Agreement attached hereto as **Exhibit B**, sets forth the intended phasing of the construction of the Improvements for this Development in three (3) phases, including but not limited to roads, water infrastructure, sewer infrastructure, drainage infrastructure, and maintenance. Except for the six (6) model home permits described in Section 5, no vertical building permits will be issued in any Phase until the public improvements listed in the Phasing Plan have received Initial Acceptance by the City. No amendments or alterations to the Phasing Plan may be made without the prior written consent of the City. The Phasing Plan is designed to be interchangeable, however each Phase will be developed in a manner that connects to Improvements made in a preceding Phase or Phases. All three (3) phases can be constructed independently of the other with the understanding that (i) the infrastructure listed with each Phase is constructed with the Phase; (ii) the requisite Improvement Guarantee is filed with the City, prior to, and as a condition to, the release of any building or construction permit for the applicable Phase; and (iii) City staff has approved Construction Plans for the public improvements to be constructed in the applicable Phase. Any amendments to the Phasing Plan, as contemplated in the **Exhibit B** of this Agreement, shall include Construction Plans for the public improvements to be constructed within the amended Phasing Plan boundary, and may include public improvements out of the Phasing Plan boundary, as required by the City, as further delineated below. Prior to the approval of a Phasing Plan Amendment, and prior to release of any building or construction permits for the public improvements included in and associated with said Phasing Plan Amendment, and as a condition precedent thereto, the Developer shall provide the City with a letter of credit, bond or some other form of financial guarantee, for one-hundred and fifteen percent (115%) of the construction costs included in and associated with the construction of all parks, open space, trails, sidewalks, landscaping, community landscaping areas, traffic signage, drainage improvements, roadway construction, water and sewer line construction, and all other public improvements located within and associated with said Phasing Plan Amendment boundary, as required by the City.
5. **Temporary Uses.** Temporary uses refer to, but are not limited to, temporary sales office, temporary construction office, construction yard, 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. A maximum of six (6) model homes are allowed to be constructed on the site with an approved residential building permit that has been approved by the City's Chief Building Official.
6. **City Regulations.** The Developer shall develop the Property in full conformance with the applicable provisions of the Brighton Municipal Code (including the Land Use and Development Code), all City ordinances, and regulations in effect at the time of their



application to the Development, as the same may be amended from time to time; the Bromley Park Planned Unit Development (PUD) 25th Amendment, as the same may be amended from time to time; and the Public Works Design and Construction Standards and Specifications Manual, current edition.

7. **Roadway Dedication and Construction.** Notwithstanding anything to the contrary in this Agreement, Developer shall dedicate to the City only that real property described on the Final Plat as public rights of way. Developer, at its sole cost and expense, shall construct the improvements to all outlined public rights of way as shown in the City-approved Civil and Construction Plans. These improvements include but are not limited to the following:
- a. The Developer shall, at its sole cost and expense, dedicate necessary right of way, that Developer owns, and design and construct the remaining eastern one-half (1/2) of South 40<sup>th</sup> Avenue to full width from Southern Street to Developer's North property boundary line towards Bridge Street. Construction shall be in accordance with the City approved civil plans. The Developer shall obtain all necessary rights of way associated therewith. The roadway must be installed and receive Initial Acceptance, along with all associated public improvements, prior to the issuance of the first building permit for any residential construction in the Development. The Developer will be eligible for reimbursement from the neighboring developer(s) for adjacent portions thereof. It is understood that the neighboring developers are those for the undeveloped parcels to the immediate southwest and southeast of the intersection of Bridge Street and South 40<sup>th</sup> Avenue where their properties are directly adjacent to South 40<sup>th</sup> Avenue.
    - i. As part of the South 40<sup>th</sup> Avenue Improvements, the Developer, at its sole cost and expense, shall construct to completion, in accordance with the Final Plat, Phasing Plan, construction plans, and other applicable City Specifications in effect at the time of construction, the South 40<sup>th</sup> Avenue and Bridge Street intersection interim right lane at South 40<sup>th</sup> Avenue and Bridge Street prior to the issuance of the first building permit for any residential construction in the Development. The Developer will be eligible for reimbursement from the neighboring developer(s) for adjacent portions thereof. No residential building permits shall be issued for any Phase of the Development until such time as the construction of the improvements on South 40<sup>th</sup> Avenue, per approved construction plans, approved and initially accepted by the City.
  - b. The Developer shall, at its sole cost and expense, dedicate necessary right of way, and design and construct the remaining northern one-half (1/2) of Southern Street to full width from South 40<sup>th</sup> Avenue to the adjacent southeast corner of the Development in accordance with the City-approved civil plans and obtain all necessary rights of way associated therewith and it must be installed and receive Initial Acceptance, along with all associated public improvements, prior to the issuance of the first residential building permit for any construction in Phase 3 or 1 of the Development depending on which phase is built last.

- c. Prior to the issuance of the first vertical residential building permit for Phase 1 of the Development, the City shall collect escrow from the Developer the amount of \$139,930.00, which is equal to the Developer's pro-rata share of 50% of the cost to construct Lake Dillon Avenue traveling northward from its intersection with the proposed Emerald Lake Street to its intersection with South 42<sup>nd</sup> Avenue and Crestone Peak Street.
8. **Traffic Signals.** The Developer shall be responsible for making financial contributions towards two (2) future traffic signals and the future design and construction of the mentioned traffic signals. Specifically,
  - a. Prior to the issuance of the first vertical residential building permit for Phase 1 of the Development, the City shall collect escrow from the Developer the amount of \$28,500, which is equal to the Developer's pro-rata share of 5.7% of the cost to construct, \$500,000.00, the signal at South 40<sup>th</sup> Avenue and Southern Street.
  - b. Prior to the issuance of the first vertical residential building permit for Phase 1 of the Development, the City shall collect escrow from the Developer the amount of \$17,500, which is equal to the Developer's pro-rata share of 3.5% of the cost to construct, \$500,000.00, the signal at South 40<sup>th</sup> Avenue and Bridge Street.
9. **Open Space and Parks Land Dedication.** The Developer has satisfied all required Open Space and Parks Dedications as outlined in the Annexation Agreement and the City concurs that no more dedications need to occur for the Brighton Crossing Filing No. 6 Subdivision. As a result of prior land dedications and pursuant to Section 2.2, the Developer shall be charged the lower rate for neighborhood parks and community park impact fees, known within the City as the "with land" dedication rates. The City and the Developer agree that the neighborhood parks and community parks impact fees for Brighton Crossing Filing No. 6 Subdivision shall be used for construction costs for Venture Park. Any parks and open space tracts within Filing 6 will be designed and constructed by the developer at their cost with no reimbursement eligibility. Each open space tract must be constructed with applicable phase and completed prior to or simultaneous with the release of any building permits within that phase.
10. **Use of Off-Site Drainage Pond.** The Developer has the need for additional land for drainage purposes to serve the Development. The City has land it owns identified as Adams County Parcel #: 0156910301002 located south of the Development across Southern Street that can be made available for use by the Developer for drainage purposes. The Developer is concurrently working on a nearby development known as the Brighton Crossing Filing No. 7 Subdivision where the City has requested to be dedicated the land identified as Tract A on the Brighton Crossing Filing No. 7 Subdivision Final Plat for use as a future parking lot to serve Donelson Park. The Developer has already satisfied their obligations to the City to dedicate Open Space or Parks. Typically the City would have the Developer pay the City for the use of its property and the City would have to purchase Tract A within

the Brighton Crossing 7 Subdivision Final Plat from the Developer. It is understood by both Parties that the Developer has dedicated to the City at the time of the Brighton Crossing Filing No. 7 Subdivision Final Plat recordation, 2.020 acres of land that is identified on the Brighton Crossing Filing No. 7 Subdivision Final Plat as Tract A and that the City will allow the Developer to use City owned property identified as Adams County Parcel #: 0156910301002 for drainage purposes. A total of 0.75 acres of City owned property is needed to expand the drainage infrastructure to meet the Developer's need for drainage as discussed above. Therefore, it is the understanding that such dedication and transfer of the Filing No. 7 Tract A will satisfy the City's request for land needed by the Developer to expand drainage infrastructure on City owned property for the build-out as contemplated herein and the excess 1.271 acres of land will be credited towards Developer's total park requirements or land dedication necessary in Developer future filings.

11. **Off-Site Drainage Pond Construction and Maintenance.** The Developer shall expand the City's existing drainage pond on Adams County Parcel #: 0156910301002 for the purposes of serving the Development and the existing tributary area to the pond according to City approved Construction Plans prior to any vertical residential building permits being issued for Phase 1 of the Development. Maintenance will be carried out by the City as outlined in **Exhibit E**. The Developer will be financially responsible for needed pond expansion due to the Development and the portions of South 40<sup>th</sup> Avenue and Southern Avenue expanded as part of the Development, and the City shall be financially responsible for the portions of the pond expansion that will serve the portions of South 40<sup>th</sup> Avenue and Southern Avenue that were part of the City's previous expansion of said roadways. The Developer shall construct said improvements according to the approved Civil Plans and the City shall reimburse the Developer for its pro-rata construction costs at the time of Final Acceptance. The percentage of reimbursement by the City to Developer shall be 54.5% of said construction costs.
12. **Trail Construction.** The Developer shall be responsible for obtaining the necessary permissions, design work and related approvals, and construction of a trail across two tracts. Specifically, the Developer, at its sole cost and expense, shall construct a ten foot (10') wide concrete trail, running from the northern to southern boundaries of each Tracts C and F of the Final Plat and in the location as more specifically depicted on the Construction Plans. Such trail shall be completed in accordance with the Final Plat, Construction Plans, and applicable City specifications in effect at the time of construction, and receive Initial Acceptance thereof from the City prior to, and as a condition precedent to, the issuance of a residential building permit for Phase 3.
13. **Landscaping Requirements and Maintenance.** The Developer will install and maintain the landscaping within each Phase boundary as shown on the approved Construction Plans and Landscape Plans. The landscaping installation will be required to be approved in each Phase prior to the issuance of a vertical residential building permit in the applicable Phase unless the City chooses to accept a bond for future installation if the weather or season prohibits installation. The Developer agrees to install and maintain the landscaping in good and living condition, as shown on the approved Construction Plans and the Landscape

Plans. The Developer agrees to replace any dead and damaged trees and shrubs with like size and species in a timely manner.

14. **Tract Maintenance.** The Developer and/or the District shall be responsible for the maintenance for all of Tracts A through H (including, without limitation, water, tap, monthly fees, and utility charges) as outlined in the Tract Summary Table of the Final Plat.
15. **Medians.** The Developer will construct the non-irrigated medians on South 40<sup>th</sup> Avenue and Southern Street to the specifications in the Construction Plans for the full width of the non-irrigated medians. For the purposes of this Agreement, the term median shall include any traffic circle islands on the subject roads.
  - a. The Developer will complete the construction of and obtain Initial Acceptance for the raised non-irrigated medians on South 40<sup>th</sup> Avenue prior to the issuance of a residential building permit for Phase 1 of the Development. The Developer will be reimbursed by the City for one-half (1/2) the cost of the construction of such medians on South 40<sup>th</sup> Avenue upon Final Acceptance.
  - b. The Developer will complete the construction of and obtain Initial Acceptance for the striped non-irrigated medians on Southern Street prior to the issuance of a residential building permit for Phase 3 of the Development. The Developer will be reimbursed by the City for one-half (1/2) the cost of the construction of such medians on Southern Street upon Final Acceptance.
16. **Construction and Maintenance of Drainage Infrastructure.** As designated in the Final Plat, Construction Plans, and Landscape Plans, the Developer, at its sole cost and expense, shall construct to completion, in the initial Phase of the Development, the specified drainage facilities including ponds, storm water culverts, and related drainage infrastructure in Tract A. The drainage facilities shall be completed, constructed, and accepted prior to release of any residential building permits. The maintenance of all drainage infrastructure and facilities, including, without limitation, routine maintenance and cleaning, repair and replacement, of the culverts and associated infrastructure to ensure proper functioning of the drainage system pursuant to **Exhibit E** herein.
17. **Off-Site Drainage Connections.** The Developer shall be responsible for two (2) off-site drainage connections necessary to serve the Development. Specifically, these connections are described below:
  - a. The Developer, with Phase 1 of the Development and prior to any residential building permits being issued, at their own cost and expense, shall construct and obtain Initial Acceptance, not to be unreasonably withheld, for the storm drainage improvements, including but not limited to two inlets and RCP pipe, as more specifically described in the approved offsite Civil Plans by JR Engineering “Brighton Crossings Filing 6 Offsite Improvements”, located in and around the future expanded intersection at S. 40<sup>th</sup> Ave. and Southern Street to the existing offsite pond southeast of that same intersection.

- b. The Developer, with Phase 1 of the Development and prior to any residential building permits being issued, at their own cost and expense, shall construct and obtain Initial Acceptance for a drainage connection within an easement per the approved Civil Plans from Tract E of the Development to Tract Q of the adjacent Village Subdivision.
18. **Water Line Construction.** The Developer, at its sole cost and expense, shall construct the water lines as depicted and described in the Final Plat and Construction Plans to ensure that each phase will have a stand-alone loop in the event the subsequent phase is delayed.
19. **Water Taps.** The Developer and/or the District, at the applicable Party's sole cost and expense, shall be responsible for paying for the Water Taps required in each of the Tracts outlined in the Tract Table Summary as displayed on the Final Plat. The cost of the Water Taps shall be the price in effect at the time of permit issuance.
20. **Water Services and Fees.** As development occurs, the "without water rights" water plant investment fee shall be paid, in accordance with Article III of the Third Amendment to the Annexation Agreement, dated May 28, 1996, and recorded in Adams County records in Book 4776, commencing at Page 140.
21. **Schools Dedication.** The Developer and School District 27J have agreed that the Developer's cash in lieu of land dedication requirement for the Development has been satisfied with previous land dedications.
22. **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 disbursement 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 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.
23. **Community Mailboxes.** Prior to the issuance of any certificate of occupancy for any Phase, the Developer and/or the District, at the applicable Party's sole cost and expense, shall construct a community mailbox at a location and design approved by the US Postal Service within the Development for use by all residents within the subject Phase of the Development. The ongoing maintenance of the community mailboxes shall be that of the Developer and/or District.
24. **Future Development Signs.** The Developer shall be responsible for the installation of signs calling out future street connections and land uses and for their continued maintenance until the Phase on which they are placed is constructed. Specifically,

- a. Prior to the issuance of any residential building permits for Phase 1 of the Development, the Developer and/or the District, at the applicable party's sole cost and expense, shall erect a sign at each point along Mt. Oxford Street, Mt. Shavano Street, Carter Lake Avenue, Runyon Lake Avenue, and Lake Dillon Avenue that has a crossing into Phases 2 and or 3 of the Development notifying residents that the street will be extended in the future in connection with the Development.
- b. Prior to the issuance of any residential building permits for Phase 2 of the Development, the Developer and/or the District, at the applicable party's sole cost and expense, shall erect a sign where Phase 2 borders Phase 3 at each point along Mt. Oxford Street, Grand Lake Place, and Carter Lake Avenue that has a crossing into Phase 3 notifying residents that the street will be extended in the future in connection with the Development.

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

**THIS STORMWATER FACILITIES MAINTENANCE AGREEMENT FOR TREATMENT AND DRAINAGE FACILITIES LOCATED ON PRIVATE PROPERTY** (this “Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (the “Effective Date”) among Brookfield Residential (Colorado), LLC, a Nevada limited liability company and the Brighton Crossings Operation Board, a Colorado special district (collectively, the “Owner”) and the City of Brighton, a Colorado home rule municipality, 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 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 E1**, by the Owner and/or other Responsible Party as identified in **Exhibit E2**; 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 E1**, 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 E3**, 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 E4**, 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 D** 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 written 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 6(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:*

Brookfield Residential (Colorado) LLC  
Attn: Chris Bremner  
303-790-6593  
6465 S. Greenwood Plaza, Suite 700  
Centennial, CO 80111

*If Responsible Party:*

Brighton Crossings Operations Board  
Attn: Manager  
550 W. Eisenhower Blvd  
Loveland, CO 80537

To Owner or Responsible Party as stated on **Exhibit E2.**

*If City:*

Director of Infrastructure  
City of Brighton  
500 South 4th Avenue  
Brighton, CO 80601  
303.655.2241

*With Copy To:*

City Manager  
City of Brighton  
500 South 4th Avenue  
Brighton, CO 80601  
303.655.2043

## **Section 9. Definitions**

A) **“Common Interest Community 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.

B) **“Director”** means the Director of Utilities of the City of Brighton, or his or her designee.

C) **“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.

D) **“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.

E) **“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 E2**, including their agents, representatives, successors and assigns.

F) **“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 E2** 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.

G) **“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 E3**.

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 Adams County, Colorado.

) 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.

E) 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.

F) 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:

**CITY OF BRIGHTON, COLORADO**

By: \_\_\_\_\_  
Michael Martinez, City Manager

Attest:

By: \_\_\_\_\_  
Natalie Hoel, City Clerk

Approved as to Form:

\_\_\_\_\_  
Alicia Calderon, City Attorney

**OWNER:**

Brookfield Residential (Colorado), LLC,  
a Nevada limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**OWNER:**

Brighton Crossings Operations Board

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:  
City of Brighton City Clerk**

--

***THIS SPACE FOR RECORDER'S USE ONLY***

**EXHIBIT E1  
Property Description**

*[See the attached legal description in Final Plat document.]*

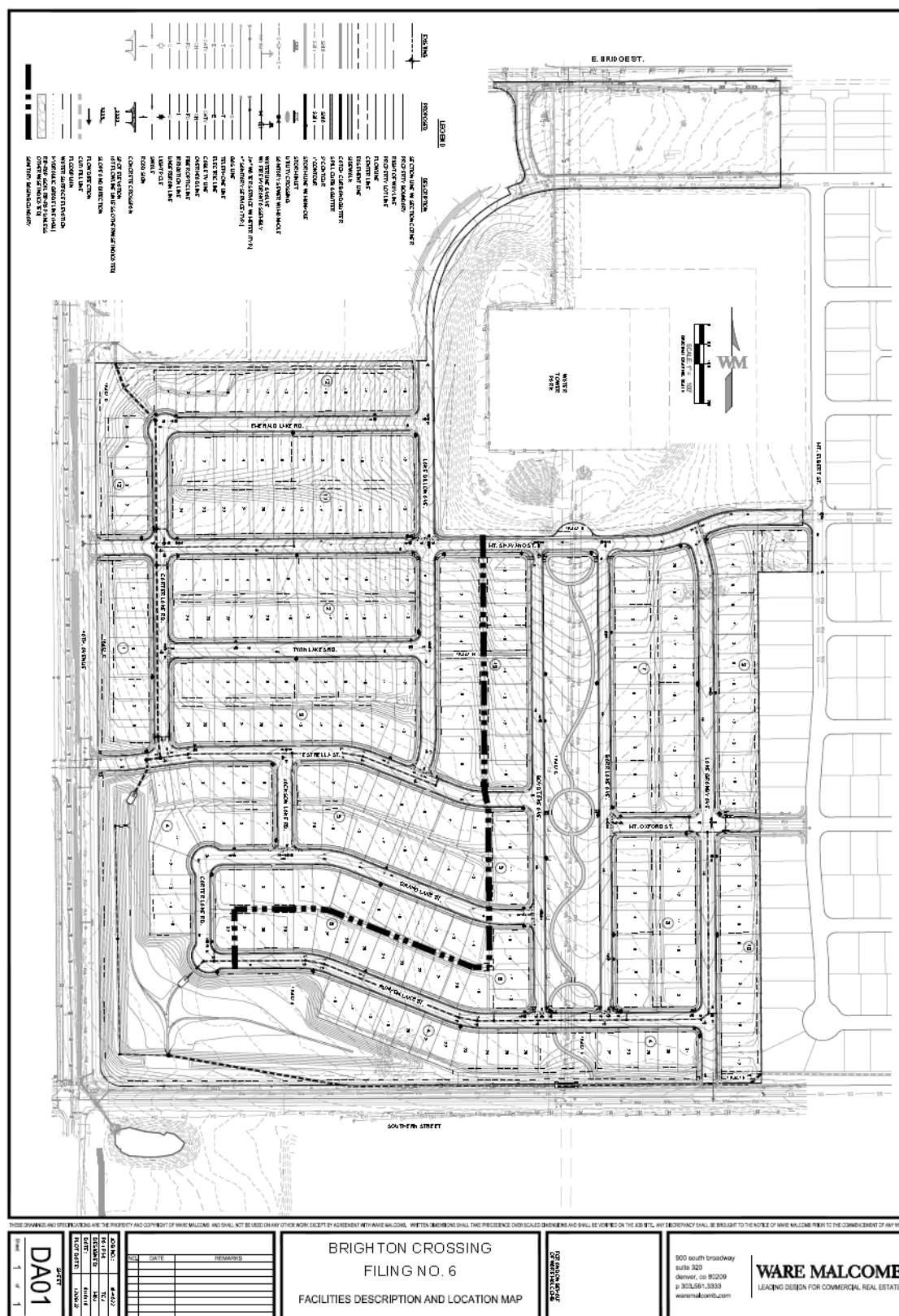
**EXHIBIT E2**  
**Owner/Responsible Party Contact Information**

Brighton Crossings Operations Board  
Attn: Jesse Mestrovic  
550 W. Eisenhower Blvd  
Loveland, CO 80537

**EXHIBIT E3**  
**Facilities Description and Location Map**

- 1) Pond:** See Location Map on Following Page
- 2) Swales:** See Location Map on Following Page
- 3) Storm sewer inlet pipes, boxes and manholes, etc.:** See Location Map on Following Page
- 4) Emergency Spillways:** See Location Map on Following Page
- 5) Evacuation Pond System:** See Location Map on Following Page

*[Location Map on Following Page.]*





**EXHIBIT E4**  
**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 may be 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 ponds 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 re-suspend 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 buildup 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 manholes 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 off-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 pond spillways.

**Inspection:**

Inspect annually.

**Erosion and Structural Repairs:**

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