

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

THIS SPACE FOR RECORDER'S USE ONLY

**ANNEXATION AGREEMENT
OTTEN ANNEXATION**

THIS ANNEXATION AGREEMENT (this "Agreement") is made and entered into this _____ day of _____ 2024, by and between DONALD M. OTTEN REVOCABLE TRUST ("ANNEXOR") and the CITY OF BRIGHTON, COLORADO, a home rule municipality of the County of Adams, State of Colorado ("CITY").

W I T N E S S E T H:

WHEREAS, ANNEXOR is the owner of a 4.918-acre parcel of land, more particularly described in Exhibit A attached hereto and by this reference made a part hereof; and

WHEREAS, ANNEXOR has filed a Petition for Annexation to the CITY of the unincorporated lands described in Exhibit A (the "Property"); and

WHEREAS, due to the need to reach agreement relating to the nature of the development application submitted in connection with the annexation, the parties agree that it is desirable to address certain development issues in this Agreement, with the understanding that a detailed Development or Subdivision Agreement between the ANNEXOR of the Property and the CITY will be required in connection with the platting of the Property; and

WHEREAS, CITY has determined that it is in the best interest of the residents of the CITY that the Property be developed within the boundaries of CITY and that the CITY provide municipal services and receive revenues from development occurring on the Property, as provided for herein; and

WHEREAS, the parties mutually agree that the annexation of the Property to the CITY shall not create any additional cost or impose any additional burden on the existing residents of the CITY to provide public facilities and services to the Property after annexation.

NOW, THEREFORE, in consideration of the foregoing premises and the covenants, promises and agreements of each of the parties hereto, to be kept and performed by each of them, together with other good and sufficient consideration;

THE PARTIES AGREE AS FOLLOWS:

**SECTION I
DEFINITIONS**

"Annexed Area" – see "Property."

“ANNEXOR” as used in this Agreement shall mean DONALD M. OTTEN REVOCABLE TRUST, or its successors in interest, assigns, and designees.

“Brighton Watershed Outfall Systems Plan” shall mean the *Brighton Watershed Tributary to the South Platte River Outfall Systems Plan*, dated December 1998, as the same may be amended from time to time.

“Comprehensive Plan” shall mean the *Be Brighton Comprehensive Plan Update*, dated March 22, 2016, as the same may be amended from time to time.

“Crossing” shall mean and refer to all bridges, culverts or other types of facilities or structures used to cross roadways, irrigation canals and laterals, drainage channels or storm drainage areas. For bridge construction, “crossing” will include that land and improvements between touchdown and touchdown.

“Fees” shall mean all of the fees lawfully assessed by the CITY in effect at the time of building permit issuance, together with other applicable fees, including but not limited to:

- Crossing Fee;
- District 27J Foundation Capital Facility Fee;
- Drainage Fee;
- Open Space/Park Land Dedication/Fee in Lieu;
- Neighborhood and Community Park Development Fees;
- School Land Dedication/Fee in Lieu;
- Stormwater Impact Fee;
- Traffic Impact Fee;
- Wastewater Plant Investment Fee;
- Water Plant Investment Fee; and
- Water Resource Fee.

“Highway 85 Access Master Plan” shall mean the *US 85 Access Control Plan I-76 to WCR 80* dated December, 1999, as the same may be amended from time to time.

“Park and Open Space Master Plan” shall mean the *City of Brighton Parks and Recreation Master Plan* dated May, 2021, as the same may be amended from time to time.

“Property” shall mean the +/- 4.918-acre parcel of land more particularly described in Exhibit A attached hereto and by this reference made a part hereof.

“Public Works Standards and Specifications” shall mean the *City of Brighton Department of Public Works Standards and Specifications Manual* dated May 20, 2016, as the same may be amended from time to time.

“Reimbursement Agreement” shall mean and refer to a written Agreement between ANNEXOR and certain benefited landowners wherein either party shall be obligated to rebate or shall have rebated to the other party certain moneys advanced and expended by either party for

oversizing water and sewer lines, streets, drainage, crossings, and other public improvements and facilities to be used by, or which are a benefit to, other developers or landowners.

“Storm Drainage Improvements” shall mean any storm drainage technique or facility that retards or detains runoff, including but not limited to, detention ponds, retention ponds, channels or pipes.

“Transportation Master Plan” shall mean the *Brighton Transportation Master Plan*, dated March 1, 2016, as the same may be amended from time to time.

“Urban Renewal Plan” shall mean the *Urban Renewal Plan* approved and adopted by the City Council of the City of Brighton on April 16, 2002, by Ordinance No. 1740, pursuant to the provisions of the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, Colorado Revised Statutes.

“Water and Sewer (Wastewater) Master Plan” shall mean the *City of Brighton Water and Wastewater Systems Master Plan* dated March 6, 2008, as the same may be amended from time to time.

Definitions for any term used herein and not defined above shall be as stated as in the version in effect at the time the agreement is executed in the most recent edition of *The Complete Illustrated Book of Development Definitions* (Moskowitz, Lindbloom, Listokin, Preiss, and Merriam). Words not defined in *The Complete Illustrated Book of Development Definitions* or this Agreement shall have the customary dictionary meaning.

SECTION II STREETS

- A. ANNEXOR shall dedicate, by plat and/or separate document, as determined in the City’s sole discretion, at no cost to the CITY, all rights-of-way for public streets, including but not limited to, local, collector, and arterial streets, including E-470 and interchanges, as shown on the CITY’s Transportation Master Plan and/or the Bromley Park Traffic Master Plan as applicable, the Comprehensive Plan, and Public Works Standards and Specifications, as the same may be amended from time to time, in effect at the time of final plat approval for all or any portion of the Property, or earlier if so requested by the CITY, for commencement of construction of street improvements or for the extension of utilities. The specific rights-of-way to be dedicated by ANNEXOR are set forth in Exhibit D attached hereto and by this reference made a part hereof.

- B. ANNEXOR shall design and construct to CITY standards all public streets within the Property. ANNEXOR shall participate in the costs of the improvements of perimeter streets according to the CITY-wide policy in effect at the time of building permit application. In no event shall building permits be issued for any structure accessing a street not so improved.

- C. Existing above-ground utilities located within future rights-of-way will be considered public improvements required by the CITY and will be placed underground by the utility provider at the sole cost to ANNEXOR.
- D. Upon the approval and signing of a final plat for all or any portion of the Property, or the commencement of any subdivision development work on the Property, whichever occurs earlier, ANNEXOR agrees to convey to the CITY the rights-of-way for streets as outlined in Exhibit D.
- E. ANNEXOR agrees to convey to CITY temporary easements in gross adjoining all streets to provide necessary cut and fill to establish the grade on a one-foot incline for every three feet of distance. Said easements shall be released to ANNEXOR at such time as the adjacent Property is filled and maintained at grade.
- F. ANNEXOR shall pay for installation of streetlights, traffic and street signs and traffic control devices for all streets within the Property. ANNEXOR will escrow funds anticipated to be required for signalization of perimeter streets upon request of the CITY, to be used when needs meet the required warrants as reasonably determined by CITY, subject to reimbursement on an equitable pro rata basis by other landowners contributing to the warranting of such signals, such reimbursement to be provided for by separate agreement between ANNEXOR and CITY or ANNEXOR and the benefited landowners, as applicable.
- G. All streets on the exterior boundaries and all public and private streets within the Property shall be improved in conformance with CITY's Public Works Standards and Specifications, in effect at the time of building permit issuance.
- H. ANNEXOR agrees to provide or assign to the CITY a warranty for all street improvements for a period of twenty-four (24) months from the date of conditional acceptance by the CITY of such improvements as established by a development agreement at the time of final plat. Upon expiration of the warranty period, the CITY shall accept the streets, rights-of-way and medians for maintenance provided that such street improvements are in accordance with CITY's Public Works Standards and Specifications.
- I. ANNEXOR agrees to pay the applicable Traffic Impact Fee at the time of building permit issuance for all or any portion of the Property, in an amount as set forth in the CITY'S annual Fee Resolution in effect at the time of payment.
- J. All lighting for site and facilities for the property shall conform to CITY's Public Works Standards and Specifications, in effect at the time of building permit issuance.

SECTION III WATER AND SEWER

- A. ANNEXOR agrees to construct and install all water and sewer lines within the Property and required ancillary facilities within the Property or which otherwise serve the Property in full compliance with the City of Brighton Water and Wastewater Master Plan as applicable,

requirements and the CITY'S Public Works Standards and Specifications. ANNEXOR agrees to dedicate all necessary unobstructed rights-of-way for utility easements needed for water and sewer lines to serve the Property, or for transmission through the Property, such easements measuring not less than twenty feet (20') in width for a sanitary sewer or water line, and not less than twenty-six feet (26') in width when a parallel water and sewer line must be installed.

- B. Subject to this Section III, upon ANNEXOR giving CITY one hundred twenty days' (120) prior notice of its need for water and sewer service and submitting its plan for development and its timetable of development concurrently with said 120 days' written notice, CITY agrees to provide water and sewer service to the Property at a point more particularly described in Exhibit D attached hereto and incorporated herein by this reference.
- C. When the ANNEXOR completes construction of the sewer and water lines according to Subsection III(A), above, pays the applicable fees, and meets all CITY standards and regulations, the CITY shall provide water and sewer service to the Property within five (5) business days after written verification of need by the ANNEXOR as required for development of the Property. However, no building permit shall be issued until all such lines are installed and accepted by the CITY, or until ANNEXOR has provided a performance bond in an amount adequate to fully install such lines set forth in a development agreement.
- D. ANNEXOR shall pay all fees and charges related to the provision of water and sewer service. The Plant Investment Fee ("PIF") for this annexation shall be paid according to the applicable fee schedule in effect at the time of payment, including the dedication of water shares. The ANNEXOR shall satisfy said dedication with the specific types of water shares delineated in Resolution No. 01-160, as may be amended from time to time, or other approved water resources meeting acceptable criteria when these specific resources are deemed unattainable in the sole discretion of the City Manager or designee.
 - i. As a condition to the transfer of any ditch water to the CITY, the ANNEXOR, or property owner from whence the shares came, shall complete, to the satisfaction of the CITY, a Dry-Up Covenant, template attached hereto as Exhibit C, and the ANNEXOR or property owner shall complete the Covenant at the time of approval and signing of a final plat for all or any portion of the Property, and said Covenant shall be recorded in the appropriate county offices, and shall be a part of the corresponding development or subdivision improvement agreement.
 - ii. The CITY shall also be entitled to charge monthly user fees for the provision of water and sewer services to the Property.
- E. There shall be no duty or obligation upon CITY to furnish water and/or sanitary sewer facilities to the area sought to be annexed until such time as, in the sole discretion of the CITY, such services for water and/or sanitary sewer can be economically and reasonably installed, so as to provide services to a sufficient number of inhabitants within the area so as to make the construction and establishment of such services feasible and at no additional cost for the same or similar type of services provided to inhabitants within the existing corporate limits of the CITY.

- F. The ANNEXOR agrees that the availability of water and/or sanitary sewer service anticipated by this Agreement is subject to any water and/or sewer tap allocation program, water management program, water conservation program or similar program of the CITY, and is subject to any other general restriction of the CITY, relating to the provision of water and/or sanitary sewer service.
- G. Within 30 days of final approval of the annexation ordinance for the Property, the ANNEXOR shall transfer by special warranty deed, in the form attached as Exhibit B, any rights it has to all water aquifers, also known as deep well aquifers, underlying the full area of the ANNEXOR's Property, together with all nontributary and not-nontributary water, and all rights thereto, as may be contained in said aquifers or elsewhere under ANNEXOR's Property. The aquifers to be included in the special warranty deed are the Dawson, Denver, Arapahoe, Laramie-Fox Hills and Dakota aquifers. The special warranty deed shall warrant title to the nontributary and not-nontributary water in perpetuity. The special warranty deed shall, in addition to standard warranties of a deed of this type, specifically warrant that the ANNEXOR (Grantor) has not divested itself of the subject aquifers, nor of any of the nontributary or not-nontributary waters underlying the Property, or the rights thereto, including the right to withdraw or use all or any portion of said nontributary or not-nontributary water, prior to their conveyance to CITY. If the ANNEXOR is unable to provide such a special warranty deed because it has previously conveyed or transferred all or any portion of said aquifers, nontributary or not-nontributary water, or the rights thereto, or if the CITY determines the ANNEXOR has or will knowingly violate the terms of the special warranty deed, ANNEXOR agrees to pay a pro rata amount calculated by determining the ratio of water from the aquifers which could be conveyed to the amount of water from the aquifers which is unavailable for conveyance to the CITY.
- H. The ANNEXOR grants in perpetuity to the CITY the sole and exclusive right to withdraw, appropriate, and use any and all groundwater within the Dawson, Denver, Arapahoe, Laramie-Fox Hills and Dakota aquifers, and the South Platte River and South Beebe Draw alluviums underlying the Property. The ANNEXOR irrevocably consents in perpetuity, on behalf of itself and any and all successors in title pursuant to Section 37-90-137(4) of the Colorado Revised Statutes, as now existing or later amended, to the withdrawal, appropriation, and use by the CITY of all such groundwater, and agrees to execute any additional or supplemental consents thereto that may be required for the CITY to withdraw, appropriate, or use said groundwater.
- I. If the CITY has adopted a non-potable water policy in effect at the time of final plat approval for all or any portion of the Property, the ANNEXOR agrees to abide by such policy and incorporate the same into the corresponding development or subdivision improvement agreement, in order to provide water for open space and park dedications, if any, within the final plat.

SECTION IV STORM DRAINAGE

- A. Storm drainage improvements shall be designed, constructed, and installed by ANNEXOR in full conformity with the storm drainage regulations of the CITY, CITY Public Works Standards and Specifications (“CITY STANDARDS”), all Outfall Systems Plans, Drainage or Stormwater Master Plans, the Bromley Park Master Drainage Plan, Mile High Flood District Master Drainageway Plans and/or other related master plans for drainage or other CITY drainage studies (collectively “STORM DRAINAGE PLANS”) as applicable and as may be amended, revised, or updated.
- B. ANNEXOR agrees to dedicate all necessary rights-of-way and/or easements for storm sewers and other storm drainage facilities to adequately serve the area being annexed, or for transmission through the area to be annexed at the time of final subdivision approval. All storm drainage systems shall be designed in accordance with CITY STANDARDS, as amended from time to time. ANNEXOR agrees to provide all necessary rights-of-way and/or easements for the construction of storm drainage facilities required for conformity to the STORM DRAINAGE PLANS, as amended from time to time, plus sufficient width for maintenance vehicle access to said storm drainage facilities. Such dedication of storm sewer rights-of-way and/or easements shall occur at the time of final subdivision platting; however, ANNEXOR agrees to dedicate, without cost to the CITY, such rights-of-way and/or easements at an earlier time when determined by CITY to be required for commencement of construction of such facilities or for extension of utilities.
- C. ANNEXOR shall provide a drainage study, per CITY STANDARDS, at the time of final platting of all or any portion of the Property. In the event the ANNEXOR fails to or refuses to provide a final drainage plan prior to final approval of a development plan, building permit, or final plat, such failure or refusal shall be deemed sufficient justification for CITY to refuse to approve any development plan, building permit, or final plat. Under such circumstances, the ANNEXOR, for themselves, their successors and assigns, hereby waive any right or equitable claims they may have against the CITY, its officers, agents, employees and elected officials, for failure to approve any such development plan, or building permit or final plat. Such waiver shall include any rights that may accrue to the ANNEXOR under any Colorado statute, which requires action on a final plat within a specified period of time.
- D. The storm drainage improvements shall be constructed concurrently with development of the annexed area and in a manner that will eliminate flooding in said developed area. The storm drainage shall be of sufficient width to pass drainage from all tributary areas in a developed state. Storm drainage easements shall, wherever possible, conform to street patterns. ANNEXOR agrees to pay to the CITY appropriate Storm Drainage fees, as established by the CITY, in the amount as set forth in the CITY’s Annual Fee Resolution in effect at the time of building permit issuance.

SECTION V CROSSINGS

- A. The parties mutually agree that crossings may be required on certain roadways within the boundaries of the Property, as required by CITY’s Transportation Master Plan as applicable and Public Works Standards and Specifications Manual. ANNEXOR shall pay the total cost

of all crossings within the boundaries of the Property. ANNEXOR shall also dedicate to the CITY any land required for the construction of said crossings.

- B. All crossings shall be constructed in accordance with the requirements of the development and/or subdivision improvement agreement for the Property.

SECTION VI PUBLIC LAND DEDICATION

- A. At the time of approval of a final plat for all or any portion of the Property, ANNEXOR shall dedicate to the CITY certain lands to be used for public purposes. At the sole discretion of the CITY, and when it is determined to be in the best interests of the CITY to do so, the CITY may permit the ANNEXOR to pay cash in lieu of said land dedication or to dedicate land off-site for public purposes. Lands dedicated for public purposes shall be acceptable to CITY and shall be platted by ANNEXOR in accordance with the Brighton *Land Use & Development Code*. ANNEXOR agrees that if between the time of annexation and subdividing, any of the Property is rezoned from a nonresidential to a residential classification, or a residentially-zoned area is rezoned to a higher density, additional land dedications may be required at the time of final plat approval.
- B. ANNEXOR agrees that lands to be dedicated for public purposes shall include all site and public improvements, including but not limited to, water, sewer, drainage, curb, gutter, streets and sidewalks, at the time of conveyance. No lands to be dedicated for public purposes shall be disturbed by ANNEXOR in any manner to disrupt the natural landscape, unless first approved in writing by the CITY. ANNEXOR agrees that all lands dedicated to the CITY shall not be used as a cut or fill area by the ANNEXOR unless first specifically approved in writing by the CITY, which approval may include, without limitation, approval of development permits, final plats, final development plans and similar approvals with respect to such dedicated lands.
- C. The ANNEXOR agrees to provide to the appropriate school district information regarding the projected number of school children to be generated by the proposed annexation, using the density factors supplied by the school district; the location of schools for said children, existing and proposed; the estimated assessed valuation tax yield for schools; and a comparison of the operating expense and cost to be experienced by the school district for accommodating said additional school population.

SECTION VII ZONING AND DESIGN

ANNEXOR agrees to develop the Property according to the Brighton Comprehensive Land Use Plan, the Brighton *Land Use & Development Code*, the City of Brighton Zoning Code, the CITY subdivision regulations and all other regulations and administrative policies of the CITY. ANNEXOR will be requesting that the Property be rezoned to a zoning designation in accordance with the type, nature, and extent of the land uses identified in the Comprehensive Plan. *See Exhibit D, Special Provisions.*

**SECTION VIII
PUBLIC FACILITY EXTENSION**

Extension of water and sewer lines, streets, storm drainage, street lighting, traffic control devices and other public improvements from the developed areas of the CITY to the Property may be achieved according to a reimbursement agreement whereby owner(s) of lands abutting or benefited by such facilities or improvements shall reimburse the ANNEXOR for their proportionate share of ANNEXOR'S costs to extend public facilities which benefit such intervening lands. ANNEXOR and/or assigns assumes sole responsibility for the administration and collection of any and all moneys payable under such reimbursement agreements, unless otherwise set forth in the reimbursement agreement; provided, however, that the CITY agrees that it shall not approve a final plat or issue building permits for intervening lands subject to such reimbursement agreements until all reimbursements due and owing hereunder are paid in full.

**SECTION IX
GENERAL PROVISIONS**

- A. THIS AGREEMENT shall be recorded with the Clerk and Recorder in Adams County in and shall run with the land, and shall be binding upon and insure to the benefit of the heirs, successors and assigns of the parties hereto.
- B. Nothing contained in this AGREEMENT shall constitute or be interpreted as a repeal of existing codes or ordinances or as a waiver or abnegation of CITY'S legislative, governmental or police powers to promote and protect the health, safety or general welfare of the municipality or its inhabitants; nor shall this Agreement prohibit the enactment by CITY of any fee which is of uniform or general application.
- C. No right or remedy of disconnection of the described Property from the CITY shall accrue from this Agreement, other than that provided by Colo. Rev. Stat. §§ 31-12-119 and 31-12-501, or other applicable state law. In the event the Property or any portion thereof is disconnected at ANNEXOR'S request, CITY shall have no obligation to serve the disconnected Property and this Agreement shall be void and of no further force and effect as to such Property. In the event the Property or any portion thereof is disconnected at ANNEXOR'S request, CITY shall have no further obligation to continue to serve the disconnected Property and this Agreement shall be void and of no further force and effect as to such Property.
- D. If the annexation of the Property or any portion thereof is voided by initiative, referendum or the final action of any court, CITY agrees to cooperate with ANNEXOR to continue providing water and sewer service to the disconnected Property. CITY and ANNEXOR agree to jointly pursue all reasonable methods to continue such service, including but not limited to extra-territorial water and sewer contracts. Such agreement to cooperate shall not constitute a legal obligation on the part of the CITY to continue service.

- E. It is understood and agreed to by the parties hereto that if any part, term or provision of this Agreement is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term or provision held to be invalid.
- F. All fees recited in this Agreement shall be subject to amendment by the City Council. Any amendment to fees shall be incorporated into this Agreement as if originally set forth herein.
- G. If provision of any services, including but not limited to water and sewer services, requires payment of fees or charges to regional or metropolitan service agencies or other third party authorities, ANNEXOR shall provide such funds as and when required by such service agency.
- H. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions or obligations other than those contained herein, and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written, between the parties hereto. Subject to the conditions precedent herein, this Agreement may be enforced in any court of competent jurisdiction.
- I. ANNEXOR shall develop the Property in full conformance with all CITY ordinances and regulations, as the same may be amended from time to time.

[Remainder of page intentionally left blank; signature page follows.]

CITY OF BRIGHTON, COLORADO

GREGORY MILLS, Mayor

ATTEST:

NATALIE HOEL, City Clerk

APPROVED AS TO FORM:

YASMINA GIBBONS, Deputy City Attorney

EXHIBIT A: Legal Description of Property

EXHIBIT B: Special Warranty Deed

EXHIBIT C: Dry Up Covenant

EXHIBIT D: Special Provisions

**EXHIBIT A
LEGAL DESCRIPTION**

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF ADAMS, STATE OF COLORADO, AND IS DESCRIBED AS FOLLOWS:

PARCEL A: THAT PART OF THE SW 1/4 OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SW 1/4; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID SW 1/4 A DISTANCE OF 245.00 FEET TO THE TRUE POINT OF BEGINNING, THENCE NORTH 89 DEGREES 56 MINUTES 50 SECONDS EAST, PARALLEL WITH THE SOUTH LINE OF SAID SW 1/4 A DISTANCE OF 156.98 FEET; THENCE SOUTH 00 DEGREES 01 MINUTES 30 SECONDS WEST, A DISTANCE OF 77.55 FEET; THENCE SOUTH 45 DEGREES 46 MINUTES 34 SECONDS EAST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 00 DEGREES 03 MINUTES 10 SECONDS EAST A DISTANCE OF 120.00 FEET TO A POINT 30.00 FEET NORTH OF THE SOUTH LINE OF SAID SW 1/4; THENCE NORTH 89 DEGREES 56 MINUTES 50 SECONDS EAST, PARALLEL WITH SAID SOUTH LINE A DISTANCE OF 165.51 FEET TO THE INTERSECTION OF THE CENTERLINE OF VACATED PINE STREET, BARR CITY, A SUBDIVISION OF THE S 1/2 OF SAID SECTION 21; THENCE NORTH 00 DEGREES 02 MINUTES 40 SECONDS EAST, ALONG SAID CENTERLINE A DISTANCE OF 204.47 FEET TO A POINT ON THE WESTERLY LINE OF THE BRIGHTON LATERAL; THENCE ALONG SAID WESTERLY LINE AS FOLLOWS: NORTH 13 DEGREES 31 MINUTES 00 SECONDS WEST, 89.66 FEET; THENCE NORTH 01 DEGREES 28 MINUTES 00 SECONDS WEST, 171.61 FEET; THENCE NORTH 03 DEGREES 40 MINUTES 22 SECONDS EAST, 167.13 FEET TO APPOINT ON THE CENTERLINE OF FIRST AVENUE, SAID BARR CITY; THENCE SOUTH 89 DEGREES 56 MINUTES 50 SECONDS WEST, ALONG SAID CENTERLINE A DISTANCE OF 326.00 FEET TO A POINT ON THE WEST LINE OF SAID SW 1/4; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG SAID WEST LINE A DISTANCE OF 415.00 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF ADAMS, STATE OF COLORADO.

PARCEL B: A PARCEL OF LAND IN THE SOUTHWEST 1/4 OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH P.M. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BLOCK 64 OF VACATED BARR CITY, TOGETHER WITH THOSE PORTIONS ADJOINING SAID BLOCK 64 OF THE SOUTHERLY 1/2 OF VACATED FIRST STREET, THE WESTERLY 1/2 OF VACATED PINE STREET, VACATED BRIGHTON BOULEVARD AND VACATED JEFFERSON BOULEVARD, ALL AS VACATED BY VACATION PLAT BARR CITY RECORDED JULY 26, 1966, IN FILE 12 AS MAP NO. 26, AT RECEPTION NO. 791307; **EXCEPT** THAT PORTION THEREOF CONVEYED BY DEED RECORDED JULY 6, 1971, IN BOOK 1711 AT PAGE 251 DESCRIBED AS FOLLOWS:

THAT PART OF THE SOUTHWEST 1/4 OF SECTION 21, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID SOUTHWEST 1/4; THENCE NORTH 00°00'00" EAST ON AN ASSUMED BEARING ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 A DISTANCE OF 245.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 89°56'50" EAST PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST 1/4 A DISTANCE OF 156.98 FEET; THENCE SOUTH 00°01'30" WEST A DISTANCE OF 77.55 FEET, THENCE SOUTH 45°46'34" EAST A DISTANCE OF 25.00 FEET; THENCE SOUTH 00°03'10" EAST A DISTANCE OF 120.00 FEET TO A POINT 30.00 FEET NORTH OF THE SOUTH LINE OF SAID SOUTHWEST 1/4; THENCE NORTH 89°56'50" EAST PARALLEL WITH SAID SOUTH LINE A DISTANCE OF 165.51 FEET TO THE INTERSECTION OF THE CENTERLINE OF VACATED PINE STREET, BARR CITY, A SUBDIVISION OF THE SOUTH 1/2 OF SAID SECTION 21; THENCE NORTH 00°02'40" EAST ALONG SAID CENTERLINE A DISTANCE OF 204.47 FEET TO A POINT ON THE WESTERLY LINE OF THE BRIGHTON LATERAL; THENCE ALONG SAID WESTERLY LINE AS FOLLOWS: NORTH 13°31'00" WEST, 89.66 FEET; THENCE NORTH 01°28'00" WEST, 171.61 FEET; THENCE NORTH 03°40'22" EAST, 167.13 FEET TO A POINT ON THE CENTERLINE OF FIRST AVENUE, SAID BARR CITY; THENCE SOUTH 89°56'50" WEST ALONG SAID CENTERLINE A DISTANCE OF 326.00 FEET TO A POINT ON THE WEST LINE OF SAID SOUTHWEST 1/4; THENCE SOUTH 00°00'00" WEST ALONG SAID WEST LINE A DISTANCE OF 415.00 FEET TO THE TRUE POINT OF BEGINNING;

AND ALSO, EXCEPT ANY PORTION THEREOF LYING EAST OF THE WESTERLY LINE OF THE BRIGHTON LATERAL;

AND ALSO, EXCEPT ANY PORTION THEREOF LYING WITHIN THE 136TH AVENUE RIGHT OF WAY, COUNTY OF ADAMS, STATE OF COLORADO.

EXHIBIT B
TEMPLATE ONLY — ORIGINAL DEED TO BE RECORDED SEPARATELY AT TIME OF
ANNEXATION WITH THIS AGREEMENT AND ANNEXATION MAP

SPECIAL WARRANTY DEED

_____, whose street address is _____, City or Town of _____, County of Adams and State of Colorado, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, receipt of which is hereby acknowledged by Grantor, and which consideration includes the City of Brighton's willingness to enter into an agreement with Grantor entitled (*name of annexation agreement*, dated _____), and in accordance with the requirements of that agreement, hereby sells and conveys to the City of Brighton, whose address is 500 South 4th Avenue, City of Brighton, County of Adams and State of Colorado, the following property in the County of _____ and State of Colorado, to wit:

The rights to all water aquifers, sometimes called deep well aquifers, containing nontributary and/or not nontributary groundwater, as those terms are defined in Sections 37-90-103(10.5) and 37-90-103(10.7), Colorado Revised Statutes, or any successor or amended statutory provisions defining such groundwater, together with all such nontributary and not nontributary water as may be contained in the said aquifers or elsewhere within the boundaries of the real property described on Exhibit 'A' hereof, which exhibit is incorporated fully herein by this reference, being _____ acres, more or less. The aquifers referenced herein include the Dawson, Denver, Arapahoe, Laramie-Fox Hills and Dakota.

Grantor hereby irrevocably consents, in perpetuity, for and on behalf of itself and any and all successors in title, to the withdrawal of all of the above-described nontributary or not nontributary groundwater by the City of Brighton or its successors or assigns, and warrants the title of all that is conveyed by this deed against all persons claiming under the Grantor. Grantor further warrants that it has not divested itself of all or any portion of the aquifers described herein, nor of any of the nontributary or not nontributary groundwater that may underlie the land described in Exhibit 'A', nor has it previously conveyed or transferred to any other person or entity all or any portion of said aquifers, nontributary or not nontributary groundwater, or the rights to withdraw such ground water. Grantor further agrees to warrant and forever defend the rights to all of the aquifers described herein, and the right to withdraw nontributary and not nontributary groundwater there from, as the same underlie the property described in Exhibit 'A', which aquifers and rights are hereby conveyed to the City of Brighton, against all and every person claiming the whole or any part thereof by or through the Grantor.

EXHIBIT C
TEMPLATE LANGUAGE ONLY FOR TIME OF PLATTING AS NECESSARY – NOT TO
BE SIGNED WITH THIS AGREEMENT

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

THIS COVENANT, Agreement, Warranty and Easement are made and given this _____ day of _____, 20____, by _____ (“Owner”).

Owner has entered into an agreement with the City of Brighton, Colorado, a home-rule city (“Brighton”) dated _____, 20____, whereby Owner has agreed to sell, and Brighton has agreed to purchase, _____ share(s) of the Capital Stock of the _____ Company (“Company”) with certificate number(s) _____ (the “Water Rights”). The Owner acknowledges that the Water Rights are intended to be utilized by Brighton in or for its municipal water system, and/or for augmentation or exchange purchases, and that in order to effect such uses, the Water Rights will need to be changed in an appropriate proceeding before the District Court, Water Division No. 1 (“Water Court”), to change the use of the water to municipal, augmentation and/or exchange purposes.

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

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

1. From and after the date hereof, neither the Water Rights nor any other water provided by the Company shall be used for irrigation in connection with the property described in Exhibit ‘A’ without the written consent of Brighton, or its successors or assigns, having been first obtained, which consent may be withheld in Brighton’s sole discretion.

2. Owner shall take any action necessary to eliminate any consumptive use of water for irrigation purposes on the property described in Exhibit ‘A’ as may be determined and/or required by the Water Court or other court or tribunal of competent jurisdiction in the judgment and decree entered in any case involving the change or exchange of any of the Water Rights, and except as hereinafter may be specifically allowed, the property shall no longer be irrigated.

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

4. Unless otherwise required by any decree changing the Water Rights, or allowing such rights to be exchanged, this covenant shall not prohibit the Owner or Owner's successors and assigns from irrigating lands that are the subject of this covenant with water rights which may in the future be transferred to such lands and for such use through an appropriate Water Court proceeding, irrigating the lands with water from a well or wells to be constructed in the future which are authorized to pump pursuant to a Water Court-approved plan for augmentation, irrigating the lands with water which is not tributary to the South Platte River basin, to include not-nontributary water that is duly augmented, or irrigating the lands with treated water supplied by a municipality or a water district. Unless so irrigated, the Owner agrees that the property subject to this covenant will not be planted with crops which are capable of extending roots into the underlying groundwater, including but not necessarily limited to the growing of alfalfa.

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

6. Owner warrants that no other person or entity has any ownership or encumbrance interest in the Property except for those persons and entities that have signed below. Owner further warrants and represents that this covenant shall entitle Brighton to the first and prior right to claim credit for the dry-up or non-irrigation of the property described in Exhibit 'A', and agrees to provide Brighton with all assistance Brighton may reasonably require in regard to the above-referenced change of the Water Rights, including but not limited to the provision of testimony before the Water Court in any proceeding involving such change.

[Remainder of page intentionally left blank; signature page follows.]

EXHIBIT D
SPECIAL PROVISIONS

THE FOLLOWING SPECIAL PROVISIONS ARE HEREBY ATTACHED TO AND MADE A PART OF THAT CERTAIN OTTEN ANNEXATION AGREEMENT BETWEEN THE CITY OF BRIGHTON, COLORADO AND ANNEXOR. SHOULD THERE BE ANY CONFLICT BETWEEN THE PROVISIONS OF THE ANNEXATION AGREEMENT AND THIS EXHIBIT D, THE PROVISIONS OF THIS EXHIBIT D SHALL CONTROL.

1. Rights-of-Way Dedication and Construction.

a. East 136th Avenue.

- i.** ANNEXOR agrees to dedicate to the CITY, at the time of final plat, right of way as necessary to allow for the extension of East 136th Avenue, presently identified as a Major Arterial street section in the City's Transportation Master Plan, which may be amended from time to time, or as otherwise identified by CITY Staff at the time of development.
- ii.** ANNEXOR agrees to construct the extension of East 136th Avenue, along the full frontage of the Property to the full design of a Major Arterial street, as presently identified in the City's Transportation Master Plan, which may be amended from time to time, or as otherwise identified by CITY Staff at the time of development.
- iii.** The timing of the construction will be determined at the time of subdivision plan. Details of construction will be determined at the time of final plat/development agreement.

b. South 27th Avenue.

- i.** If ANNEXOR acquires the real property directly to the west of the Property, ANNEXOR agrees to dedicate to the CITY, at the time of final plat, right of way as necessary to allow for the extension of South 27th Avenue as a Major Arterial Street as presently identified in the City's Transportation Master Plan, which may be amended from time to time, or as otherwise identified by CITY Staff at the time of development.
- ii.** If ANNEXOR acquires the real property directly to the west of the Property, ANNEXOR agrees to construct the east half of South 27th Avenue along the full frontage of the Property to the full design of a Major Arterial street, as presently identified in the City's Transportation Master Plan, which may be amended from time to time, or as otherwise identified by CITY Staff at the time of development.
- iii.** The timing of the construction will be determined at the time of subdivision plan. Details of construction will be determined at the time of final plat/development agreement.

c. Intersection of East 136th Avenue and South 27th Avenue.

- i.** ANNEXOR agrees to complete all required adjacent improvements and/or any other improvements which may be triggered at the time of development.

d. CITY's Standards and Specifications. Notwithstanding the provisions of this Agreement, the standards of public and private street improvements shall be set forth in the approved civil plans associated with each final plat of the Property.

2. Traffic Signal Contribution.

a. ANNEXOR agrees to either construct or reimburse a pro-rata share of the cost of improving, as determined at the sole discretion of the CITY, the existing traffic signals at the locations detailed below. The timing of the contribution will be determined at time of subdivision plan. Details of construction and contribution will be determined at the time of final plat(s)/development agreement(s).

i. Intersection of South 27th Avenue and East 136th Avenue.

3. Construction Requirements.

a. Access Points. ANNEXOR shall construct one or more access point(s) to the Property, as may be required to serve future development, subject to review and approval by the CITY, the details and timing of which shall be generally determined at the time of subdivision plan and more specifically detailed at the time of final plat/development agreement.

b. Unless outlined at the time of subdivision plan, in accordance with Section II(B), ANNEXOR shall design and construct to CITY standards all public streets within the Property. ANNEXOR shall participate in the costs of the improvements of perimeter streets according to the CITY-wide policy in effect at the time of building permit application.

4. Prairie Center Public Improvement Reimbursement. ANNEXOR acknowledges that the Property may be adjacent to or directly benefitting from a public improvement eligible for reimbursement pursuant to that certain Prairie Center Comprehensive Funding Agreement, recorded in the real property records of the Adams County Clerk and Recorder on December 16, 2005, at Reception No. 2005001378220 (the "Funding Agreement"). As a condition precedent to the approval by the CITY of a subdivision plan or final plat, whichever occurs first, ANNEXOR shall either pay its pro rata share of costs for such public improvement to the applicable developer and/or district referenced in the Funding Agreement, or enter into a reimbursement agreement with the applicable developer and/or district referenced in the Funding Agreement providing for payment for such public improvements in a form and substance that is satisfactory to said developer and or district.

5. Overhead Utility Lines. In accordance with Subsection II(C), ANNEXOR shall be responsible for undergrounding overhead utility lines running adjacent to the Property.

6. Street Lighting. ANNEXOR shall be responsible for the installation of street lighting along all roads adjacent to the Property and any roads constructed at the time of development, the details and timing of which shall be determined at the time of final plat/development agreement.

- 7. Water and Sewer Connection and Upsizing.** CITY agrees to provide water service and sewer service to the Property. ANNEXOR agrees to connect to water and sewer services at time of development. ANNEXOR assumes the sole responsibility for the design, coordination of construction, and construction, as well as the connection to all additional water, stormwater and sanitary sewer facilities necessary to serve the Property, and all costs associated therewith. This includes looping of water lines and any other standard determined appropriate by the CITY in its sole discretion at time of development. At the time of platting, ANNEXOR will demonstrate a viable connection to CITY water and sewer services, subject to review and approval by the CITY. Said connections will be required with any change or expansion in use and/or at the time of development.
- 8. Non-Potable Water System.** ANNEXOR shall design, construct, and install non-potable water lines and appurtenances within the Property at time of development. The non-potable water lines shall be designed, constructed and installed in a manner that ensures non-potable water can be delivered to all parks, landscape tracts and open space areas within the Property for irrigation purposes. ANNEXOR shall design, construct and install a connection from the non-potable water lines to the non-potable water distribution system at a location determined by the CITY at the time of Development. ANNEXOR acknowledges that the connection point may be located off site from the subject Property. ANNEXOR shall also be responsible for obtaining any required easements or rights-of-way to connect the non-potable water lines to the non-potable distribution system. The design, construction, installation, connection to the non-potable distribution system and acquisition of easements and/or rights-of-way shall be at the sole cost of ANNEXOR. If determined by the CITY, in its sole discretion, at the time of development that a connection to the non-potable distribution system is not feasible for any reason, ANNEXOR shall provide an interconnect between the non-potable water lines and the potable water system in accordance with applicable City Standards and Municipal Code. Said interconnect shall be at the sole cost of ANNEXOR.
- 9. South Brighton Infrastructure.** ANNEXOR agrees to adhere to Resolution 2016-42 and will pay all applicable fees at the time specified in said Resolution.
- 10. Parks and Open Space.**

 - a. ANNEXOR agrees to dedicate to the City of Brighton, at the time of final plat, all right of ways as necessary for construction of any trails required at the discretion of the CITY.
 - b. At the sole discretion of the CITY, ANNEXOR agrees to dedicate, at time of final plat, the required park/open space dedication and/or pay fee in lieu of open space in an amount required by CITY at time of building permit issuance.
 - c. ANNEXOR agrees that if the Property is ever developed such that the land use designation requires the dedication of park/open space land and/or the payment of a fee in lieu of land dedication, as determined by the CITY, such land dedication or fee in lieu of land dedication will be satisfied by the ANNEXOR at the time of final plat, or such other time as the CITY deems appropriate in its sole discretion.

- 11. Water Dedication.** ANNEXOR shall satisfy the water dedication requirement for the Property by dedicating to the City, at the time of site plan, or at such other time as may be required by section 13-4-10 of the Municipal Code, as amended from time to time, and as a condition precedent to approval of the site, a sufficient number of acre-feet of water that is acceptable to the City, in its sole discretion.
- 12. Zoning of Property.** ANNEXOR acknowledges and agrees that the approval of zoning for the Property is a separate and distinct procedure governed by the *Land Use & Development Code* of the CITY and that this Agreement does not approve or otherwise guarantee the zoning of the Property. ANNEXOR and CITY agree that zoning of the Property shall be generally consistent with the Comprehensive Plan for the Property. ANNEXOR has submitted an application for a zoning district of C-2 (Restricted Retail & Services), (the “Zoning Application”) in connection with ANNEXOR’s petition for annexation of the Property, which Zoning Application shall be considered concurrently with the annexation of the Property, as provided in the City’s *Land Use & Development Code*.
- 13. Subsequent Land Development Applications.** ANNEXOR agrees that before any platting can take place, a major subdivision plan must be approved and accepted by all applicable review entities.
- 14. Development Agreement.** ANNEXOR agrees that one or more development agreement(s) will be completed concurrent with the final plat.
- 15. Addressing.** ANNEXOR agrees that the roads adjacent to the Property are titled East 136th Avenue and South 27th Avenue and should appear as such on any future subdivision plan and/or final plat.
- 16. Community Benefit Incentives.** ANNEXOR agrees that if the zoning of the Property is ever designated and/or developed as residential, the ANNEXOR shall make any successors and/or assigns aware of the Community Benefit Incentives as expressed in the *Land Use & Development Code* Section 5.08, as may be amended.
- 17. School District 27J Capital Facility Fee Foundation.** ANNEXOR is aware of the School District Capital Facility Fee Foundation (the “Foundation”), the purpose of which 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, shall enter into a participant agreement with the School District. Fees payable to the Foundation shall be paid directly to the School District for each platted residential lot. After establishment and assessment of any school fees as aforesaid, as a condition of approval and issuance of any residential building permit, ANNEXOR shall provide evidence to the CITY that such fees have been paid to the Foundation in accordance with this Section.
- 18. Applicable Master Plans to this Annexation.** Notwithstanding any provision of this Agreement to the contrary, the master plans, which may be amended from time to time, applicable to the Property are those listed below:

- a. **Drainage.**
 - i. Brighton Watershed Outfall Systems Plan (OSP)
- b. **Water and Wastewater.**
 - i. Water and Wastewater Systems Master Plan
- c. **Transportation.**
 - i. Transportation Master Plan
- d. **Parks and Recreation.**
 - i. Parks and Recreation Master Plan
- e. **Community Development**
 - i. Be Brighton Comprehensive Plan