

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

RECEPTION#: 2024000039316,  
7/19/2024 at 10:45 AM, 1 OF 43,  
REC: \$223.00  
Josh Zygielbaum, Adams County, CO.

THIS SPACE FOR RECORDER'S USE ONLY

**DEVELOPMENT AGREEMENT  
DHI TELLURIDE**

**THIS DEVELOPMENT AGREEMENT** (the "Development Agreement") is made and entered into this 8<sup>th</sup> day of July 2024, by and between the CITY OF BRIGHTON, COLORADO, a home rule municipality of the Counties of Adams and Weld, State of Colorado (the "City") and TAMARACK LAND – TELLURIDE STREET, LLC, a Delaware limited liability company (the "Developer") and its successors and assigns.

**WHEREAS**, the Developer has submitted a Final Plat (the "Plat" or "Final Plat") for DHI Telluride (the "Development" or "Property"), attached hereto as Exhibit A and incorporated herein by reference, and Plat has been administratively reviewed and approved by the City of Brighton; and

**WHEREAS**, Developer is the owner of a 11.18-acre parcel of land, 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.

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

**SECTION 1  
DEFINITIONS**

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

- 1.1 **"Agreement"** or **"Development Agreement"** shall mean this Development Agreement by and between the City of Brighton, Colorado and Tamarack Land – Telluride Street, LLC, including all attachments and exhibits hereto.
- 1.2 **"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 Development 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.
- 1.3 **"City Manager"** means the City Manager of the City of Brighton or his or her designee.

- 1.4 **“City Specifications”** shall mean the City of Brighton Public Works Standards and Specifications.
- 1.5 **“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.
- 1.6 **“Common-Interest Management Association”** means a homeowners association 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.
- 1.7 **“Completion of Construction”** means the date the City has certified in writing that all three of the following have occurred:
- a. Construction is complete in accordance with the construction specifications and the requirements of the Development Agreement;
  - b. The City has issued Final Acceptance; and
  - c. The City can fully occupy or utilize the work for the purpose for which it is intended.
- 1.8 **“Construction permit”** includes building permits, infrastructure permits, temporary use permits, 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.

- a. 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;
- b. It must be allocable to the applicable improvement project, i.e., the cost is incurred for the benefit of only one project or the item can be easily assigned to multiple benefiting projects; and
- c. A specific project may only be charged that portion of the cost which represents the direct benefit to that project.

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

- 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 Development Agreement and the attachments hereto.
- 1.11 “*Subdivision*” or “*Subdivision Plan*” means that certain Subdivision Plan of DHI Telluride, recorded in the real property records of the Adams County Clerk and Recorder on September 12, 2023, at Reception No. 202300005196.

## 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

(collectively, the “Public Improvements” or “Improvements”).

- 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. 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.**
- a. No later than ten (10) days after construction of Public Improvements is completed, Developer shall request inspection of the Improvements by the City.
  - b. 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.
  - c. 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.
  - d. 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.
  - e. 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.
  - f. If the Improvements completed by Developer are satisfactory, the City shall grant initial acceptance, also known as construction acceptance (“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.

**g. No Residential Building Permits shall be issued by the Community Development Department prior to Initial Acceptance of Public Improvements unless expressly permitted in Exhibit E 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 E 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 ("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, defined below, up to one and one-half times the amount of such liens. If a final acceptance inspection is not requested by Developer and/or Final Acceptance is not granted because of Developer's failure to cure all deficiencies and/or necessary repairs, Developer shall, at its own expense, continue to remain liable for all maintenance obligations set forth in Section 2.9, above, beyond the two (2) year period following Initial Acceptance.
- 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 the Agreement, with funds other than the Improvements Guarantee, in which event Developer shall reimburse the City within thirty (30) days after receipt of written demand and supporting documentation from the City. If Developer fails to reimburse the City, the Developer shall be in default of the Agreement and the City may exercise its rights under Section 10.1 of this Agreement.
- 2.12 Testing and Inspection.** Developer shall employ, at its own expense, a licensed and registered testing company, to perform all testing of materials or construction that may be reasonably required by the City, and shall furnish copies of test results to the City, on a timely basis, for City review and approval prior to commencement or continuation of that particular phase of construction. In addition, at all times during said construction, the City shall have access to inspect the materials and workmanship of said construction. All materials and work not conforming to the approved plans and specifications shall be repaired or removed and replaced at Developer's expense so as to conform to the approved

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

### **2.13 Improvement Guarantees.**

- a. 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** (the "Improvement Guarantee"). Said Improvement Guarantee may be in cash, bond, or a letter of credit in a format provided by the City.
- b. Infrastructure permits shall be issued for only that phase of the Development for which said guarantees have been furnished. The total amount of the guarantee for each phase of development shall be calculated as a percentage of the total estimated cost, including labor and materials, of all Public Improvements to be constructed in said phase of the Development as described in **Exhibit B**. The total minimum amounts are as follows:
  - i. Prior to City issuance of infrastructure permits – 115%
  - ii. Upon Initial Acceptance prior to Final Acceptance – 15%
  - iii. After Final Acceptance – 0%
- c. 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.
- d. 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 as reasonably determined by the City to be greater than the amount of the security provided, then the City shall furnish written notice to the Developer of the condition, and within thirty (30) days of receipt of such notice, the Developer shall provide the City with a substituted qualifying Improvements Guarantee or augment the deficient security as necessary to bring the security into compliance with the requirements of this Section 2.13. If such an Improvement Guarantee is not submitted or maintained, then Developer is in default of this Agreement and is subject to the provisions of Section 10.1 of this Agreement, as

well as the suspension of the development activities by the City, including but not limited to the issuance of construction permits of any kind including infrastructure permits, building permits, and construction or final acceptance, or certificates of occupancy or completion.

**2.14 Indemnification and Release of Liability.**

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.

Developer acknowledges that the City's review and approval of plans for development is done in furtherance of the general public's health, safety, and welfare and that no immunity is waived and no specific relationship with, or duty of care to, the Developer or third parties is assumed by such approval. The parties hereto understand and agree that the City of Brighton, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently \$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 Plan.** The Schedule of Improvements and Phasing Plan, to this Agreement attached hereto as **Exhibit B**, sets forth the intended construction of the Improvements for this Phase of the Development, including but not limited to roads, water infrastructure, sewer infrastructure, drainage infrastructure, and maintenance.

No vertical building permits shall be issued by the Community Development Department prior to Initial Acceptance of Public Improvements. No amendments or alterations to the Phasing Plan may be made without the prior written consent of the City. Any amendments to the Phasing Plan, as contemplated in **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, 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.

- 2.17 Schedule of Improvements Updates.** The Developer has, as a part of this Agreement, submitted an estimated Schedule of Improvements shown in **Exhibit B**. If the Developer has not submitted a financial guarantee within twelve (12) months of the approval of this Agreement, the Developer shall, at its expense, submit updated and current estimated costs in the form of an updated Schedule of Improvements for the City's review and approval.
- 2.18 City Regulations.** The Developer shall develop the Property in full conformance with the applicable provisions of the Brighton Municipal Code, all City ordinances, and regulations in effect at the time of their approval, as the same may be amended from time; the applicable zoning district, as the same may be amended from time; and the Public Works Design and Construction Standards and Specifications Manual, current edition.

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

- 3.3 Utility Coordination and Installation.** In addition to the Improvements described in **Exhibit B**, Developer shall also be responsible for coordination of, and payment for, and the installation of on-site and off-site electric, streetlights, natural gas, telephone, and other utilities. All utilities shall be placed underground, to the extent required by City Code or other applicable law.
- 3.4 Reimbursement.** To the extent that roads, water lines, sewer lines, drainage channels, trails, crossings and other Public Improvements specified in **Exhibit B** are constructed by Developer, that will benefit landowners, developers, and persons other than the Developer, the City, for a period of fifteen (15) years following the completion of construction of such Improvements, will withhold approval and recording of final plats of other Benefited Landowners, developers, and 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.
- 3.5 Reimbursement – City.** To the extent that Public Improvements are constructed by the Developer, that will benefit landowners, developers, and persons other than the Developer, the City, for a period of fifteen (15) years following the issuance of Final Acceptance of such improvements, will withhold approval and recording of final plats of other Benefited Landowners, developers, and persons pending reimbursement payment or reimbursement agreement for a pro rata reimbursement to the Developer as provided in Section 3.4 of this Agreement. All costs for the construction of the improvements must be fully paid by the Developer before the Developer is entitled to reimbursement under any agreement established hereunder pursuant to Sections 3.5 and 3.6, Shared Improvements. The actual costs of the improvement(s) includes the actual cost of design and construction of the improvement(s), including the cost of over-sizing of utilities, and an adjustment for the current interest rate during the cost recovery period of the reimbursement agreement. The amount of the reimbursement to be paid shall not exceed the actual cost of the improvement(s) paid by the Developer, plus reasonable interest, as agreed to by the City and the Developer.
- a. After the improvements are constructed by the Developer and Final Acceptance is issued by the City, the Developer shall submit to the City Manager, or the Manager’s designee, within ninety (90) days from Final Acceptance for review and approval, documentation of the actual costs of these off-site improvements and a proposed plan for recovery of those costs, including the following:
    - i. 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;

- ii. Copies of paid receipts or other satisfactory evidence of payment of the costs claimed for the improvement(s), unless previously submitted;
  - iii. A verified statement from the Developer and/or contractor, subcontractor, engineer, architect, or consultant certifying that final payment has been paid and/or received;
  - iv. As-built map or plan satisfactory to the City which shows:
    - a. The location of the improvement(s) as constructed, unless previously submitted;
    - b. The name and address of the owner of each property which the Developer asserts has or will be benefited by the improvement(s);
    - c. The amount of frontage each property has adjacent to the improvement(s);
    - d. The acreage and parcel number of each property, which the Developer asserts has or will be benefited by the improvement(s);
    - e. A reference to the book and page and/or reception number from the county records where the information for each property was obtained;
    - f. A proposed manner by which the actual costs of the improvement(s) will be determined for reimbursement by the owners and/or developers of the benefited properties; and
    - g. Any other information deemed necessary by the City Manager, or the Manager's designee.
  - v. If the foregoing information is not submitted by the Developer within the ninety (90) days after Final Acceptance, then all rights and claims for reimbursement shall be deemed waived, and reimbursement will thereafter be denied. If the information is submitted in a timely manner, the City Manager, or the Manager's designee, will review it and, if approved as submitted or modified by the City Manager, prepare a reimbursement agreement to be signed by the Developer and the City Manager. If the Developer fails or refuses to sign the reimbursement agreement with the City within thirty (30) days of preparation by the City Manager, then all rights and claims for reimbursement shall be deemed waived, and reimbursement will thereafter be denied.
- b. The City Manager, or the Manager's designee, will review the reimbursement materials and plan for reasonableness and appropriateness of the costs claimed and the proposed cost recovery plan, and may request further documentation for any such costs. The City Manager, or the Manager's designee, may make such adjustments, as the Manager or the Manager's designee, in their sole discretion, determines to be necessary if the costs are deemed to be in excess of reasonable and necessary costs at then prevailing rates and/or the proposed cost recovery plan is not appropriate or reasonable. If the City Manager, or the Manager's designee, does not notify the Developer in writing of any adjustments thereto within thirty (30) days after the materials and proposed plan were submitted, or if backup documentation is requested within thirty (30) days, within thirty (30) days after the requested back up documentation is submitted, then the costs and the recovery plan

will be deemed approved as submitted, and a reimbursement agreement shall be prepared and executed as provided in subsection 5. above.

- c. The reimbursement agreement shall include, but not be limited to:
  - i. A description of the improvement(s) for which the Developer will be reimbursed;
  - ii. A recitation of all reimbursable costs;
  - iii. A list of properties, owners and descriptions that are or will be benefited by the improvement(s);
  - iv. The manner or formula that will be applied to determine the amount of reimbursement owed by the owners or developers of benefited properties;
  - v. Property owners and/or developers submitting plats or development plans for the identified benefited properties shall pay the required sums directly to the Developer before a final plat for any portion of their property is approved or recorded;
  - vi. 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.
  - vii. 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;
  - viii. The books and records of the Developer, relating to the actual costs of the improvement(s) for which the Developer seeks reimbursement, shall be open to the City at all reasonable times for the purpose of auditing and verifying the Developer's costs.
- d. The Developer will be responsible for notifying all property owners who will be affected by the reimbursement agreement, by regular mail, postage prepaid, that a reimbursement request, which may affect their property, has been submitted to the City Manager within 30 days of submission of the request to the City Manager.
- e. It is the responsibility of the Developer or its successors or assigns to notify the City in writing of any changes in address for notices and other matters under Section 3.5 of this Agreement. Upon receipt of an application for development of a benefited property, the City shall mail a notice of application for development, building permit or final plat, to the Developer 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.

- 3.6 Reimbursement - Shared Improvements.** Construction of shared improvements and related facilities may be achieved according to a reimbursement agreement whereby owner(s) of property abutting or benefited by such improvements agree to reimburse the Developer for their proportionate share of Developer's costs to extend improvements which benefit such benefited property, in a form and content acceptable to the City Manager or the Manager's designee.
- a. The Developer agrees to use its best efforts and work in good faith to reach an agreement regarding reimbursement for such shared improvements, and assumes sole responsibility for the administration and collection of any and all monies 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 benefitted property subject to such reimbursement agreement(s).
  - b. If the Developer is unable to secure a fully executed shared improvements reimbursement agreement prior to the issuance of Final Acceptance, the City may set the amount of the reimbursement obligation as provided in Section 3.5 of this Agreement.
  - c. The cost recovery period in a shared improvement reimbursement obligation shall not exceed fifteen (15) years following the Final Acceptance of such improvement(s).

#### SECTION 4 STREET IMPROVEMENTS

- 4.1 Definitions.** For the purposes of this Agreement, "street improvements" shall be defined to include, where applicable, but not limited to, all improvements within the right-of-way, such as bridges, sub-base preparation, road base, asphalt, concrete, seal coat, curb and gutter, medians, entryways, underground utilities, sidewalks, bicycle paths, traffic signs, street lighting, street name signs, landscaping, and drainage improvements.
- 4.2 Street Signs, Traffic Signs and Striping.** The Developer shall install, at the Developer's expense, street name signs on local, collector, 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.** All internal and external streets shall be constructed in accordance with the City of Brighton's approved Transportation Master Plan and Public Works Standards and Specifications, as the same be amended from time to time, and the approved construction

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

## SECTION 5 PUBLIC LAND CONVEYANCE AND LANDSCAPING

### 5.1 Public Land Conveyance.

- a. 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 in form and substance satisfactory to the City Attorney.
- b. 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, and the Special Provisions, attached hereto as Exhibit E, 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 by the City Code, as amended from time to time.

## 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.**
- a. 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 so 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, all City-approved plans and City standards and specifications, and the Schedule of Improvements, attached hereto as **Exhibit B**. Developer and City shall execute the Stormwater Facilities Maintenance Agreement, attached hereto as **Exhibit D**, and incorporated herein.
  - b. Developer shall initiate no overlot grading until the City reviews and approves the required drainage improvement plans in writing for conformance with the City's standards, specifications, and other relevant documents, and a permit is issued. Drainage improvements shall be designed in accordance with City standards and specifications and 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 Chapter 14, "Storm Drainage" of the Brighton Municipal Code. All private drainage facilities shall be operated, repaired, maintained, and replaced by the Developer in accordance with Exhibit D, 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 remediation by City personnel or an authorized agent.

**SECTION 9  
SPECIAL PROVISIONS**

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

**SECTION 10  
MISCELLANEOUS TERMS**

**10.1 Breach of Agreement.**

- a. 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 for Public Improvements in the Development and complete the Public 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.
- f. 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, which is solely due to inclement weather, shall not be considered a breach of this Agreement. All costs incurred by the City, including, but not limited to, administrative costs and reasonable attorney's fees, in pursuit of any remedies due to the breach by the Developer, shall be the responsibility of the Developer. The City may deduct these costs from the Improvement Guarantee and seek indemnification and reimbursement from the Developer if the Improvements Guarantee does not cover the same.



- 10.2 **Recording of Agreement.** The City shall record this Agreement at Developer’s expense in the office of the Clerk and Recorder in the county in which the Property is located, and the City shall retain the recorded Agreement.
- 10.3 **Binding Effect of Agreement.** This Agreement shall run with the land included within the Development and shall inure to benefit of and be binding upon the successors and assigns of the parties hereto.
- 10.4 **Assignment, Delegation and Notice.** Developer shall provide to the City, for approval, written notice of any proposed transfer of the Development 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.
- 10.5 **Modification and Waiver.** No modification of the terms of this Agreement shall be valid unless in writing and executed with the same formality as this Agreement, and no waiver of the breach of the provisions of any section of this Agreement shall be construed as a waiver of any subsequent breach of the same section or any other sections which are contained herein.
- 10.6 **Addresses for Notice.** Any notice or communication required or permitted hereunder shall be given in writing and may be personally delivered, sent by United States mail, postage prepaid, registered or certified mail, return receipt requested, or sent by a national overnight courier (such as UPS or FedEx), addressed as follows:

<p>City:</p> <p>City of Brighton                  Attn: City Manager                  500 South 4th Avenue                  Brighton, CO 80601</p>	<p>Developer:</p> <p>Tamarack Land – Telluride Street, LLC                  Attn: Dale Willenbring                  712 Vista Blvd., Ste 303                  Waconia, MN 55387</p>
<p>With a copy to:</p> <p>City of Brighton                  Attn: City Attorney                  500 South 4<sup>th</sup> Avenue                  Brighton, CO 80601</p>	<p>With a copy to:</p> <p>Foster Graham Milstein &amp; Calisher                  Attn: Erik Carlson                  360 S. Garfield, Suite 600                  Denver, CO 80209</p>

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

- 10.7 Force Majeure.** Whenever Developer is required to complete construction, maintenance, repair, or replacement of improvements by an agreed-upon deadline, the time for performance shall be extended for a reasonable period if the performance cannot as a practical matter be completed in a timely manner due to Acts of God or other circumstances constituting force majeure or beyond the reasonable control of Developer.
- 10.8 Approvals.** Whenever approval or acceptance of a matter is required or requested of the City, pursuant to any provisions of the Agreement, the City shall act reasonably in responding to such matter.
- 10.9 Previous Agreements.** All previous written and recorded agreements, between the Parties, their successors, and assigns, including, but not limited to, any amended and restated annexation agreement, shall remain in full force and effect and shall control this Development. If any prior agreements conflict with this Agreement, then this Agreement controls.
- 10.10 Title and Authority.** Developer warrants to the City that it is the record owner for the Property within the Development or is acting in accordance with the currently valid and unrevoked power of attorney of the record owner hereto attached. The undersigned further warrant having full power and authority to enter into this Agreement.
- 10.11 Severability.** This Agreement is to be governed and construed according to the laws of the State of Colorado. In the event that any provision of the Agreement is held to be in violation of city, state, or federal laws and rendered unenforceable, the City, in its sole discretion, may determine whether the remaining provisions will or will not remain in force.
- 10.12 Agreement Status After Final Acceptance.** Upon Final Acceptance by the City of all improvements and compliance by Developer with all terms and conditions of this Agreement, and provided that no litigation or claim is pending relating to this Agreement, and the applicable statute of limitations has tolled for any potential claim, this Agreement shall no longer be in effect.

*[Remainder of page intentionally left blank; signature pages follow.]*

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

**DEVELOPER:**

**Tamarack Land – Telluride Street, LLC,**  
a Delaware limited liability company

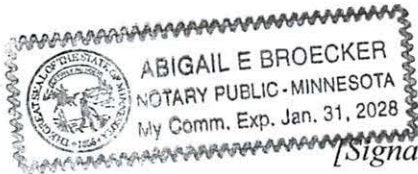
By: Dale Willenbring  
Dale Willenbring  
Its: Authorized Representative

STATE OF Minnesota)  
) ss.  
COUNTY OF Carver)

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of June 2024 by Dale Willenbring, in his capacity as Authorized Representative of Tamarack Land – Telluride Street, LLC, a Delaware limited liability company.

Witness my hand and official seal:

ABroecker  
Notary Public  
My commission expires: \_\_\_\_\_



[Signatures continue on following page.]

**CITY OF BRIGHTON, COLORADO**

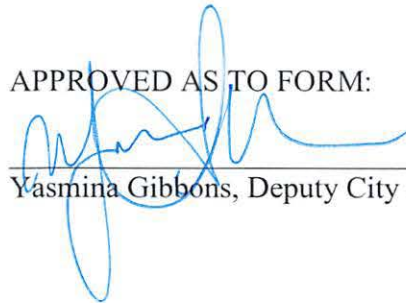
  
\_\_\_\_\_  
Michael Martinez, City Manager



ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Yasmina Gibbons, Deputy City Attorney

**EXHIBIT A**

Condensed Image of  
**DHI TELLURIDE**  
[FINAL PLAT STARTS ON NEXT PAGE]

# FINAL PLAT OF DHI TELLURIDE

SITUATED IN THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH P.M., CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO

SHEET 1 OF 6  
FINAL PLAT

### DEDICATION:

KNOW ALL PERSONS BY THESE PRESENTS THAT TAMARACK LAND - TELLURIDE STREET, LLC, AS THE OWNER, OF THE FOLLOWING DESCRIBED PARCEL OF LAND:

A PARCEL OF LAND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, DESCRIBED IN WARRANTY DEED AT RECEPTION NO. 201500005814 IN THE ADAMS COUNTY CLERK AND RECORDER'S OFFICE, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

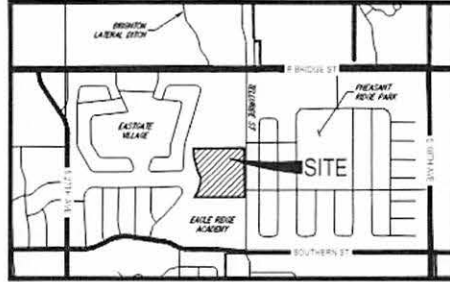
COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 9;  
THENCE NORTH 00°58'44" WEST, A DISTANCE OF 446.51 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 1, BRIGHTON CHARTER HIGH SCHOOL, BEING THE POINT OF BEGINNING;  
THENCE SOUTH 80°19'50" WEST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 731.84 FEET TO AN EASTERLY CORNER OF COTTONWOOD VISTA SECOND FILING;  
THENCE ALONG THE EAST LINE OF SAID COTTONWOOD VISTA SECOND FILING THE FOLLOWING FOUR (4) COURSES:  
1) NORTH 32°53'37" EAST, A DISTANCE OF 84.00 FEET;  
2) NORTH 18°13'37" EAST, A DISTANCE OF 112.00 FEET;  
3) NORTH 05°43'37" EAST, A DISTANCE OF 36.20 FEET;  
4) NORTH 24°48'09" WEST, A DISTANCE OF 101.64 FEET TO THE SOUTHEAST CORNER OF LOT 1, BRIGHTON II;  
THENCE ALONG THE EAST LINE OF SAID LOT 1 THE FOLLOWING TWO (2) COURSES:  
1) NORTH 15°55'14" WEST, A DISTANCE OF 207.12 FEET TO A POINT OF NON-TANGENT CURVATURE;  
2) ALONG THE ARC OF SAID CURVE TO THE RIGHT AN ARC LENGTH OF 137.04 FEET, SAID CURVE HAVING A RADIUS OF 900.94 FEET, A CENTRAL ANGLE OF 08°42'54", AND A CHORD WHICH BEARS NORTH 02°04'54" WEST A CHORD DISTANCE OF 136.90 FEET TO A POINT ON THE SOUTH LINE OF TELLURIDE BUSINESS PARK II;  
THENCE ALONG SAID SOUTH LINE AND A LINE NON-TANGENT TO SAID CURVE, NORTH 89°24'28" EAST, A DISTANCE OF 732.47 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF TELLURIDE ST;  
THENCE SOUTH 00°39'14" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 708.35 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 487,201 SQUARE FEET OR 11.18 ACRES, MORE OR LESS.

HAS BY THESE PRESENTS Laid Out, Platted and Subdivided the same into a lot and easements as shown on this plat under the name and style of FINAL PLAT OF DHI TELLURIDE, THE UNDERSIGNED DOES HEREBY DEDICATE, GRANT AND CONVEY TO THE CITY OF BRIGHTON THE EASEMENTS SHOWN ON THE PLAT FOR THE PURPOSES STATED.

### NOTES:

- NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BE BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
- BACKS OF BEARINGS: BEARINGS ARE BASED ON THE EAST LINE OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN ASSIGNED AS BEARING SOUTH 00°39'14" EAST, AND BEING MONUMENTED AT THE NORTH QUARTER CORNER OF SAID SECTION 9 BY A FOUND MOSTLY ILLISIBLE 3.25" ALUMINUM CAP STAMPED: COLO. DEPT. OF TRANS., IN RANGE BOX, AND MONUMENTED AT THE CENTER QUARTER CORNER OF SAID SECTION 9 BY A FOUND 3.25" ALUMINUM CAP, STAMPED: AMERICAN WEST LS 27269 2025.
- THERE IS 1 LOT WITHIN DHI TELLURIDE.  
LOT 1 SIZE: 487,201 SQUARE FEET OR 11.18 ACRES, MORE OR LESS.
- LOT 1 IS TO BE RETAINED BY THE OWNER AND MAY BE SUBJECT TO REPLATTING.
- UTILITY EASEMENTS: THOSE PORTIONS OF REAL PROPERTY DESIGNATED AS UTILITY EASEMENTS ARE UTILITY EASEMENTS FOR THE INSTALLATION AND MAINTENANCE OF UTILITIES AND DRAINAGE FACILITIES INCLUDING, BUT NOT LIMITED TO STORM AND SANITARY SEWER, DRAINAGE SWALES, NATURAL GAS LINES, WATER LINES, TELEPHONE LINES, FIBER OPTIC LINES, ELECTRICAL LINES, CABLE TELEVISION LINES, AND APPURTENANCES THERETO; TOGETHER WITH A PERPETUAL RIGHT OF INGRESS AND EGRESS FOR INSTALLATION, MAINTENANCE, AND REPLACEMENT OF SUCH UTILITIES. SAID EASEMENTS AND RIGHTS ARE TO BE UTILIZED IN A RESPONSIBLE AND PRUDENT MANNER.
- DRY UTILITY EASEMENTS: THOSE PORTIONS OF REAL PROPERTY DESIGNATED AS DRY UTILITY EASEMENTS ARE DRY UTILITY EASEMENTS FOR THE INSTALLATION AND MAINTENANCE OF DRY UTILITY FACILITIES INCLUDING, BUT NOT LIMITED TO NATURAL GAS LINES, TELEPHONE LINES, FIBER OPTIC LINES, ELECTRICAL LINES, CABLE TELEVISION LINES, AND APPURTENANCES THERETO; TOGETHER WITH A PERPETUAL RIGHT OF INGRESS AND EGRESS FOR INSTALLATION, MAINTENANCE, AND REPLACEMENT OF SUCH UTILITIES. SAID EASEMENTS AND RIGHTS ARE TO BE UTILIZED IN A RESPONSIBLE AND PRUDENT MANNER.
- DITCH EASEMENTS: THOSE PORTIONS OF REAL PROPERTY DESIGNATED AS DITCH EASEMENTS ARE DITCH EASEMENTS OF THE CONSTRUCTION AND MAINTENANCE OF DITCHES AND DRAINAGE FACILITIES INCLUDING, BUT NOT LIMITED TO STORM SEWER, DRAINAGE SWALES, AND APPURTENANCES THERETO; TOGETHER WITH A PERPETUAL RIGHT OF INGRESS AND EGRESS FOR INSTALLATION, MAINTENANCE, AND REPLACEMENT OF SUCH INFRASTRUCTURE. SAID EASEMENTS AND RIGHTS ARE TO BE UTILIZED IN A RESPONSIBLE AND PRUDENT MANNER.
- DRAINAGE AND UTILITY EASEMENTS: THOSE PORTIONS OF REAL PROPERTY DESIGNATED AS DRAINAGE EASEMENTS ARE DRAINAGE EASEMENTS OF THE CONSTRUCTION AND MAINTENANCE OF DITCHES AND DRAINAGE FACILITIES INCLUDING, BUT NOT LIMITED TO STORM SEWER, DRAINAGE SWALES, AND APPURTENANCES THERETO; TOGETHER WITH A PERPETUAL RIGHT OF INGRESS AND EGRESS FOR INSTALLATION, MAINTENANCE, AND REPLACEMENT OF SUCH INFRASTRUCTURE. SAID EASEMENTS AND RIGHTS ARE TO BE UTILIZED IN A RESPONSIBLE AND PRUDENT MANNER.



VICINITY MAP  
SCALE 1" = 1000'

### OWNER CERTIFICATE:

TAMARACK LAND - TELLURIDE STREET, LLC;

BY: \_\_\_\_\_  
MANAGING PRINCIPAL

STATE OF COLORADO

COUNTY OF \_\_\_\_\_ ) SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_ DAY OF \_\_\_\_\_ A.D. 20\_\_\_\_ BY \_\_\_\_\_ AS MANAGING PRINCIPAL OF TAMARACK LAND - TELLURIDE STREET, LLC;

WITNESS MY HAND AND OFFICIAL SEAL: \_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES: \_\_\_\_\_

### LEGEND:

⊕ FOUND SECTION CORNER AS DESCRIBED

— SECTION LINE

○ FOUND MONUMENT AS DESCRIBED

◇ FOUND RED PLASTIC CAP  
STAMPED: MAESTRO SURVEYING LS 38348

△ FOUND YELLOW PLASTIC CAP  
STAMPED: PLS 19003

● FOUND #5 REBAR  
NO CAP

◆ SET 18"x45 REBAR WITH  
1.25" BLUE PLASTIC CAP  
STAMPED: PLS 38162

● PROPERTY CORNER  
NOT FOUND NOR SET  
FALLS IN WATER

— EASEMENT LINE

▨ DITCH EASEMENT DEDICATED BY THIS PLAT

▩ DRAINAGE AND UTILITY EASEMENT  
DEDICATED BY THIS PLAT

▧ UTILITY EASEMENT DEDICATED BY THIS PLAT

▦ DRY UTILITY EASEMENT DEDICATED BY THIS PLAT

### ATTORNEY'S CERTIFICATE:

I, \_\_\_\_\_ AN ATTORNEY AT LAW, DO HEREBY CERTIFY THAT I HAVE EXAMINED THE TITLE TO ALL OF THE LAND PLATTED HEREON AND THAT TITLE TO SUCH LAND IS IN THE DEDICATORS FREE AND CLEAR OF ALL LIENS, TAXES, AND ENCUMBRANCES, SUBJECT TO ALL MATTERS OF RECORD REFLECTED IN SCHEDULE B-2 OF THE TITLE INSURANCE, COMMITMENT NO.: 571-214100638 ISSUED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY, INC., ISSUING OFFICE: DM TITLE AGENCY, AND HAVING A COMMITMENT DATE: DECEMBER 14, 2022 AT 12:00 AM.

ATTORNEY AT LAW \_\_\_\_\_ DATE \_\_\_\_\_

REGISTRATION NO. \_\_\_\_\_

### COMMUNITY DEVELOPMENT DIRECTOR APPROVAL:

APPROVED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

COMMUNITY DEVELOPMENT DIRECTOR, HOLLY FRATHER

### SURVEYOR'S CERTIFICATE:

I, AARON MURPHY, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE ON THE 23RD DAY OF OCTOBER, 2023, BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT ALL MONUMENTS EXIST AS SHOWN HEREON, THAT MATHEMATICAL CLOSURE ERRORS ARE LESS THAN 1:50,000 (SECOND ORDER), AND THAT SAID PLAT HAS BEEN PREPARED IN FULL COMPLIANCE WITH ALL APPLICABLE LAWS OF THE STATE OF COLORADO DEALING WITH MONUMENTS, SUBDIVISION OR SURVEYING OF LAND.

THIS PLAT CONTAINS ALL INFORMATION AS REQUIRED BY SECTION 38-33.3-29, COLORADO REVISED STATUTES.

I ATTEST THE ABOVE ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_

AARON MURPHY  
COLORADO REGISTERED  
PROFESSIONAL LAND SURVEYOR #38162

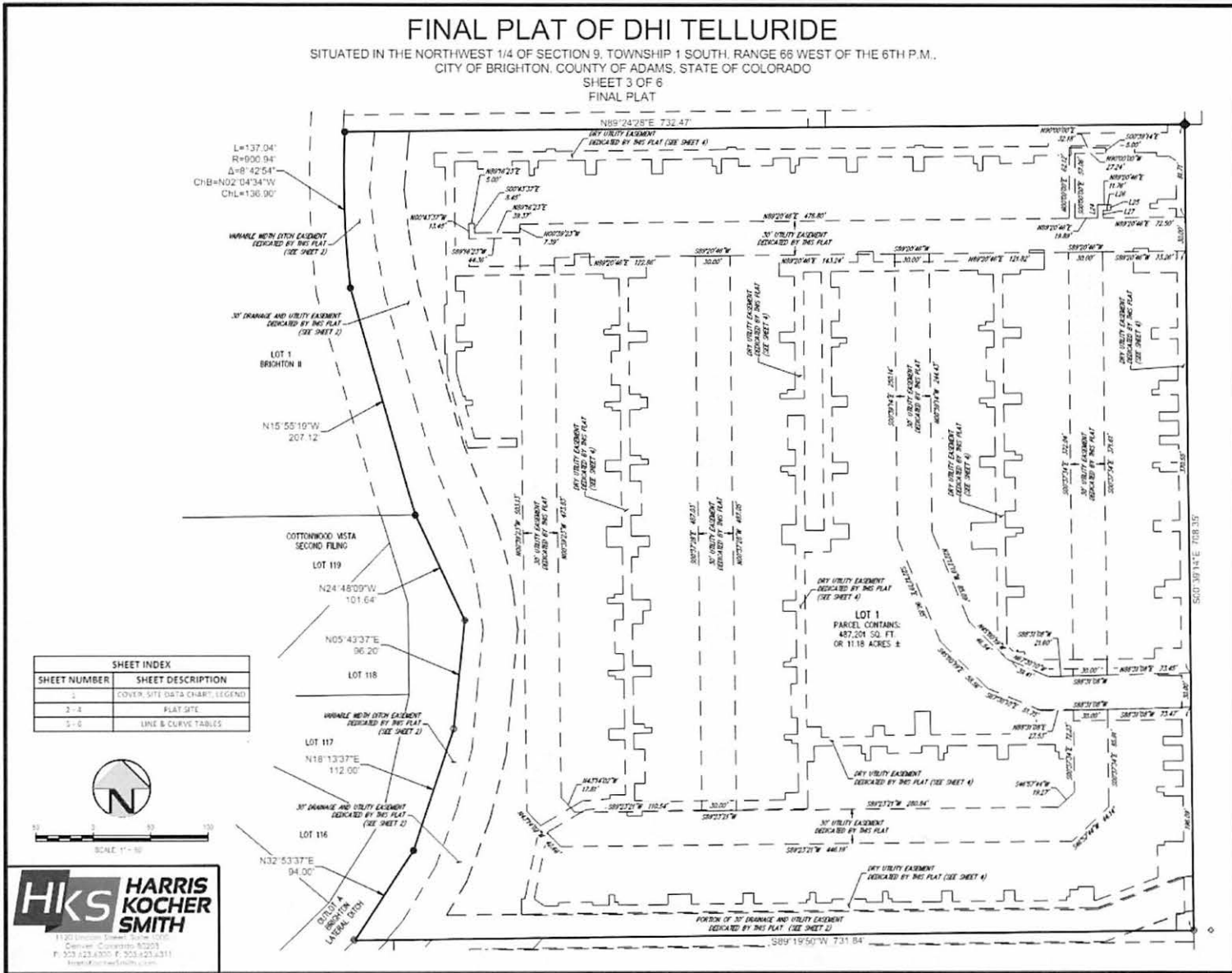
SITE DATA CHART		
LOT, BLOCK	LOT SIZE	MAINTENANCE ENTITY
LOT 1	487,201 SQ. FT. OR 11.18 ACRES ±	PROPERTY OWNER

SHEET INDEX	
SHEET NUMBER	SHEET DESCRIPTION
1	COVER, SITE DATA CHART, LEGEND
2-4	PLAT SITE
5-9	LINE & CURVE TABLES



# FINAL PLAT OF DHI TELLURIDE

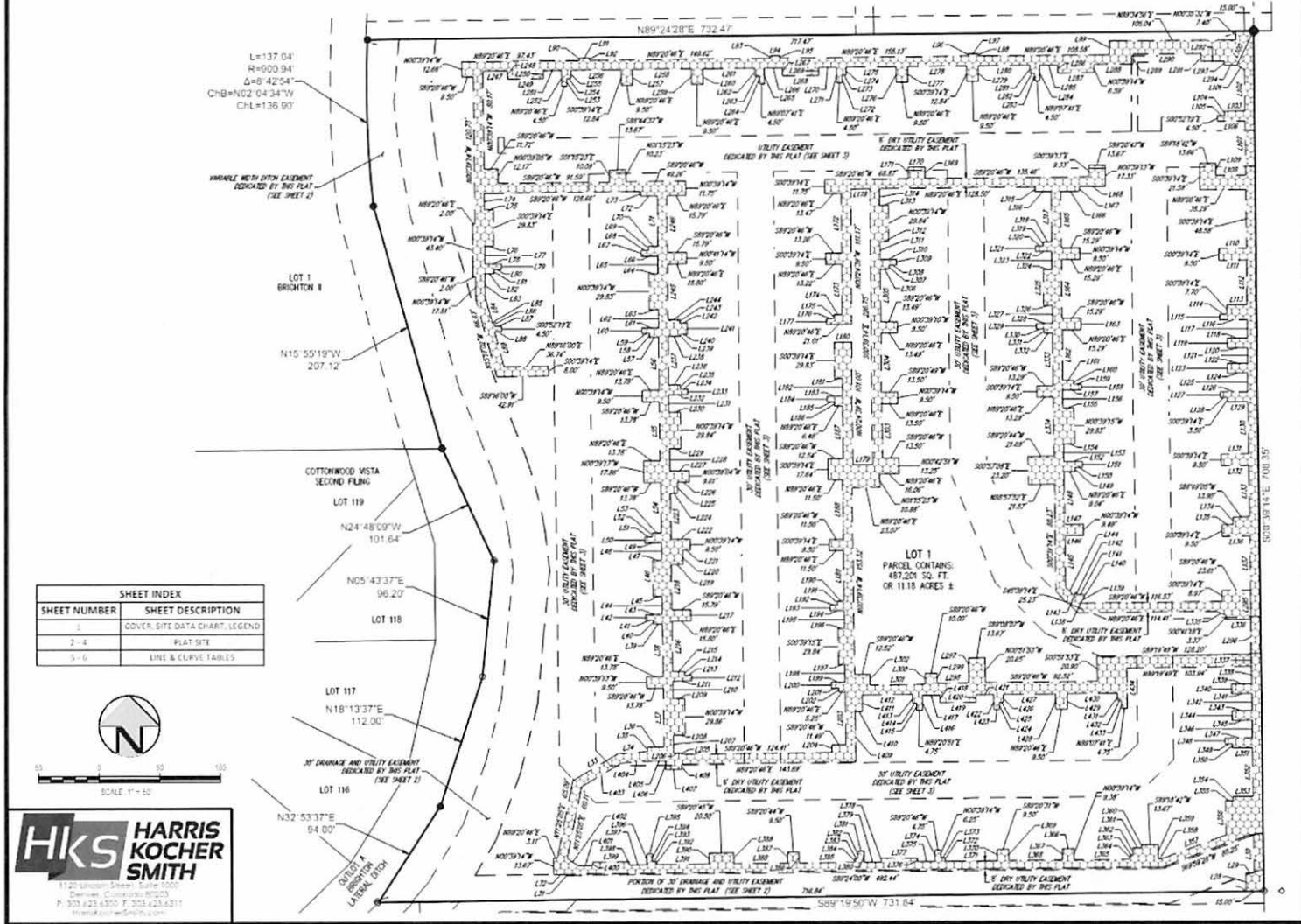
SITUATED IN THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,  
CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO  
SHEET 3 OF 6  
FINAL PLAT





# FINAL PLAT OF DHI TELLURIDE

SITUATED IN THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH P.M.,  
CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO  
SHEET 4 OF 6  
FINAL PLAT



**FINAL PLAT OF DHI TELLURIDE**  
 SITUATED IN THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 86 WEST OF THE 6TH P.M.,  
 CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO  
 SHEET 5 OF 6  
 FINAL PLAT

LINE	BEARING	LENGTH
L1	N89°24'26"E	26.16'
L2	S95°12'29"W	5.04'
L3	S94°33'33"W	46.77'
L4	S90°31'32"E	63.91'
L5	S100°22'2"E	43.33'
L6	S15°53'41"E	44.70'
L7	S53°32'2"E	49.81'
L8	S16°32'03"E	47.81'
L9	S31°09'46"E	49.30'
L10	S37°36'16"E	24.88'
L11	S95°20'28"E	28.89'
L12	S95°24'09"W	53.13'
L13	S92°02'28"W	52.20'
L14	S14°07'24"W	52.29'
L15	S27°02'25"W	54.61'
L16	S10°21'21"W	55.61'
L17	S46°43'54"W	21.84'
L18	S89°19'50"W	27.25'

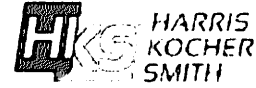
CURVE	RADIUS	DELTA	LENGTH	CHORD	BEARING	CHORD
C1	320.45'	170°14'	56.00'	54.9000'	96.53°	56.53'

SHEET NUMBER	SHEET DESCRIPTION
1	CORNER POINT DATA CORNER POINT LEGEND
2	FINAL PLAT
3	LINE & CURVE TABLES

LINE	BEARING	LENGTH
L19	N89°24'26"E	54.36'
L20	S91°22'29"W	6.27'
L21	S90°31'41"E	20.19'
L22	S92°53'29"W	5.39'
L23	S98°52'24"W	50.22'

LINE	BEARING	LENGTH	LINE	BEARING	LENGTH	LINE	BEARING	LENGTH	LINE	BEARING	LENGTH	LINE	BEARING	LENGTH	LINE	BEARING	LENGTH
L19	N89°24'26"E	54.36'	L31	N89°24'26"E	54.36'	L61	N89°24'26"E	54.36'	L91	N89°24'26"E	54.36'	L121	N89°24'26"E	54.36'	L151	N89°24'26"E	54.36'
L20	S91°22'29"W	6.27'	L32	S91°22'29"W	6.27'	L62	S91°22'29"W	6.27'	L92	S91°22'29"W	6.27'	L122	S91°22'29"W	6.27'	L152	S91°22'29"W	6.27'
L21	S90°31'41"E	20.19'	L33	S90°31'41"E	20.19'	L63	S90°31'41"E	20.19'	L93	S90°31'41"E	20.19'	L123	S90°31'41"E	20.19'	L153	S90°31'41"E	20.19'
L22	S92°53'29"W	5.39'	L34	S92°53'29"W	5.39'	L64	S92°53'29"W	5.39'	L94	S92°53'29"W	5.39'	L124	S92°53'29"W	5.39'	L154	S92°53'29"W	5.39'
L23	S98°52'24"W	50.22'	L35	S98°52'24"W	50.22'	L65	S98°52'24"W	50.22'	L95	S98°52'24"W	50.22'	L125	S98°52'24"W	50.22'	L155	S98°52'24"W	50.22'
L24	N89°24'26"E	54.36'	L36	N89°24'26"E	54.36'	L66	N89°24'26"E	54.36'	L96	N89°24'26"E	54.36'	L126	N89°24'26"E	54.36'	L156	N89°24'26"E	54.36'
L25	S91°22'29"W	6.27'	L37	S91°22'29"W	6.27'	L67	S91°22'29"W	6.27'	L97	S91°22'29"W	6.27'	L127	S91°22'29"W	6.27'	L157	S91°22'29"W	6.27'
L26	S90°31'41"E	20.19'	L38	S90°31'41"E	20.19'	L68	S90°31'41"E	20.19'	L98	S90°31'41"E	20.19'	L128	S90°31'41"E	20.19'	L158	S90°31'41"E	20.19'
L27	S92°53'29"W	5.39'	L39	S92°53'29"W	5.39'	L69	S92°53'29"W	5.39'	L99	S92°53'29"W	5.39'	L129	S92°53'29"W	5.39'	L159	S92°53'29"W	5.39'
L28	S98°52'24"W	50.22'	L40	S98°52'24"W	50.22'	L70	S98°52'24"W	50.22'	L100	S98°52'24"W	50.22'	L130	S98°52'24"W	50.22'	L160	S98°52'24"W	50.22'
L29	N89°24'26"E	54.36'	L41	N89°24'26"E	54.36'	L71	N89°24'26"E	54.36'	L101	N89°24'26"E	54.36'	L131	N89°24'26"E	54.36'	L161	N89°24'26"E	54.36'
L30	S91°22'29"W	6.27'	L42	S91°22'29"W	6.27'	L72	S91°22'29"W	6.27'	L102	S91°22'29"W	6.27'	L132	S91°22'29"W	6.27'	L162	S91°22'29"W	6.27'
L31	S90°31'41"E	20.19'	L43	S90°31'41"E	20.19'	L73	S90°31'41"E	20.19'	L103	S90°31'41"E	20.19'	L133	S90°31'41"E	20.19'	L163	S90°31'41"E	20.19'
L32	S92°53'29"W	5.39'	L44	S92°53'29"W	5.39'	L74	S92°53'29"W	5.39'	L104	S92°53'29"W	5.39'	L134	S92°53'29"W	5.39'	L164	S92°53'29"W	5.39'
L33	S98°52'24"W	50.22'	L45	S98°52'24"W	50.22'	L75	S98°52'24"W	50.22'	L105	S98°52'24"W	50.22'	L135	S98°52'24"W	50.22'	L165	S98°52'24"W	50.22'
L34	N89°24'26"E	54.36'	L46	N89°24'26"E	54.36'	L76	N89°24'26"E	54.36'	L106	N89°24'26"E	54.36'	L136	N89°24'26"E	54.36'	L166	N89°24'26"E	54.36'
L35	S91°22'29"W	6.27'	L47	S91°22'29"W	6.27'	L77	S91°22'29"W	6.27'	L107	S91°22'29"W	6.27'	L137	S91°22'29"W	6.27'	L167	S91°22'29"W	6.27'
L36	S90°31'41"E	20.19'	L48	S90°31'41"E	20.19'	L78	S90°31'41"E	20.19'	L108	S90°31'41"E	20.19'	L138	S90°31'41"E	20.19'	L168	S90°31'41"E	20.19'
L37	S92°53'29"W	5.39'	L49	S92°53'29"W	5.39'	L79	S92°53'29"W	5.39'	L109	S92°53'29"W	5.39'	L139	S92°53'29"W	5.39'	L169	S92°53'29"W	5.39'
L38	S98°52'24"W	50.22'	L50	S98°52'24"W	50.22'	L80	S98°52'24"W	50.22'	L110	S98°52'24"W	50.22'	L140	S98°52'24"W	50.22'	L170	S98°52'24"W	50.22'
L39	N89°24'26"E	54.36'	L51	N89°24'26"E	54.36'	L81	N89°24'26"E	54.36'	L111	N89°24'26"E	54.36'	L141	N89°24'26"E	54.36'	L171	N89°24'26"E	54.36'
L40	S91°22'29"W	6.27'	L52	S91°22'29"W	6.27'	L82	S91°22'29"W	6.27'	L112	S91°22'29"W	6.27'	L142	S91°22'29"W	6.27'	L172	S91°22'29"W	6.27'
L41	S90°31'41"E	20.19'	L53	S90°31'41"E	20.19'	L83	S90°31'41"E	20.19'	L113	S90°31'41"E	20.19'	L143	S90°31'41"E	20.19'	L173	S90°31'41"E	20.19'
L42	S92°53'29"W	5.39'	L54	S92°53'29"W	5.39'	L84	S92°53'29"W	5.39'	L114	S92°53'29"W	5.39'	L144	S92°53'29"W	5.39'	L174	S92°53'29"W	5.39'
L43	S98°52'24"W	50.22'	L55	S98°52'24"W	50.22'	L85	S98°52'24"W	50.22'	L115	S98°52'24"W	50.22'	L145	S98°52'24"W	50.22'	L175	S98°52'24"W	50.22'
L44	N89°24'26"E	54.36'	L56	N89°24'26"E	54.36'	L86	N89°24'26"E	54.36'	L116	N89°24'26"E	54.36'	L146	N89°24'26"E	54.36'	L176	N89°24'26"E	54.36'
L45	S91°22'29"W	6.27'	L57	S91°22'29"W	6.27'	L87	S91°22'29"W	6.27'	L117	S91°22'29"W	6.27'	L147	S91°22'29"W	6.27'	L177	S91°22'29"W	6.27'
L46	S90°31'41"E	20.19'	L58	S90°31'41"E	20.19'	L88	S90°31'41"E	20.19'	L118	S90°31'41"E	20.19'	L148	S90°31'41"E	20.19'	L178	S90°31'41"E	20.19'
L47	S92°53'29"W	5.39'	L59	S92°53'29"W	5.39'	L89	S92°53'29"W	5.39'	L119	S92°53'29"W	5.39'	L149	S92°53'29"W	5.39'	L179	S92°53'29"W	5.39'
L48	S98°52'24"W	50.22'	L60	S98°52'24"W	50.22'	L90	S98°52'24"W	50.22'	L120	S98°52'24"W	50.22'	L150	S98°52'24"W	50.22'	L180	S98°52'24"W	50.22'
L49	N89°24'26"E	54.36'	L61	N89°24'26"E	54.36'	L91	N89°24'26"E	54.36'	L121	N89°24'26"E	54.36'	L151	N89°24'26"E	54.36'	L181	N89°24'26"E	54.36'
L50	S91°22'29"W	6.27'	L62	S91°22'29"W	6.27'	L92	S91°22'29"W	6.27'	L122	S91°22'29"W	6.27'	L152	S91°22'29"W	6.27'	L182	S91°22'29"W	6.27'
L51	S90°31'41"E	20.19'	L63	S90°31'41"E	20.19'	L93	S90°31'41"E	20.19'	L123	S90°31'41"E	20.19'	L153	S90°31'41"E	20.19'	L183	S90°31'41"E	20.19'
L52	S92°53'29"W	5.39'	L64	S92°53'29"W	5.39'	L94	S92°53'29"W	5.39'	L124	S92°53'29"W	5.39'	L154	S92°53'29"W	5.39'	L184	S92°53'29"W	5.39'
L53	S98°52'24"W	50.22'	L65	S98°52'24"W	50.22'	L95	S98°52'24"W	50.22'	L125	S98°52'24"W	50.22'	L155	S98°52'24"W	50.22'	L185	S98°52'24"W	50.22'
L54	N89°24'26"E	54.36'	L66	N89°24'26"E	54.36'	L96	N89°24'26"E	54.36'	L126	N89°24'26"E	54.36'	L156	N89°24'26"E	54.36'	L186	N89°24'26"E	54.36'
L55	S91°22'29"W	6.27'	L67	S91°22'29"W	6.27'	L97	S91°22'29"W	6.27'	L127	S91°22'29"W	6.27'	L157	S91°22'29"W	6.27'	L187	S91°22'29"W	6.27'
L56	S90°31'41"E	20.19'	L68	S90°31'41"E	20.19'	L98	S90°31'41"E	20.19'	L128	S90°31'41"E	20.19'	L158	S90°31'41"E	20.19'	L188	S90°31'41"E	20.19'
L57	S92°53'29"W	5.39'	L69	S92°53'29"W	5.39'	L99	S92°53'29"W	5.39'	L129	S92°53'29"W	5.39'	L159	S92°53'29"W	5.39'	L189	S92°53'29"W	5.39'
L58	S98°52'24"W	50.22'	L70	S98°52'24"W	50.22'	L100	S98°52'24"W	50.22'	L130	S98°52'24"W	50.22'	L160	S98°52'24"W	50.22'	L190	S98°52'24"W	50.22'
L59	N89°24'26"E	54.36'	L71	N89°24'26"E	54.36'	L101	N89°24'26"E	54.36'	L131	N89°24'26"E	54.36'	L161	N89°24'26"E	54.36'	L191	N89°24'26"E	54.36'
L60	S91°22'29"W	6.27'	L72	S91°22'29"W	6.27'	L102	S91°22'29"W	6.27'	L132	S91°22'29"W	6.27'	L162	S91°22'29"W	6.27'	L192	S91°22'29"W	6.27'
L61	S90°31'41"E	20.19'	L73	S90°31'41"E	20.19'	L103	S90°31'41"E	20.19'	L133	S90°31'41"E	20.19'	L163	S90°31'41"E	20.19'	L193	S90°31'41"E	20.19'
L62	S92°53'29"W	5.39'	L74	S92°53'29"W	5.39'	L104	S92°53'29"W	5.39'	L134	S92°53'29"W	5.39'	L164	S92°53'29"W	5.39'	L194	S92°53'29"W	5.39'
L63	S98°52'24"W	50.22'	L75	S98°52'24"W	50.22'	L105	S98°52'24"W	50.22'	L135	S98°52'24"W	50.22'	L165	S98°52'24"W	50.22'	L195	S98°52'24"W	50.22'
L64	N89°24'26"E	54.36'	L76	N89°24'26"E	54.36'	L106	N89°24'26"E	54.36'	L136	N89°24'26"E	54.36'	L166	N89°24'26"E	54.36'	L196	N89°24'26"E	54.36'
L65	S91°22'29"W	6.27'	L77	S91°22'29"W	6.27'	L107	S91°22'29"W	6.27'	L137	S91°22'29"W	6.27'	L167	S91°22'29"W	6.27'	L197	S91°22'29"W	6.27'
L66	S90°31'41"E	20.19'	L78	S90°31'41"E	20.19'	L108	S90°31'41"E	20.19'	L138	S90°31'41"E	20.19'	L168	S90°31'41"E	20.19'	L198	S90°31'41"E	20.19'
L67	S92°53'29"W	5.39'	L79	S92°53'29"W	5.39'	L109	S92°53'29"W	5.39'	L139	S92°53'29"W	5.39'	L169	S92°53'29"W	5.39'	L199	S92°53'29"W	5.39'
L68	S98°52'24"W	50.22'	L80	S98°52'24"W	50.22'	L110	S98°52'24"W	50.22'	L140	S98°52'24"W	50.22'	L170	S98°52'24"W	50.22'	L200	S98°52'24"W	50.22'
L69	N89°24'26"E	54.36'	L81	N89°24'26"E	54.36'	L111	N89°24'26"E	54.36'	L141	N89°24'26"E	54.36'	L171	N89°24'26"E	54.36'	L201	N89°24'26"E	54.36'
L70	S91°22'29"W	6.27'	L82	S91°22'29"W	6.27'	L112	S91°22'29"W	6.27'	L142	S91°22'29"W	6.27'	L172	S91°22'29"W	6.27'	L202	S91°22'29"W	6.27'
L71	S90°31'41"E	20.19'	L83	S90°31'41"E	20.19'	L113	S90°31'41"E	20.19'	L143	S90°31'41"E	20.19'	L173	S90°31'41"E	20.19'	L203	S90°31'41"E	20.19'
L72	S92°53'29"W	5.39'	L84	S92°53'29"W	5.39'	L114	S92°53'29"W	5.39'	L144	S92°53'29"W	5.39'	L174	S92°53'29"W	5.39'	L204	S92°53'29"W	5.39'
L73	S98°52'24"W	50.22'	L85	S98°52'24"W	50.22'	L115	S98°52'24"W	50.22'	L145	S98°52'24"W	50.22'	L175	S98°52'24"W	50.22'	L205	S98°52'24"W	50.22'
L74	N89°24'26"E	54.36'	L86	N89°24'26"E	54.36'	L116	N89°24'26"E	54.36'									



**EXHIBIT B****SCHEDULE OF PUBLIC IMPROVEMENTS AND PHASING PLAN****Schedule of Improvements**

## Schedule of Public Improvements and Phasing Plan (DHIC Telluride, Filing 1)

DHIC Telluride is a Site located in the Northwest quarter of section 9, township 1 south, range 66 west of the 6<sup>th</sup> P.M., City of Brighton, County of Adams, State of Colorado. The following table Developer's Contribution to public improvements to be done off site in Telluride and the anticipated unit cost of each. The project will be completed in two phases. Phase I will consist of all improvements, including off-site, except the public water and sanitary sewer lines, which will be constructed in Phase II.

Type of Improvements	Quantity/ Length	Unit Cost	Total Estimate by Line Item	Total Actual Cost at Construction Acceptance
Phase I				
Streets (grade only)	225.37 yd <sup>3</sup>	\$6 /yd <sup>3</sup>	\$1,353	
Curby/Gutter/ Sidewalks (grade only)	8,238 ft <sup>2</sup>	\$15 /ft <sup>2</sup>	\$123,570	
Sidewalk (base paving)	8,238 ft <sup>2</sup>	10.50/ft <sup>2</sup>	\$86,499	
Street (base paving)	6,085 ft <sup>3</sup>	\$4.50/ft <sup>3</sup>	\$27,383	
Curby/Gutter (base paving)	584 LF	\$34/LF	\$19,856	
Signage and Striping	Lump Sum		\$2,000	
Street Lights	3	\$2,200 /unit	\$6,600	
Irrigation System	Lump Sum		\$2,000	
Storm Sewer (24")	1,553 LF	\$200/LF	\$310,600	
Sub-Total			\$532,622	
Phase II				
Sanitary Sewer Lines (8")	3,007 LF	\$200 /LF	\$601,400	
Potable Water Lines (8")	3,209 LF	\$90 /LF	\$288,810	
Fire Hydrant	3	\$4,000/unit	\$12,000	
Sub-Total			\$949,449	
<b>Total</b>			<b>\$1,482,071</b>	
Contingency		15%	\$222,311	
<b>Total</b>			<b>\$1,704,382</b>	



**EXHIBIT C**

**IRREVOCABLE LETTER OF CREDIT FORM**

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

**LENDER'S  
LETTERHEAD**

TO: City of Brighton, Colorado  
500 South 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]





**EXHIBIT D****STORMWATER FACILITIES MAINTENANCE AGREEMENT**

THIS STORMWATER FACILITIES MAINTENANCE AGREEMENT (this “Agreement”) is made this 8<sup>th</sup> day of July 2024, between TAMARACK LAND – TELLURIDE STREET, LLC, a Delaware limited liability company (“Owner”) and the City of Brighton, a Colorado home rule municipality (“City”). Owner and City may each be referred to herein as a “Party” and, collectively, as the “Parties.”

**Recitals**

WHEREAS, the ordinances and regulations of the City require that stormwater treatment and drainage facilities located on property not otherwise owned by the City shall be operated, maintained, repaired, and replaced as necessary by the Owner, or its successors and assigns as agreed to by the City; 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 with Chapter 14, “Storm Drainage”, of the Brighton Municipal Code and City standards and specifications, as may be amended; and

WHEREAS, the Parties desires to provide for the continued operation, maintenance, repair, and replacement, as necessary, by the Owner and Owner’s successors and assigns, of the stormwater treatment and drainage facilities located on the property described in Exhibit D1, attached hereto and incorporated herein (the “Property”).

**AGREEMENT**

NOW, THEREFORE, in consideration of the promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. *Incorporation.* The foregoing Recitals are hereby incorporated as if fully set forth herein.
2. *Property.* The Property on which the stormwater treatment and drainage facilities to be operated, maintained, repaired or replaced by the Owner is located is more fully described in Exhibit D1.
3. *Facilities.* The stormwater treatment and drainage facilities to be operated, maintained, repaired or replaced by the Owner are more fully depicted in Exhibit D2, attached hereto and incorporated herein (the “Facilities”). Facilities include, but are not limited to, storm sewer inlets, pipes, culverts, channels, ditches, hydraulic structures, rip-rap, detention basins, micro-pools, spillways, water quality facilities and on-site control measure(s) to minimize pollutants in urban runoff.

4. *Obligations of Owner.* The Owner hereby agrees to the following:
  - a. Unless expressly assumed by the City in writing, Owner and Owner's successors in interest, shall operate, maintain, repair, and replace, as necessary, all Facilities, including routine and non-routine maintenance of said Facilities in perpetuity. All Facilities shall be maintained to meet erosion control, groundwater recharge, and stormwater runoff quantity and quality standards of Chapter 14, "Storm Drainage" of the Brighton Municipal Code, City of Brighton standards and specifications, and Mile High Flood District Urban Storm Drainage Criteria Manual, as the same may be amended. As used herein, "routine maintenance procedures" includes, but is not limited to, inspections, debris and litter control, mechanical components maintenance repair and replacement, vegetation management. Further, as used herein, "non-routine maintenance procedures" includes, but is not limited to, 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.
  - b. Any detention, retention or infiltration area within the Property must comply with C.R.S. § 37-92-602 (8), as amended. In the event that either Party learns of a violation of C.R.S. § 37-92-602 (8), Owner, at its own cost and expense, shall bring the detention, retention or infiltration area into compliance with C.R.S. § 37-92-602 (8).
  - c. Owner shall inspect the Facilities annually and document maintenance, repair, and replacement needs to ensure compliance with the requirements of this Agreement. Inspection items shall include, but not be limited to: (i) sediment accumulation; (ii) trash accumulation; (iii) presence of standing water; (iv) presence of erosion; (v) structural condition, damage, and/or missing components; (vi) such other inspection criteria as described in Mile High Flood District Urban Storm Drainage Criteria Manual. Maintenance and inspection records shall be retained by the Owner for at least three (3) years and shall be produced to the City's Director of Utilities (the "Director") upon request.
5. *City Access to Property.* Owner irrevocably grants the Director complete access to the Facilities in accordance with City of Brighton Municipal Code Section 14-8-80, as may be amended.
6. *Remediation.* Owner hereby acknowledges, understands, and agrees that in the event that Owner, or Owner's successor's in interest, fails to comply with the obligations of this Agreement or with the requirements of the Brighton Municipal Code, City shall have the right, but not the obligation, to remediate such failures, as set forth in Article 14-8 of the City of Brighton Municipal Code, as may be amended.
7. *Notification of Change of Ownership.* Owner shall notify the City in writing of any change in ownership of the Property within thirty (30) days of the effective date of the conveyance

together with a verified statement from the Owner's successor in interest that it has received a copy of this Agreement and assumes the responsibilities expressed herein. In the event that Owner fails to notify the City of a change in ownership and/or provide the foregoing verified statement from Owner's successor in title, such change in ownership shall not relieve Owner of the obligations under this Agreement; Owner and Owner's successor in interest shall remain jointly and severally liable under hereunder.

8. *Notice.* Any notice provided under this Agreement shall be deemed properly given if: (i) sent by certified mail, return receipt requested, (ii) personally delivered, or (iii) sent by a nationally recognized overnight courier service, at the following addresses:

If to City:

City of Brighton  
Attn: Director of Utilities  
500 S. 4<sup>th</sup> Avenue  
Brighton, CO 80601

If to Owner:

Tamarack Land – Telluride Street, LLC  
Attn: Dale Willenbring  
712 Vista Blvd., Ste 303  
Waconia, MN 55387

9. *Agreement Runs with the Land.* This Agreement shall run with land and be binding for the benefit and in favor of, and be enforceable by, the City, its successors and assigns, against Owner, its successor and assigns, and every successor in interest to the Property.

10. *Recording.* The City shall record this Agreement in the real property records of the Clerk and Recorder for the county in which the Property is located. Owner shall bear the cost of recording and provide a check for the recording fees to the City concurrently with the execution of this Agreement.

11. *Severability.* In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement.

12. *Governing Law.* This Agreement shall be construed and governed by the laws of the State of Colorado. Any dispute arising out of or related to this Agreement shall be resolved and adjudicated in the District Court of Adams County, Colorado, irrespective of any conflicts of law.

13. *No Joint Venture or Partnership.* Nothing herein shall be interpreted or construed as creating a joint venture or partnership between the Parties. Neither Party shall have the right under this Agreement to create any obligation or incur any debt on behalf of the other Party.

14. *No Third-Party Beneficiaries.* It is expressly understood and agreed that the enforcement of all terms and conditions of this Agreement and all rights and actions relating thereto shall be strictly reserved to the Parties hereto, and nothing herein shall give or allow any claim or right of action to or by any other third party to this Agreement.

15. *Waiver.* Waiver of the enforcement of any breach of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach by that Party of the same or any other provision of this Agreement.

16. *Counterparts.* This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together which shall constitute one and the same instrument.

17. *Authority.* Each party warrants that it has the authority to enter into this Agreement and that its signatory is authorized to bind the Party hereto.

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

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date:

**TAMARACK LAND – TELLURIDE STREET, LLC,**  
a Delaware limited liability company

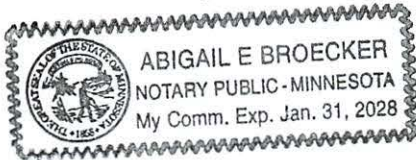
By: Tamarack Land – Telluride Street, LLC, a Delaware limited liability company, its sole member

By: Dale Willenbring  
Name: Dale Willenbring  
Title: Authorized Representative

Minnesota  
STATE OF ~~COLORADO~~ )  
COUNTY OF Carter ) ss.

The foregoing Stormwater Facilities Maintenance Agreement was acknowledged before me this 27 day of June 2024, by Dale Willenbring, in his capacity as Authorized Representative of Tamarack Land – Telluride Street, LLC, a Delaware limited liability company, the sole member of Tamarack Land – Telluride Street, LLC, a Delaware limited liability company. on behalf of

Witness my hand and official seal:




Abroecker  
Notary Public  
My commission expires: 1/31/2028

[Signatures continue on following page.]



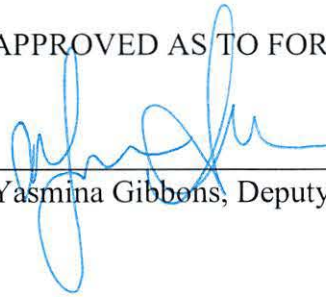
**CITY OF BRIGHTON, COLORADO**

  
\_\_\_\_\_  
Scott Olsen, Director of Utilities

ATTEST:

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

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Yasmina Gibbons, Deputy City Attorney

**EXHIBIT D1****Property Description**

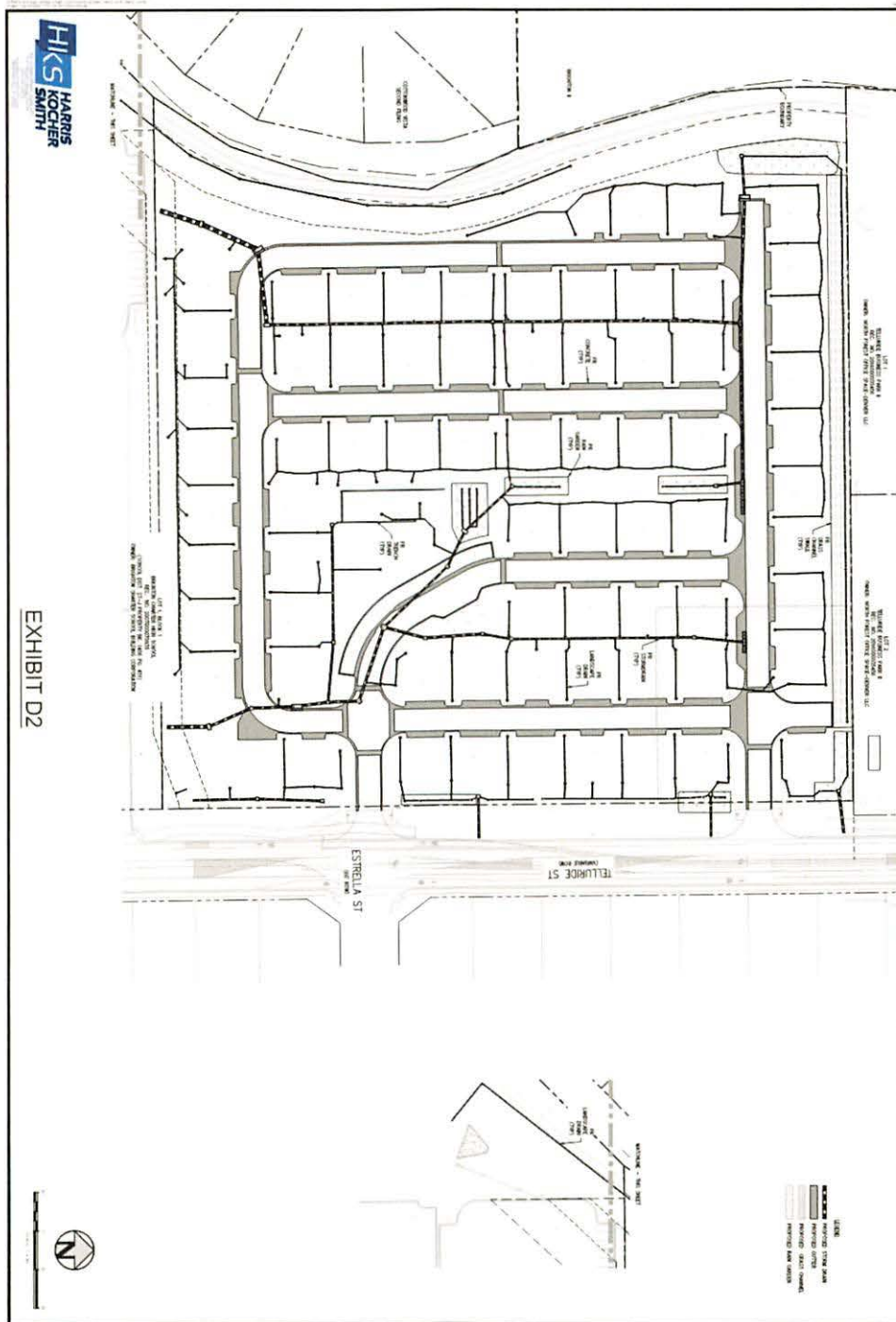
A PARCEL OF LAND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, DESCRIBED IN WARRANTY DEED AT RECEPTION NO. 2015000005814 IN THE ADAMS COUNTY CLERK AND RECORDER'S OFFICE, CITY OF BRIGHTON, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE CENTER QUARTER CORNER OF SAID SECTION 9;  
THENCE NORTH 05°58'44" WEST, A DISTANCE OF 646.51 FEET TO THE NORTHEAST CORNER OF LOT 1, BLOCK 1, BRIGHTON CHARTER HIGH SCHOOL, BEING THE **POINT OF BEGINNING**;  
THENCE SOUTH 89°19'50" WEST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 731.84 FEET TO AN EASTERLY CORNER OF COTTONWOOD VISTA SECOND FILING;  
THENCE ALONG THE EAST LINE OF SAID COTTONWOOD VISTA SECOND FILING THE FOLLOWING FOUR (4) COURSES:  
1) NORTH 32°53'37" EAST, A DISTANCE OF 94.00 FEET;  
2) NORTH 18°13'37" EAST, A DISTANCE OF 112.00 FEET;  
3) NORTH 05°43'37" EAST, A DISTANCE OF 96.20 FEET;  
4) NORTH 24°48'09" WEST, A DISTANCE OF 101.64 FEET TO THE SOUTHEAST CORNER OF LOT 1, BRIGHTON II;  
THENCE ALONG THE EAST LINE OF SAID LOT 1 THE FOLLOWING TWO (2) COURSES:  
1) NORTH 15°55'19" WEST, A DISTANCE OF 207.12 FEET TO A POINT OF NON-TANGENT CURVATURE;  
2) ALONG THE ARC OF SAID CURVE TO THE RIGHT AN ARC LENGTH OF 137.04 FEET, SAID CURVE HAVING A RADIUS OF 900.94 FEET, A CENTRAL ANGLE OF 08°42'54", AND A CHORD WHICH BEARS NORTH 02°04'34" WEST A CHORD DISTANCE OF 136.90 FEET TO A POINT ON THE SOUTH LINE OF TELLURIDE BUSINESS PARK II;  
THENCE ALONG SAID SOUTH LINE AND A LINE NON-TANGENT TO SAID CURVE, NORTH 89°24'28" EAST, A DISTANCE OF 732.47 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF TELLURIDE ST;  
THENCE SOUTH 00°39'14" EAST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 708.35 FEET TO THE **POINT OF BEGINNING**.

SAID PARCEL CONTAINS 487,201 SQUARE FEET OR 11.18 ACRES, MORE OR LESS.

### EXHIBIT D2

### Facilities Location Map





**EXHIBIT E**  
**SPECIAL PROVISIONS**

THE FOLLOWING SPECIAL PROVISIONS ARE HEREBY ATTACHED TO AND MADE A PART OF THAT CERTAIN DHI TELLURIDE DEVELOPMENT AGREEMENT, BETWEEN THE CITY OF BRIGHTON, COLORADO, AND TAMARACK LAND – TELLURIDE STREET, LLC. SHOULD THERE BE ANY CONFLICT BETWEEN THE DEVELOPMENT AGREEMENT AND THE SPECIAL PROVISIONS SET FORTH IN THIS **EXHIBIT E**, THE TERMS OF THIS **EXHIBIT E** SHALL CONTROL.

1. **Definitions.** The following terms and definitions shall apply to this **Exhibit E**, Special Provisions:
  - a. The term “Construction Plans” shall mean the DHI Telluride Construction Plans dated January 11, 2024 and with a project number of 22-00125, which have been reviewed and approved by the City of Brighton. Developer understands, acknowledges, and agrees that Construction Plans expire three years after approval by the City. To the extent any subsequent updated, revised, or refreshed Construction Plans necessitate changes, in the City’s sole discretion, to this Development Agreement, the Parties will work together in good faith to execute a mutually agreeable amendment.
  - b. The term "Landscape Plans" shall mean the Landscape Plans approved as part of the Construction Plans.
2. **Schedule of Improvements.** All Improvements shall be built in accordance with the approved Schedule of Improvements and Phasing Plan as shown in **Exhibit B**, these Special Provisions contained in **Exhibit E**, and the approved final plat and construction plans at the applicable Party’s sole cost and expense unless noted otherwise in this Agreement.
3. **Roadway Dedication and Construction.** Notwithstanding anything to the contrary in the Agreement, the Developer shall dedicate to the City the 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 Construction Plans, pursuant to the following:
  - a. **Telluride Street.** The portion of Telluride Street adjacent to the Property and continuing north to its intersection with Bridge Street shall be constructed in accordance with the City’s Standards and Specifications, as depicted in the City-approved Construction Plans.
4. **Intersection Construction.** Developer, at its sole cost and expense, shall construct the improvements to the outlined intersections in their final condition as shown in the City-approved Construction Plans, and pursuant to the following:
  - a. **Telluride Street and E. Bridge Street.** Developer’s contributions to the Telluride Street and E. Bridge Street intersection are shown on the approved Construction Plans, which include alternative designs depending on whether the planned improvements and widening have occurred prior to Developer’s construction of the

intersection improvements depicted on the Construction Plans. If the planned improvements and widening occur prior to Developer's construction of the intersection improvements depicted on the Construction Plans, Developer will, instead, be required to pay 4% of the design and construction costs of the intersection to the City, which amount to Developer's pro rata contribution to such costs. In no event shall the Developer's pro-rata contribution to the Telluride Street and E. Bridge Street intersection exceed \$50,000. Developer's pro-rata contribution, if applicable, shall be paid prior to Initial Acceptance.

5. **Utility Pole Undergrounding.** The Developer, at its sole cost and expense, shall obtain necessary permissions and permits to design and construct the necessary improvements to underground all of the existing utility service lines on the eastern boundary of the Property adjacent to Telluride Street. The undergrounding work shall be completed and accepted by the City before the City will issue any vertical building permits.
6. **Street Lighting.** The Developer, at its sole cost and expense, shall obtain necessary permissions and permits, and design and construct the necessary street lighting along the western side of Telluride Street. Said work is depicted on, and shall be in accordance with, City-approved Construction Plans.
7. **Water Share Dedications.** Developer and City agree that all water dedications for the Property shall occur as outlined in the City Code, as may be amended.
8. **Storm Drainage Improvements.** The Developer shall design and construct the improvements as shown in the City-approved Construction Plans.
9. **Improvement Guarantee.** As and when required under Section 2.13 of the Development Agreement, the Developer shall submit to the City a guarantee for all Public Improvements related to the Development. As and when required under Section 2.13 of the Development Agreement, the Developer shall be required to provide a financial guarantee specifically for the construction of improvements along Telluride Street, as well as a guarantee for the remaining Public Improvements associated with the approved Subdivision Plan.
10. **Parks and Open Space Dedication.** In accordance with the *Land Use & Development Code* Section 3.05(E), the Developer agrees to provide a fee-in-lieu of land dedication as determined by the City and shall provide payment to the City prior to the recording of the Final Plat. The City and the Developer agree that if development occurs on the Property in a Common Lot Ownership pattern, as defined by the *Land Use & Development Code*, fee in lieu of land dedication shall be treated as multi-family, and as such, will pay the applicable fee in lieu of land dedication per unit in effect at the time of payment. Further, if residential densities and/or unit and bedrooms counts increase after the Final Plat is recorded, the City reserves the right to collect an additional fee-in-lieu of land dedication.
11. **Trail Design, Construction and Maintenance.** The Developer, at its sole cost and expense, shall design and construct a ten foot (10') concrete trail adjacent to the Property. Further, Developer shall maintain the trail and any landscaping in rights-of-way adjacent

to the Property, which shall include, but not be limited to, snow plowing, repair, replacement if determined necessary by the City, and mowing. If Developer assigns the maintenance obligations herein to a Common-Interest Management Association, Developer shall comply with the assignment and delegation requirements of the Development Agreement.

12. **School District 27J Land Dedication.** In accordance with the *Land Use & Development Code* Section 3.05(F), the Developer agrees to provide a fee-in-lieu of land dedication as determined by School District 27J and shall provide payment to the School District prior to the recording of the Final Plat.
13. **Capital Facility Fee Foundation.** The Developer is aware of the School District Capital Facility Fee Foundation, whose purpose is to administer the collection from various development entities of a “Capital Facility Fee” for disbursal to School District 27J to fund a portion of the costs of providing additional capital facilities to service new growth, and has voluntarily agreed to be a participating development entity in that process and, accordingly, enter into a participant agreement with the School District. Fees payable to the Foundation shall be paid directly to the School District as part of 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.
14. **Public Improvements Subject to Reimbursement Agreement.** Developer and the City acknowledge that design and construction of certain Public Improvements, including off-site improvements associated with the construction of Telluride Street and the drainage infrastructure associated with such construction north of the Property to E. Bridge Street, is subject of that certain Construction and Reimbursement Agreement approved by the City Council of the City of Brighton by Resolution No. 2023-31 dated June 6, 2023 (the “Reimbursement Agreement”). Developer acknowledges and agrees that notwithstanding any other provision to the contrary, those Public Improvements identified in the Reimbursement Agreement shall not be eligible for reimbursement pursuant to Section 3 of this Development Agreement.