

ORDINANCE NO. _____
INTRODUCED BY: Padilla

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, GRANTING A PERPETUAL, NON-EXCLUSIVE EASEMENT TO UNITED POWER, INC. OVER A PORTION OF REAL PROPERTY GENERALLY LOCATED IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID EASEMENT ON BEHALF OF THE CITY

WHEREAS, the City of Brighton (the "City") owns real property generally located in the east half of the southeast one-quarter of Section 20, Township 1 South, Range 66 West of the 6th Principal Meridian, County of Adams, State of Colorado, commonly known as the Lutz Reservoir(the "Property"); and

WHEREAS, City Council awarded a design contract for the Property in 2022 for the non-potable water system and City Council awarded a construction services contract for the Property in 2024 (collectively, the "Project"); and

WHEREAS, A non-exclusive utility easement is necessary to provide temporary and permanent power to the Project; and

WHEREAS, United Power, Inc. has requested a perpetual, non-exclusive easement over a portion of the Property for the installation of an electrical service to power the Lutz Reservoir pump station (the "Easement"); and

WHEREAS, Article 17.3 of the City of Brighton Home Rule Charter provides that "Council may not mortgage or encumber . . . real or personal property except by ordinance or a majority vote of the electors at the option of the Council;" and

WHEREAS, City staff has negotiated and presents to the City Council for approval the Grant of Easement, attached hereto as Exhibit A (the "Grant of Easement"); and

WHEREAS, the City Council finds and determines that the terms of said Grant of Easement are reasonable, that it is in the best interests of the City to grant the Easement, and that use of the Easement serves the public purpose of promoting the health, safety, and welfare of the residents of Brighton.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AS FOLLOWS:

Section 1. The Easement is hereby approved.

Section 2. The City Manager is hereby authorized to execute the Easement on behalf of the City in substantially the form presented at this meeting, with such technical additions, deletions, and variations as the City Attorney may deem necessary or appropriate and not inconsistent with this Ordinance, and to undertake such actions as may be necessary to finalize and enforce said Easement on behalf of the City.

Section 3. As provided in City Charter Section 5.9(A), this Ordinance, either as presented or as amended, shall be published in full as it was adopted after the initial reading. This Ordinance shall be in full force and effect five days after its final publication, as provided in City Charter Section 5.8, except as set forth herein.

INTRODUCED, PASSED ON FIRST READING AND ORDERED PUBLISHED THIS 18TH DAY OF FEBRUARY 2025.

INTRODUCED, PASSED ON FINAL READING AND ORDERED PUBLISHED BY TITLE ONLY THIS 4TH OF MARCH 2025.

CITY OF BRIGHTON, COLORADO

GREGORY MILLS, Mayor

ATTEST:

NATALIE HOEL, City Clerk

Published in the *Brighton Standard Blade*

First Publication: February 27, 2025

Final Publication: March 13, 2025

APPROVED AS TO FORM:

JAMES GALLAGHER, Assistant City Attorney

Exhibit A

Grant of Easement

[Exhibit A begins on following page.]

GRANT OF NON-EXCLUSIVE UTILITY EASEMENT

THIS GRANT OF UTILITY EASEMENT is made this ____ day of _____, 2025, by and between the CITY OF BRIGHTON ("Grantor"), whose address is 500 S. 4th Avenue, Brighton, Colorado 80601, and UNITED POWER, INC. ("Grantee"), whose address is 500 Cooperative Way, Brighton, Colorado 80601.

WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, the adequacy and receipt of which is hereby acknowledged, Grantor has this day bargained and sold, and by these presents does bargain, sell, convey, transfer, and deliver unto the Grantee, its successors and assigns, in perpetuity, a non-exclusive easement on, over, under and across the real property hereinafter described for purposes of constructing, repairing, removing, replacing, relocating, inspecting, operating, maintaining, enlarging, reconstructing, improving and accessing utility, electrical and communications facilities and all fixtures and appurtenances thereto.

The easement hereby granted, situated in Adams County, Colorado, is described as follows:

SEE EXHIBIT A, ATTACHED HERETO AND INCORPORATED BY THIS REFERENCE (the "Easement Description").

Those facilities may be underground and/or at grade and may include, but shall not be limited to, cables, conduits, wires, conductors, transformers, manholes and supports of whatever materials, including braces, guides, and other fixtures or devices used or useful in connection therewith.

Grantee shall have the right of ingress and egress of the Easement Area at all times to survey, mark and sign, construct, operate, maintain, replace, enlarge, reconstruct, improve, inspect, repair and remove utility, electrical and communications facilities and all fixtures and devices appurtenant thereto, and the right to remove any objects interfering therewith, including but not limited to, the trimming of trees and bushes as may be necessary. Upon prior written approval of Grantor, Grantee shall have the right to use additional lands of Grantor for temporary workspace during construction, maintenance, replacement, enlargement, reconstruction, improvement, inspection, repairs, and removal as may be required to permit the operation of standard utility construction or repair machinery or the operation of any other equipment within the boundaries of this easement.

Grantor reserves the right to occupy, use, and landscape said easement for all purposes not inconsistent with the rights granted to Grantee so long as said use does not damage or interfere with the Grantee's facilities or the construction, operation, maintenance, replacement, enlargement, reconstruction, improvement, inspection, repair, and removal thereof. Grantor shall not plant any tree or bush within 5.0 feet of any existing Grantee facilities or within 10.0 feet of the opening side of any transformer or cabinet

without the prior written approval of Grantee. Grantor shall not install, or permit the installation of, any buildings or permanent structures or facilities of any kind on, over, under, or across said easement without the prior written approval of Grantee.

Grantee further agrees to contact the Utility Notification Center of Colorado (1-800-922-1987), or any similar one-call utility line locator system which may replace or supplement it, at least four business days (or such longer time if required by applicable law) prior to the commencement of construction or excavation on the Easement Area to arrange for field locating of Facilities.

Non-use or a limited use of the Easement Area shall not prevent Grantor from thereafter making use of the Easement Area to the full extent herein authorized. Upon completion of construction, Grantee shall restore the surface of Grantor's property to substantially the same level and condition as existed prior to construction.

No amendment, waiver, agreement, modification, or supplement of this Easement shall be binding on Grantor unless made in writing and executed by an authorized representative of Grantor (or its successor or assign, if applicable). The provisions of this Easement shall run with the land and shall be binding on and burden the Easement Area and shall be binding on and shall inure to the benefit of all persons claiming an interest in the Easement Area, or any portion thereof, through the parties hereto, including the heirs, executors, administrators, personal representatives, successors, and assigns of Grantor and Grantee. "Grantor" shall include the singular, plural, feminine, masculine and neuter.

Grantor warrants and represents that Grantor is the owner of the Easement Area and has the right to sell, transfer, convey and grant the easement and rights contained in this Easement. This grant is binding on Grantor, is not conditioned upon obtaining the consent of any third party, and is not subject to any mortgages or liens, except those for which Grantor has provided Grantee with a consent and subordination agreement, executed by such mortgagee or lienholder and attached hereto.

Grantee shall defend, indemnify and hold harmless Grantor, its affiliates and the officers, directors, employees and agents of both, from any and all claims for personal injury to Grantor's personnel or damage to Grantor's property or to the property of Grantor's personnel, occurring as a result of Grantee's negligent or intentional acts or omissions.

This Easement incorporates all agreements and stipulations between Grantor and Grantee as to the subject matter of this Easement and no prior representations or statements, verbal or written, shall modify, supplement or change the terms of this Easement. This Easement consists of the document entitled "Grant of Utility Easement" and a legal description, containing an exhibit if referenced above or attached hereto.

Executed and delivered this _____ day of _____ 2025.

GRANTOR: CITY OF BRIGHTON

Michael Martinez, City Manager

APPROVED AS TO FORM:

James Gallagher, Assistant City Attorney

STATE OF COLORADO)
) ss.
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me this ___ day of _____ 2025, by Michael Martinez as City Manager of City of Brighton, a body corporate and politic under the laws of the State of Colorado.

Witness my hand and official seal.

Notary Public
My Commission Expires: _____

[Acknowledgements continue on following page.]

ACKNOWLEDGMENT

UNITED POWER, INC.

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____ 2025, by _____ in his/her capacity as _____ of United Power, Inc.

Witness my hand and official seal.

Notary Public
My Commission Expires: _____

EXHIBIT A
Easement Description
[Exhibit A begins on following page]

**LUTZ RESERVOIR
BRIGHTON LAKES
UTILITY EASEMENT 1**

PROPERTY DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THE PROPERTY DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 2021000080560 IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER, LOCATED IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE EAST QUARTER CORNER BY A 3.25" ALUMINUM CAP STAMPED "PLS 30099" IN A RANGE BOX AND AT THE SOUTHEAST CORNER BY A 3.25" ALUMINUM CAP "ILLEGIBLE" IN A RANGE BOX, WITH AN ASSUMED BEARING OF S00°21'34"E.

BEGINNING AT THE EAST QUARTER CORNER OF SECTION 20, TOWNSHIP 1 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN:

THENCE ON THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 20, S00°21'34"E A DISTANCE OF 25.00 FEET, TO THE SOUTHERLY LINE OF THE PROPERTY DESCRIBED IN THE DOCUMENT RECORDED UNDER RECEPTION NO. 2021000080560 IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER;

THENCE ON SAID SOUTHERLY LINE, S89°27'47"W A DISTANCE OF 77.00 FEET;

THENCE DEPARTING SAID SOUTHERLY LINE, N00°21'34"W A DISTANCE OF 25.00 FEET, TO THE NORTHERLY LINE OF SAID PROPERTY;

THENCE ON SAID NORTHERLY LINE, ALSO BEING THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 20, N89°27'47"E A DISTANCE OF 77.00 FEET, TO THE POINT OF BEGINNING.

CONTAING A CALCULATED AREA OF 1,925 SQUARE FEET OR 0.0442 ACRES.

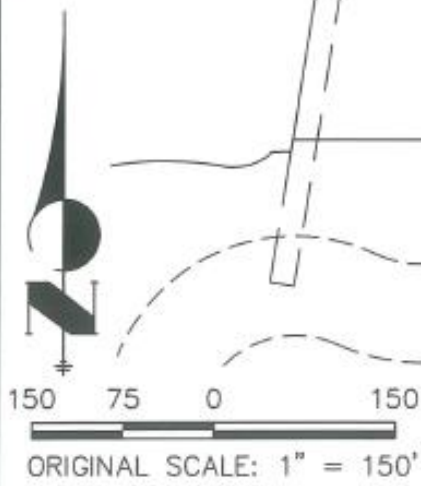
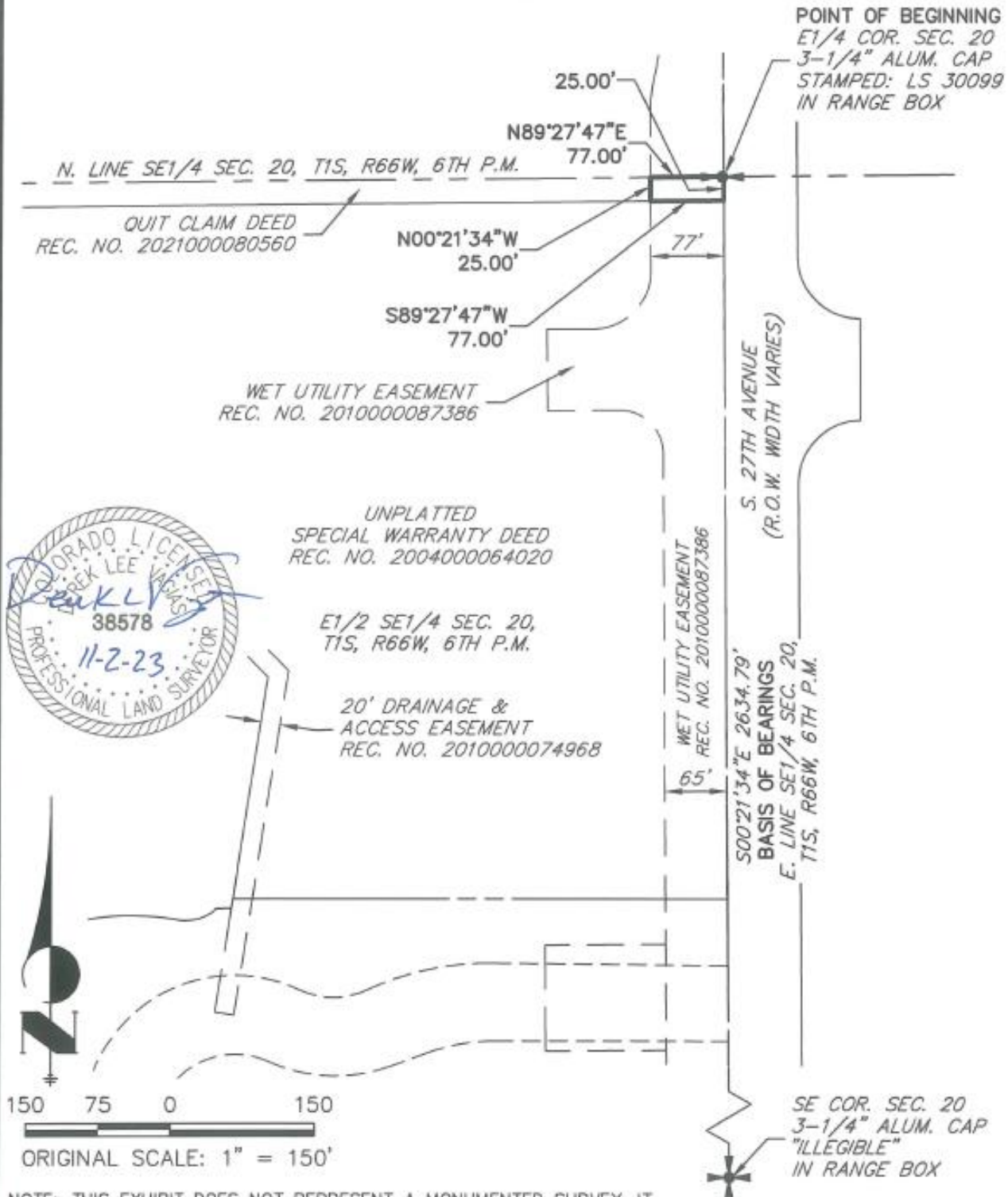
PROPERTY DESCRIPTION STATEMENT

I, DEREK LEE VAGIAS, A PROFESSIONAL LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE PROPERTY DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.

DEREK LEE VAGIAS, PROFESSIONAL LAND SURVEYOR
COLORADO NO. 38578
FOR AND ON BEHALF OF JR ENGINEERING, LLC



EXHIBIT



NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED PROPERTY DESCRIPTION.

BRIGHTON LAKES UTILITY EASEMENT 1
LUTZ RESERVOIR
PROJECT NO.: 16136.00
DATE: 11/2/2023