

BNC METROPOLITAN DISTRICT NO. 3

141 Union Boulevard, Suite 150
Lakewood, Colorado 80228-1898
Tel: 303-987-0835 · 800-741-3254
Fax: 303-987-2032
<https://bncmetrodistrict3.com>

NOTICE OF A SPECIAL MEETING AND AGENDA

<u>Board of Directors</u>	<u>Office</u>	<u>Term/Expires</u>
Janis L. Emanuel	President	2025/May 2025
Robert J. Bol	Treasurer	2027/May 2027
Theodore Antenucci	Assistant Secretary	2025/May 2025
VACANT		2027/May 2025
VACANT		2027/May 2025
David Solin	Secretary	

DATE: Tuesday, May 21, 2024

TIME: 11:00 a.m.

PLACE: Zoom Meeting*: The meeting can be joined through the directions below.
** Individuals requiring special accommodation to attend and/or participate in the meeting please advise the District Manager (dsolin@sdmsi.com or 303-987-0835) of their specific need(s) before the meeting.*

<https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09>

Dial In: 1-719-359-4580

Meeting ID: 546 911 9353

Passcode: 912873

I. ADMINISTRATIVE MATTERS

A. Present Disclosures of Potential Conflicts of Interest.

B. Approve Agenda; confirm location of the meeting and posting of meeting notices.

C. Review and approve the Minutes of the February 5, 2024 Special Meeting (enclosure).

II. PUBLIC COMMENT

A. Members of the public may express their views to the Board on matters that affect the District. Comments will be limited to three (3) minutes per person.

III. FINANCIAL MATTERS

- A. Review and ratify approval of payment of claims for the following periods (enclosures):

Fund	Period ending Feb. 29, 2024	Period ending Mar. 31, 2024	Period ending Apr. 30, 2024
General	\$ 9,275.03	\$ 8,866.30	\$ 4,398.25
Debt	\$ -0-	\$ -0-	\$ -0-
Capital	\$ -0-	\$ -0-	\$ -0-
Total	\$ 9,275.03	\$ 8,866.30	\$ 4,398.25

IV. LEGAL MATTERS

- A. **Conveyance of Tracts E, F and J, Turnberry Subdivision Filing No. 5, and Tracts B, C, D, F, H, I, J and K, Turnberry Subdivision Filing No. 6, City of Commerce City, Adams County, Colorado to the District.** Review and consider approval or acceptance (as appropriate) of the following documents (enclosures):

1. Letter from the District to AMH Development, LLC regarding Conditions to Acceptance of Special Warranty Deed and Bill of Sale.

2. Landscape Installation License Agreement between the District and AMH Development, LLC.

3. Indemnification Agreement (Mechanics' Liens and Public Infrastructure) made and entered into by AMH Development, LLC in favor of the District.

4. Special Warranty Deed between Catellus CC Note, LLC as Grantor and the District as Grantee.

5. Bill of Sale (for facilities, personal property and improvements) between Catellus CC Note, LLC as Grantor and the District.

6. Assignment of Warranties (for public infrastructure improvements) between Catellus CC Note, LLC as Grantor and the District.

V. OTHER BUSINESS

A. _____

VI. ADJOURNMENT **THE NEXT REGULAR MEETING IS SCHEDULED FOR
JUNE 11, 2024.**

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE BNC METROPOLITAN DISTRICT NO. 3 HELD FEBRUARY 5, 2024

A Special Meeting of the Board of Directors of the BNC Metropolitan District No. 3 (referred to hereafter as “Board”) was convened on Monday, February 5, 2024, at 3:00 p.m. The District Board meeting was held at McGeady Becher P.C. 450 E. 17th Ave., Suite 400 Denver, CO 80203 and via Zoom video/telephone conference. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Janis L. Emanuel
Robert J. Bol

Following discussion, upon motion duly made by Director Emanuel seconded by Director Bol and, upon vote, unanimously carried, the absence of Director Theodore Antenucci was excused.

Also In Attendance Were:

David Solin; Special District Management Services, Inc.

Paula Williams, Esq., Kate Olson, Esq., and Craig Sorensen; McGeady Becher P.C.

Alyssa Ferreira; CliftonLarsonAllen LLP

Tiffany Leichman, Esq.; Sherman & Howard L.L.C.

Michael Kuykendall and Nick Montalbano; Catellus Development Corporation

ADMINISTRATIVE MATTERS

Disclosures of Potential Conflicts of Interest: The Board discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Board of Directors and to the Secretary of State. Mr. Solin noted that a quorum was present and requested members of the Board to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting, and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with the statute. Attorney Williams noted that all Directors’ Disclosure Statements have been filed, and that no new conflicts were disclosed at the meeting.

RECORD OF PROCEEDINGS

Agenda: Mr. Solin distributed for the Board's review and approval a proposed Agenda for the District's Special Meeting.

Following discussion, upon motion duly made by Director Emanuel seconded by Director Bol and, upon vote, unanimously carried, the Agenda was approved.

Location of Meeting and Posting of Notices: The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District's Board meeting, noting that the meeting was being held at a physical location located within 20 miles of the District's boundaries, and that Attorney Olson was present at the meeting location. The Board determined that the meeting would also be held by video/telephonic means, and encouraged public participation via video or telephone. The Board further noted that notice of the time, date and location of the meeting was duly posted and that the District had not received any objections to the video/telephonic manner of the meeting, or any requests that the video/telephonic manner of the meeting be changed by taxpaying electors within the District boundaries.

Designation of 24-Hour Posting Location: Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol, and upon vote, unanimously carried, the Board determined that notices of meetings of the District Board required pursuant to Section 24-6-402(2)(c), C.R.S. at least 24 hours prior to each meeting shall be posted on the District website. If the website is unavailable, physical notice shall be posted at the following location: on the street light pole located on the southwest corner of E. 104th Avenue and Peoria Street.

Minutes: The Board reviewed the minutes of the November 16, 2023 Annual Meeting, the November 16, 2023 Special Meeting, and the December 4, 2023 Continued Special Meeting.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board approved the minutes of the November 16, 2023 Annual Meeting, the November 16, 2023 Special Meeting, and the December 4, 2023 Continued Special Meeting, were approved, as presented.

PUBLIC COMMENT There were no public comments.

RECORD OF PROCEEDINGS

FINANCIAL MATTERS

Claims: The Board considered ratifying the approval of the payment of claims as follows:

Fund	Period ending Nov. 30, 2023	Period ending Dec. 31, 2023	Period ending Jan. 31, 2024
General	\$ 8,103.92	\$ 16,962.56	\$ 3,556.90
Debt	\$ -0-	\$ -0-	\$ -0-
Capital	\$ -0-	\$ -0-	\$ -0-
Total	\$ 8,103.92	\$ 16,962.56	\$ 3,556.90

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board ratified approval of the payment of the claims, as presented.

Unaudited Financial Statements: The Board deferred this matter.

LEGAL MATTERS

Resolution Approving and Authorizing Execution of an Amended and Restated Indenture of Trust Between the District and UMB Bank, n.a. Relating to the Series 2022A Bonds: Attorneys Leichman and Williams reviewed with the Board the resolution pertaining to amendments to the Indenture of Trust relating to the District's General Obligation (Limited Tax Convertible to Unlimited Tax) Convertible Capital Appreciation Bonds, Series 2022A (the "Series 2022A Bonds"), such resolution approving and authorizing execution of an Amended and Restated Indenture of Trust between the District and UMB Bank, n.a. relating to the Series 2022A Bonds (the "Series 2022A Amendment Resolution").

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board adopted the Series 2022A Amendment Resolution.

Resolution Approving and Authorizing Execution of an Amended and Restated Indenture of Trust between the District and UMB Bank, n.a. Relating to the Series 2022B(3) Bonds: Attorneys Leichman and Williams reviewed with the Board the resolution pertaining to amendments to the Indenture of Trust relating to the District's Subordinate General Obligation Limited Tax Bonds, Series 2022B(3) (the "Series 2022B(3) Bonds"), such resolution approving and authorizing execution of an Amended and Restated Indenture of Trust between the District and UMB Bank, n.a. relating to the Series 2022B(3) Bonds (the "Series 2022B(3) Amendment Resolution").

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board adopted the Series 2022B(3) Amendment Resolution.

RECORD OF PROCEEDINGS

Engineer's Report and Certification #09: The Board reviewed Engineer's Report and Certification #09 – BNC Metropolitan District Nos. 1, 2, & 3, dated November 16, 2023 and prepared by Ranger Engineering, LLC, certifying eligible costs for Public Improvements in the total amount of \$4,950,285.52 (“Report No. 9”).

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board ratified approval of Report No. 9, ratified the acceptance of verified costs for Public Improvements in the amount of \$4,568,505.61 (per the allocation to the District in Report No. 9), and ratified the authorization of the reimbursement of \$4,568,505.61 to Catellus CC Note, LLC pursuant to Report No. 9.

Conveyance of Tracts E and F, Turnberry Filing No. 5, City of Commerce City, Adams County, Colorado to the District: Attorney Williams reviewed with the Board the various documents relating to the conveyance (the “Tracts E and F Conveyance Documents”) and discussed issues related thereto.

Landscape Acceptance Reports dated December 12, 2023 for Turnberry Filing No. 5 and Turnberry Filing No. 6, prepared by PCS Group, Inc.: The Board reviewed the Landscape Acceptance Reports dated December 12, 2023 for Turnberry Filing No. 5 and Turnberry Filing No. 6, prepared by PCS Group, Inc.

Landscape Installation License Agreement between the District and AMH Development, LLC: The Board reviewed the Landscape Installation License Agreement between the District and AMH Development, LLC.

Indemnification Agreement (Mechanics' Liens and Public Infrastructure) made and entered into by AMH Development LLC in favor of the District: The Board reviewed the Indemnification Agreement (Mechanics' Liens and Public Infrastructure) made and entered into by AMH Development, LLC in favor of the District.

Special Warranty Deed between Catellus CC Note, LLC as Grantor and the District as Grantee: The Board reviewed the Special Warranty Deed between Catellus CC Note, LLC as Grantor and the District as Grantee.

Bill of Sale (for facilities, personal property and improvements) between Catellus CC Note LLC as Grantor and the District: The Board reviewed the Bill of Sale (for facilities, personal property and improvements) between Catellus CC Note, LLC as Grantor and the District.

Assignment of Warranties (for public infrastructure improvements) between Catellus CC Note, LLC as Grantor and the District: The Board reviewed the

RECORD OF PROCEEDINGS

Assignment of Warranties (for public infrastructure improvements) between Catellus CC Note, LLC as Grantor and the District.

Following discussion, upon motion duly made by Director Emanuel, seconded by Director Bol and, upon vote, unanimously carried, the Board approved and/or accepted (as appropriate) the Tracts E and F Conveyance Documents, subject to AMH Development, LLC posting surety in the form of cash or a letter of credit for the cost of the remaining work to be completed in Tracts E and F.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made by Director Emanuel, seconded by Director Bol, and upon vote, unanimously carried, the meeting was adjourned at 3:20 p.m.

Respectfully submitted,

By: _____
Secretary for the Meeting

BNC Metropolitan District No.3
February-24

Vendor	Invoice #	Date	Due Date	Amount in USD	Expense Account	Account Number
CliftonLarsonAllen LLP	L241068096	2/12/2024	2/12/2024	\$ 2,927.41	Accounting	107000
McGeady Becher P.C.	702W 1.2024	1/31/2024	1/31/2024	\$ 4,338.32	Legal services	107460
Special District Association	2024 Renewal	2/12/2024	2/12/2024	\$ 405.94	Dues and licenses	107350
Special District Management Services, Inc.	1.2024	1/31/2024	1/31/2024	\$ 1,603.36	District management	107440
				\$ 9,275.03		

BNC Metropolitan District No.3
February-24

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 9,275.03	\$ -		\$ 9,275.03
Payroll				
Total Disbursements	<u>\$ 9,275.03</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 9,275.03</u>

BNC Metropolitan District No.3

March-24

Vendor	Invoice #	Date	Due Date	Amount in USD	Expense Account	Account Number
Bol, Robert	2.5.2024	2/5/2024	2/5/2024	\$ 92.35	Directors' fees	107250
CliftonLarsonAllen LLP	L241112109	2/29/2024	2/29/2024	\$ 23.39	Accounting	107000
Special District Management Services, Inc.	2.2024	2/29/2024	2/29/2024	\$ 1,750.56	District management	107440
UMB Bank N.A.	966468	1/9/2024	1/9/2024	\$ 3,000.00	Banking fees	107490
UMB Bank N.A.	966464	1/9/2024	1/9/2024	\$ 4,000.00	Banking fees	107490
				\$ 8,866.30		

BNC Metropolitan District No.3
March-24

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 8,866.30	\$ -		\$ 8,866.30
Payroll				
Total Disbursements	<u>\$ 8,866.30</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 8,866.30</u>

BNC Metropolitan District No.3

April-24

Vendor	Invoice #	Date	Due Date	Amount in USD	Expense Account	Account Number
CliftonLarsonAllen LLP	L241154189	4/1/2024	4/1/2024	\$ 75.00	Accounting	107000
CliftonLarsonAllen LLP	L241186384	3/31/2024	3/31/2024	\$ 73.19	Accounting	107000
McGeady Becher P.C.	702W 2.24	2/29/2024	2/29/2024	\$ 3,569.48	Legal services	107460
Special District Management Services, Inc.	3.2024	3/31/2024	3/31/2024	\$ 680.58	District management	107440
				\$ 4,398.25		

BNC Metropolitan District No.3
April-24

	<u>General</u>	<u>Debt</u>	<u>Capital</u>	<u>Totals</u>
Disbursements	\$ 4,398.25	\$ -		\$ 4,398.25
Payroll				
Total Disbursements	\$ 4,398.25	\$ -	\$ -	\$ 4,398.25



April 22, 2024

VIA EMAIL

AMH Development LLC
280 Pilot Road, Suite 200
Las Vegas, Nevada 89119
Attn: Legal Department
Email: hcho@ah4r.com and tcabibi@ah4r.com

Re: Conditions to Acceptance of Tracts E and F, as shown on the Turnberry Subdivision Filing No. 5 Final Plat recorded April 20, 2021 at Reception Number 2021000048209 in Adams County, Colorado ("**Tracts**")

Dear Ms. Cho and Mr. Cabibi:

Our office represents BNC Metropolitan District No. 3 (the "**District**"). On October 27, 2023, the District adopted those certain Rules and Regulations Regarding Dedication and Acceptance of Public Improvements, a copy of which is attached (the "**Rules**"). We understand that AMH Development, LLC ("**AMH**") is working with Catellus CC Note, LLC ("**Catellus**") to convey Tracts to the District for District ownership and maintenance.

Pursuant to the Rules, the District may accept conveyance of real property if the vast majority of public improvements are complete within said property to be transferred, but landscaping cannot be completed because of the growing season.

A portion of the public improvements on the Tracts was completed by Catellus, which non-AMH improvements are identified on **Exhibit A** (the "**Catellus Improvements**"). The District has performed a walk-through of the Catellus Improvements and all punch list items related to the Catellus Improvements have been completed. The District has also received all documentation required by the Rules for acceptance of the Catellus Improvements.

As such, the only improvements remaining to be complete on the Tracts are landscaping improvements to be completed by AMH. The District is willing to accept the Tracts in advance of such landscaping improvements being completed, pursuant to the terms and conditions of this letter. Based on the estimates from the landscape architect that prepared the landscape plans for the Tracts, the items set forth on **Exhibit B** attached hereto and incorporated herein remain to be completed (the "**Remaining Improvements**"). Further, as detailed on **Exhibit B**, the cost to complete the Remaining Improvements is estimated to be \$20,579.70 (the "**Cost Estimate**"). The District agrees to accept a conveyance of the Tracts so long as all requirements set forth in {01132818.DOCX v:7}

AMH Development LLC
Attn: Legal Department
April 22, 2024
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the Rules have been satisfied and a letter of credit (the “**LOC**”) or cash in the amount of the Cost Estimate (the LOC or cash, is hereby referred to as the “**Surety**”) is delivered to the District. If delivered in the form of cash, the District shall have no obligation to invest the same in an interest-bearing account.

If the Surety is in the form of an LOC, the LOC shall name the District as the beneficiary, have an expiration date of no sooner than 12 months following its issuance, and shall provide for automatic renewals thereof, unless previously terminated. The issuer of the LOC shall be reasonably acceptable to the District.

The District may draw upon the Surety if the Remaining Improvements have not been completed (as evidenced by a certification of the landscape architect) on or before July 15, 2024 (the “**Outside Date**”). Within ten (10) days after receipt of a certification from the landscape architect that the Remaining Improvements have been completed and receipt of an assignment of all remaining warranties, the District will return the Surety to AMH.

If the Remaining Improvements are not complete by the Outside Date, the District shall have a right to draw on the Surety. If the District draws on the Surety, it shall thereafter use such funds to complete the Remaining Improvements. If the reasonable, actual cost to complete the Remaining Improvements exceeds the Surety, AMH shall remain responsible for repayment of such excess costs to the District. If the cost to complete the Remaining Improvements is less than the Surety, the District shall return any excess funds to AMH. The District shall provide a final accounting to AMH within 60 days following its completion of the Remaining Improvements, which will include reasonable documentation evidencing the actual costs incurred by the District in completing the Remaining Improvements. Any funds from AMH to the District or the District to AMH shall be paid by the applicable party within thirty (30) days following the final accounting. In the event that the Remaining Improvements have not been completed by either party on or before the date that is two (2) years after the Outside Date, the District will return any remaining Surety to AMH.

The District agrees to grant AMH a license to complete the Remaining Improvements in the form attached hereto as **Exhibit C**.

If the foregoing is acceptable, then, please deliver to the District:

1. The cash or LOC issued in form and by an issuer acceptable to the District.

Upon receipt of the foregoing, the District will do the following:

1. The District will execute and deliver to AMH the license.
2. The District will hold the Surety in accordance with the terms of this Letter Agreement.

Please acknowledge AMH’s agreement with the foregoing by executing a copy of this letter below and return the executed copy to me. By execution below, AMH further acknowledges and

AMH Development LLC
Attn: Legal Department
April 22, 2024
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agrees that the District shall retain all rights and remedies available to it at law or in equity to enforce completion of the Remaining Improvements if AMH fails to do so.

If you have questions, please don't hesitate to contact me.

Very truly yours,

McGEADY BECHER P.C.

Paula J. Williams

Paula J. Williams

THE FOREGOING CONDITIONS TO ACCEPTANCE OF THE TRACTS AND IMPROVEMENTS ARE HEREBY ACKNOWLEDGED AND AGREED AS OF THIS 6.00 DAY OF ^{May} _____, 2024.

AMH DEVELOPMENT LLC

DocuSigned by:
By: Thomas Lutkin
Name: Thomas Lutkin
Title: VP Land Development

cc: Board of Directors BNC Metropolitan District No. 3
Nick Montalbano

EXHIBIT A

Catellus Improvements/AMH Improvement Map

Catellus Improvements/AMH Improvements Map

a depiction of each party's respective landscape, trail and irrigation responsibilities within Tracts E and F, Turnberry Filing No. 5.

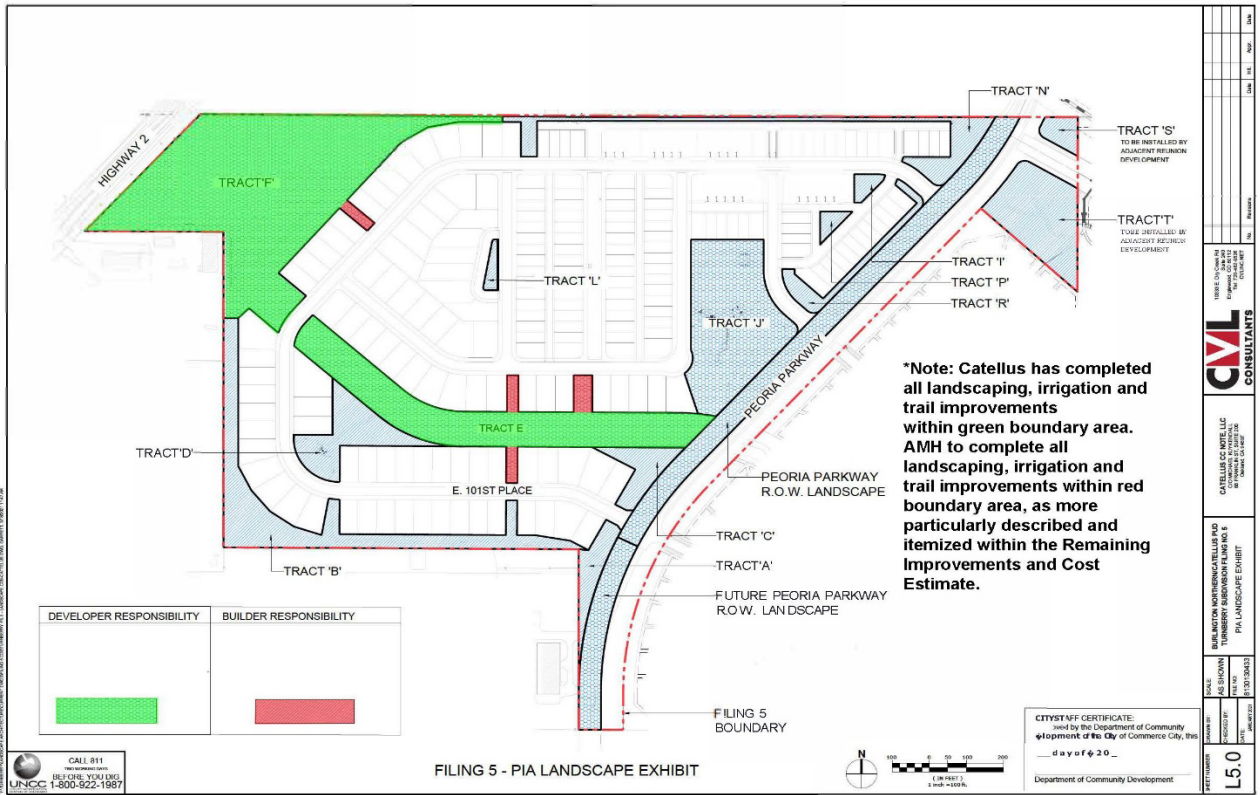


EXHIBIT B

Remaining Improvements and Cost Estimate

Remaining Improvements and Cost Estimate

Turnberry Subdivision Filing 5
Partial / Remaining Landscape Estimate

Project Number: Z-706-D-423-20

Date: 11/28/2023

Prepared by: PCS Group

SUMMARY		
1. Partial Tract E - Cut Through Tract Area	Subtotal:	\$ 3,618.59
2. Partial Tract E - Cut Through Tract Area	Subtotal:	\$ 5,246.20
3. Partial Tract E - Cut Through Tract Area	Subtotal:	\$ 3,146.20
4. Partial Tract F - Cut Through Tract Area	Subtotal:	\$ 6,697.83
	10% Contingency	\$ 1,870.88
Partial / Remaining Landscape Estimate Total		\$ 20,579.70

Notes:

1. Estimate does NOT include concrete walks & ramps associated with streets, pedestrian crosswalk striping, road infrastructure, utilities, earthwork, or mobilization costs.
2. This opinion of probable landscape construction costs is made on the basis of the Planner/Landscape Architect's experience and qualifications and represents the best judgment as an experienced and qualified professional generally familiar with the industry. However, since the Planner/Landscape has no control over the cost of labor, materials, equipment, or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions, the Planner/Landscape Architect cannot and does not guarantee that proposals, bids, or actual construction cost will not vary from this opinion of probable construction cost. If the OWNER wishes greater assurance as to probable construction costs, the OWNER shall employ an independent cost estimator or contractor.

1. Partial Tract E - Cut Through Tract Area				
ITEM	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Deciduous Trees (2" Cal.)	2	EA	\$ 480.00	\$ 960.00
Native Seed Mixture	2,501	SF	\$ 0.19	\$ 475.19
Bluegrass Sod	104	SF	\$ 0.60	\$ 62.40
Soil Prep & Fine Grading (Seed, Sod Area & Shrubs Beds)	2,605	SF	\$ 0.20	\$ 521.00
Irrigation	1	LS	\$ 1,600.00	\$ 1,600.00
			Subtotal	\$ 3,618.59

2. Partial Tract E - Cut Through Tract Area				
ITEM	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Deciduous Trees (2" Cal.)	1	EA	\$ 480.00	\$ 480.00
Native Seed Mixture	2,500	SF	\$ 0.19	\$ 475.00
Bluegrass Sod	114	SF	\$ 0.60	\$ 68.40
Soil Prep & Fine Grading (Seed, Sod Area & Shrubs Beds)	2,614	SF	\$ 0.20	\$ 522.80
Concrete Walks	300	SF	\$ 7.00	\$ 2,100.00
Irrigation	1	LS	\$ 1,600.00	\$ 1,600.00
			Subtotal	\$ 5,246.20

3. Partial Tract E - Cut Through Tract Area				
ITEM	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Deciduous Trees (2" Cal.)	1	EA	\$ 480.00	\$ 480.00
Native Seed Mixture	2,500	SF	\$ 0.19	\$ 475.00
Bluegrass Sod	114	SF	\$ 0.60	\$ 68.40
Soil Prep & Fine Grading (Seed, Sod Area & Shrubs Beds)	2,614	SF	\$ 0.20	\$ 522.80
Irrigation	1	LS	\$ 1,600.00	\$ 1,600.00
			Subtotal	\$ 3,146.20

4. Partial Tract F - Cut Through Tract Area				
ITEM	QUANTITY	UNIT	COST/UNIT	TOTAL COST
Native Seed Mixture	2,357	SF	\$ 0.19	\$ 447.83
Bluegrass Sod	125	SF	\$ 0.60	\$ 75.00
Soil Prep & Fine Grading (Seed, Sod Area & Shrubs Beds)	125	SF	\$ 0.20	\$ 25.00
Concrete Walks	650	SF	\$ 7.00	\$ 4,550.00
Irrigation	1	LS	\$ 1,600.00	\$ 1,600.00
			Subtotal	\$ 6,697.83

EXHIBIT C
Form of License Agreement

DRAFT

LANDSCAPE INSTALLATION LICENSE AGREEMENT

THIS LANDSCAPE INSTALLATION LICENSE AGREEMENT (this “**Agreement**”) is made and entered into as of this _____ day of _____, 2024, by and between **BNC METROPOLITAN DISTRICT NO. 3**, a quasi-municipal corporation and political subdivision of the State of Colorado, whose address is c/o SDMS, 141 Union Blvd., Suite 150, Lakewood, CO 80228 (“**Grantor**”) and **AMH DEVELOPMENT LLC**, whose address is 280 Pilot Road, Suite 200, Las Vegas, Nevada 89119 (“**Grantee**”).

RECITALS

A. Grantor is the owner of Tracts E and F, as shown on the Turnberry Subdivision Filing No. 5 Final Plat recorded April 20, 2021 at Reception Number 2021000048209 in Adams County, Colorado (the “**Tracts**”); and

B. Pursuant to the authority granted to the Grantor by its Service Plan, as approved by the City Council of the City of Commerce City, Colorado, as it may be amended from time to time (the “**Service Plan**”), the District may own and operate public improvements, including, but not limited to, open space and landscaping improvements to benefit property owners, residents and guests within its service area.

C. Grantee has an obligation to complete certain landscaping improvements within the Tracts, which landscaping improvements are identified on Exhibit A attached hereto and incorporated herein by reference (the “**Landscaping Improvements**”).

D. Grantor desires to grant to Grantee a license agreement for the installation of such Landscaping Improvements, subject to the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals set forth above, all of which are fully incorporated and made an integral part of this Agreement, the mutual covenants and agreements contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee (each a “**Party**” and collectively, the “**Parties**”) agree as follows:

1. Grant. Grantor hereby grants to Grantee, for it and its contractors, subcontractors, materialmen and suppliers, a temporary non-exclusive license (the “**License**”) over, across and through the Tracts solely for the purposes of installation of the Landscaping Improvements. In no event shall Grantee be entitled to use the Tracts for any other purposes without the prior written consent of the Grantor.

2. Maintenance and Restoration Obligations. Grantee shall be solely responsible to ensure that, during the License Term (as defined below) and immediately upon expiration or termination of this Agreement, the Tracts are left in a clean and orderly fashion, free from all trash and other debris, in the same condition as the Tracts appeared upon the commencement of the

{01132749.DOC v:4}

License Term, excluding the changed condition resulting from the installation of the Landscaping Improvements, condemnation and reasonable wear and tear.

3. Representations or Warranties. Grantor represents and warrants to Grantee that it owns fee title to the Tracts and that Grantor has the right and authority to enter into this License Agreement. Except as aforesaid, Grantee accepts the Tracts in its “as is” condition and configuration, with all faults, and accepts all risks related thereto. Except as expressly set forth herein, no representations or warranties have been or are being made by Grantor regarding the condition of the Tracts or the suitability of the Tracts for any purpose and Grantor hereby disclaims any and all warranties, whether express or implied by law, with regard to the Tracts.

4. Insurance. Upon execution of this Agreement, Grantee shall deliver to Grantor a certificate of insurance (in a form reasonably acceptable to Grantor) showing that Grantee currently carries such commercial general liability and other risk insurance coverages with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 in the aggregate and naming Grantor as an additional insured thereon. In the event such certificate is not delivered by Grantee or Grantor determines that the coverages and amounts are not acceptable, Grantor may terminate the License immediately and without prior notice.

5. Certain Reserved Rights. Grantor reserves the right to use the Tracts so long as such use does not materially or unreasonably interfere with the use of Grantee as permitted herein.

6. Damages; Indemnification. Except as may be prohibited or limited by applicable law, (i) Grantee will be responsible for all costs required to repair damages to the Tracts caused by Grantee or its permittees in the exercise of the rights granted under this Agreement and (ii) Grantee shall indemnify and hold Grantor harmless from and against actual loss, cost, expense (including attorneys' fees), claims, demands, causes of action, liability, and damages arising from third-party claims against Grantor (collectively, “Claims”) which result from or arise out of any grossly negligent act or omission or the willful misconduct of Grantee or its permittees from the exercise of the rights granted under this Agreement; provided, however, such indemnification shall not extend to any Claims caused by or arising from Grantor’s gross negligence or willful misconduct. Grantor does not waive, and no provision of this Agreement shall be deemed a waiver of, the immunities and limitations of liabilities to which Grantor is entitled as a matter of law, including, without limitation, the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S., as amended from time to time.

7. Assignment. Neither Party shall assign or transfer this Agreement or the License granted herein without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed.

8. Term. The License granted herein shall commence on the date of mutual execution hereof by the Parties and expire on the earlier to occur of: (a) delivery to Grantor of a certificate of the landscape architect that prepared the landscaping plans for the Tracts confirming the completion of the Landscaping Improvements; or (b) July 15, 2024 unless otherwise extended by mutual agreement of the Parties. Notwithstanding the foregoing, in the

event that Grantee breaches this Agreement, including the use of the Tracts for uses not permitted by this Agreement or otherwise in a manner that violates applicable Colorado law, Grantor may immediately terminate this Agreement and the License granted hereby, provided however, that Sections 2, 3 and 6 through 17 shall survive and not be affected by the termination of this Agreement.

9. No Third Party Beneficiaries. It is mutually agreed that enforcement of the terms and conditions of this Agreement shall be strictly reserved to the Parties hereto, their successors and assigns, and nothing contained in this Agreement shall give or allow any claim or right of action under this Agreement by any other or third person.

10. Amendments. No modification, waiver or amendment of any of the terms or conditions of this Agreement shall be binding upon a Party unless in writing and signed by such Party.

11. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. If allowed by law, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

12. Entire Agreement. This Agreement, together with the exhibits attached hereto, contains the entire agreement of the Parties hereto with respect to the subject matter hereof and no prior written or oral agreement shall have any force or effect or be binding upon the Parties hereto.

13. Disclaimer of Joint Venture. This Agreement, together with the exhibits attached hereto, contains the entire agreement of the Parties hereto with respect to the subject matter hereof and no prior written or oral agreement shall have any force or effect or be binding upon the Parties hereto.

14. Attorneys' Fees. In the event any party seeks to enforce its rights hereunder through litigation, arbitration or another legal proceeding, the court or panel shall award to the prevailing party as part of its judgment or award its reasonable attorneys' fees and costs.

15. Section Headings. The section headings contained herein are included for reference purposes only.

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

17. Governing Law. The terms, covenants and provisions hereof shall be governed by and construed under the applicable laws of the State of Colorado.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Landscape Installation License Agreement as of the date first set forth above.

[Signatures appear on the following page.]

GRANTOR:

BNC METROPOLITAN DISTRICT, NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Name: _____
Title: _____

GRANTEE:

AMH DEVELOPMENT LLC, a Delaware limited liability company

By: _____
Name: _____
Title: _____

**EXHIBIT A
LANDSCAPING IMPROVEMENTS**

{01132749.DOC v:4}

A-1

{01132818.DOCX v:7}

C-6

LANDSCAPE INSTALLATION LICENSE AGREEMENT

THIS LANDSCAPE INSTALLATION LICENSE AGREEMENT (this “**Agreement**”) is made and entered into as of this 22nd day of April, 2024, by and between **BNC METROPOLITAN DISTRICT NO. 3**, a quasi-municipal corporation and political subdivision of the State of Colorado, whose address is c/o SDMS, 141 Union Blvd., Suite 150, Lakewood, CO 80228 (“**Grantor**”) and **AMH DEVELOPMENT LLC**, whose address is 280 Pilot Road, Suite 200, Las Vegas, Nevada 89119 (“**Grantee**”).

RECITALS

A. Grantor is the owner of Tracts E and F, as shown on the Turnberry Subdivision Filing No. 5 Final Plat recorded April 20, 2021 at Reception Number 2021000048209 in Adams County, Colorado (the “**Tracts**”); and

B. Pursuant to the authority granted to the Grantor by its Service Plan, as approved by the City Council of the City of Commerce City, Colorado, as it may be amended from time to time (the “**Service Plan**”), the District may own and operate public improvements, including, but not limited to, open space and landscaping improvements to benefit property owners, residents and guests within its service area.

C. Grantee has an obligation to complete certain landscaping improvements within the Tracts, which landscaping improvements are identified on Exhibit A attached hereto and incorporated herein by reference (the “**Landscaping Improvements**”).

D. Grantor desires to grant to Grantee a license agreement for the installation of such Landscaping Improvements, subject to the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the Recitals set forth above, all of which are fully incorporated and made an integral part of this Agreement, the mutual covenants and agreements contained herein and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee (each a “**Party**” and collectively, the “**Parties**”) agree as follows:

1. Grant. Grantor hereby grants to Grantee, for it and its contractors, subcontractors, materialmen and suppliers, a temporary non-exclusive license (the “**License**”) over, across and through the Tracts solely for the purposes of installation of the Landscaping Improvements. In no event shall Grantee be entitled to use the Tracts for any other purposes without the prior written consent of the Grantor.

2. Maintenance and Restoration Obligations. Grantee shall be solely responsible to ensure that, during the License Term (as defined below) and immediately upon expiration or termination of this Agreement, the Tracts are left in a clean and orderly fashion, free from all trash and other debris, in the same condition as the Tracts appeared upon the commencement of the

License Term, excluding the changed condition resulting from the installation of the Landscaping Improvements, condemnation and reasonable wear and tear.

3. Representations or Warranties. Grantor represents and warrants to Grantee that it owns fee title to the Tracts and that Grantor has the right and authority to enter into this License Agreement. Except as aforesaid, Grantee accepts the Tracts in its “as is” condition and configuration, with all faults, and accepts all risks related thereto. Except as expressly set forth herein, no representations or warranties have been or are being made by Grantor regarding the condition of the Tracts or the suitability of the Tracts for any purpose and Grantor hereby disclaims any and all warranties, whether express or implied by law, with regard to the Tracts.

4. Insurance. Upon execution of this Agreement, Grantee shall deliver to Grantor a certificate of insurance (in a form reasonably acceptable to Grantor) showing that Grantee currently carries such commercial general liability and other risk insurance coverages with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 in the aggregate and naming Grantor as an additional insured thereon. In the event such certificate is not delivered by Grantee or Grantor determines that the coverages and amounts are not acceptable, Grantor may terminate the License immediately and without prior notice.

5. Certain Reserved Rights. Grantor reserves the right to use the Tracts so long as such use does not materially or unreasonably interfere with the use of Grantee as permitted herein.

6. Damages; Indemnification. Except as may be prohibited or limited by applicable law, (i) Grantee will be responsible for all costs required to repair damages to the Tracts caused by Grantee or its permittees in the exercise of the rights granted under this Agreement and (ii) Grantee shall indemnify and hold Grantor harmless from and against actual loss, cost, expense (including attorneys' fees), claims, demands, causes of action, liability, and damages arising from third-party claims against Grantor (collectively, “Claims”) which result from or arise out of any grossly negligent act or omission or the willful misconduct of Grantee or its permittees from the exercise of the rights granted under this Agreement; provided, however, such indemnification shall not extend to any Claims caused by or arising from Grantor’s gross negligence or willful misconduct. Grantor does not waive, and no provision of this Agreement shall be deemed a waiver of, the immunities and limitations of liabilities to which Grantor is entitled as a matter of law, including, without limitation, the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S., as amended from time to time.

7. Assignment. Neither Party shall assign or transfer this Agreement or the License granted herein without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed.

8. Term. The License granted herein shall commence on the date of mutual execution hereof by the Parties and expire on the earlier to occur of: (a) delivery to Grantor of a certificate of the landscape architect that prepared the landscaping plans for the Tracts confirming the completion of the Landscaping Improvements; or (b) July 15, 2024 unless otherwise extended by mutual agreement of the Parties. Notwithstanding the foregoing, in the

event that Grantee breaches this Agreement, including the use of the Tracts for uses not permitted by this Agreement or otherwise in a manner that violates applicable Colorado law, Grantor may immediately terminate this Agreement and the License granted hereby, provided however, that Sections 2, 3 and 6 through 17 shall survive and not be affected by the termination of this Agreement.

9. No Third Party Beneficiaries. It is mutually agreed that enforcement of the terms and conditions of this Agreement shall be strictly reserved to the Parties hereto, their successors and assigns, and nothing contained in this Agreement shall give or allow any claim or right of action under this Agreement by any other or third person.

10. Amendments. No modification, waiver or amendment of any of the terms or conditions of this Agreement shall be binding upon a Party unless in writing and signed by such Party.

11. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. If allowed by law, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

12. Entire Agreement. This Agreement, together with the exhibits attached hereto, contains the entire agreement of the Parties hereto with respect to the subject matter hereof and no prior written or oral agreement shall have any force or effect or be binding upon the Parties hereto.

13. Disclaimer of Joint Venture. This Agreement, together with the exhibits attached hereto, contains the entire agreement of the Parties hereto with respect to the subject matter hereof and no prior written or oral agreement shall have any force or effect or be binding upon the Parties hereto.

14. Attorneys' Fees. In the event any party seeks to enforce its rights hereunder through litigation, arbitration or another legal proceeding, the court or panel shall award to the prevailing party as part of its judgment or award its reasonable attorneys' fees and costs.

15. Section Headings. The section headings contained herein are included for reference purposes only.

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

17. Governing Law. The terms, covenants and provisions hereof shall be governed by and construed under the applicable laws of the State of Colorado.

IN WITNESS WHEREOF, Grantor and Grantee have executed this Landscape Installation License Agreement as of the date first set forth above.

[Signatures appear on the following page.]

GRANTOR:

BNC METROPOLITAN DISTRICT, NO. 3, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____
Name: _____
Title: _____

GRANTEE:

AMH DEVELOPMENT LLC, a Delaware limited liability company

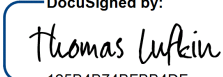
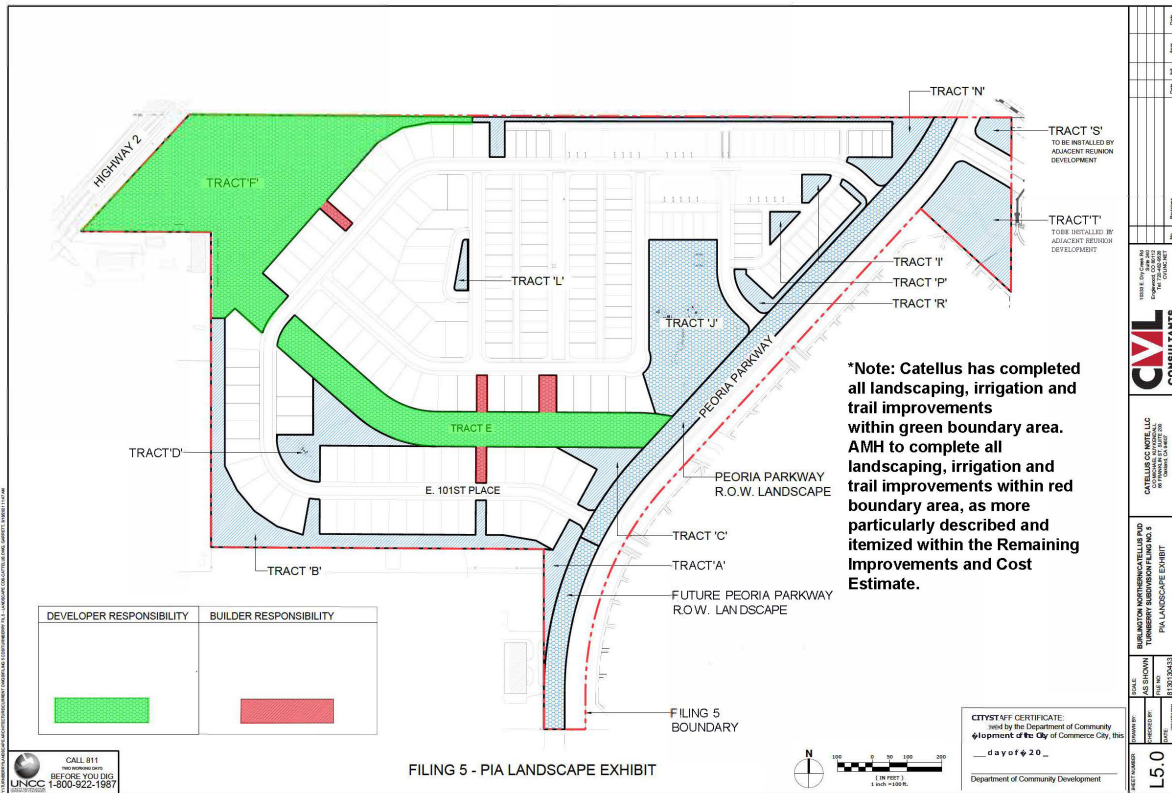
By: 
Name: Thomas Lufkin
Title: VP Land Development

EXHIBIT A LANDSCAPING IMPROVEMENTS

Catellus Improvements/AMH Improvements Map

a depiction of each party's respective landscape, trail and irrigation responsibilities within Tracts E and F, Turnberry Filing No. 5.



**INDEMNIFICATION AGREEMENT
(Mechanics' Liens and Public Infrastructure)**

THIS INDEMNIFICATION AGREEMENT (this "Agreement") is made and entered into effective as of _____, 2023 ("Effective Date"), by AMH Development, LLC, a Delaware limited liability company ("Indemnitor" or "AMH"), in favor of BNC Metropolitan District No. 3, a quasi-municipal corporation and political subdivision of the State of Colorado ("Indemnitee" or "District").

RECITALS:

- A. AMH owns certain real property within the service area of the District upon which it has constructed Public Infrastructure (defined below).
- B. Pursuant to the District's Rules and Regulations Regarding Dedication of Public Improvements, prior to the District accepting real property or Public Infrastructure, AMH is required to provide lien waivers and indemnifications from each contractor verifying that all amounts due to contractors, subcontractors, material providers or suppliers for the Public Infrastructure have been paid in full.
- C. AMH and the District desire to enter into this Agreement whereby AMH provides assurance to the District that no contractors, subcontractors, material providers or suppliers that performed any work on or provided materials for the Public Infrastructure have any claim for any mechanics' or materialmans' liens related to the Public Infrastructure.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency which are hereby acknowledged and accepted by the parties, the parties to this Agreement agree as follows:

AGREEMENT:

1. **DEFINITIONS.** As used herein, the following terms shall have the following meanings:

TERM:

DEFINITION:

Construction: Any and all work, construction and/or placement or segregation of materials performed by or on behalf of Indemnitor on the Property related to the Public Infrastructure.

Public Infrastructure: Pursuant to the District's Service Plan, as approved by the City of Commerce City, Colorado, the District is authorized to construct, acquire and install public improvements, including water, sanitation (including storm drainage), street, safety protection, park and recreation transportation, television relay and translation, and mosquito control and other facilities and services, which benefit property within the District's boundaries and/or service area. As used herein, the term "Public Infrastructure" means all public improvements described in the

preceding sentence that AMH has agreed to construct (and has in fact caused to be constructed).

Mechanics' Liens: All liens or rights to lien existing against the Property or which subsequently attach or are claimed against the Public Infrastructure or the Property by reason of Indemnitor's Construction of the Public Infrastructure.

Property: That certain real property as described on Exhibit A attached hereto.

2. REPRESENTATIONS, WARRANTIES AND COVENANTS. As of the Effective Date, Indemnitor represents and warrants to Indemnitee as to the Public Infrastructure that: (a) all sums due and owing for Construction of the Public Infrastructure have been paid or will be paid promptly and in full before the respective times for filing Mechanics' Liens affecting the Property or the Public Infrastructure; (b) Indemnitor has funds sufficient to pay all Construction costs applicable to the Public Infrastructure; (c) as of the Effective Date, there are no Mechanics' Liens against the Property or the Public Infrastructure; and (d) no claims have been made to Indemnitor and no suits are now pending on behalf of any contractor, subcontractor, material provider or supplier in relation to the Construction.

3. TERM. This Agreement shall remain in effect for a period of one (1) year after the Effective Date; provided that no claim of Mechanics' Lien has been asserted at such time. Notwithstanding anything to the contrary contained herein, this Agreement shall not be deemed to expire if a claim of Mechanics' Lien has been asserted at such time and such expiration shall be stayed until the claim of Mechanics' Lien has been resolved pursuant to this Agreement.

4. INDEMNIFICATION OBLIGATIONS.

4.1. Indemnity. Indemnitor shall at all times indemnify, defend and hold Indemnitee and its directors, officers, managers, agents and employees harmless against any liabilities, claims of liability, obligations, losses, costs, charges, expenses, causes of action, suits, demands, judgments and damages of any kind or character whatsoever, including, but not limited to, reasonable attorneys' fees and costs incurred or sustained by Indemnitee, and actual attorneys' fees awarded against Indemnitee by reason of Mechanics' Liens for labor performed or materials used or furnished in the Construction of the Public Infrastructure or in any action at law or equity under any theory of recovery by reason of the existence of Mechanics' Liens for labor performed or materials used or furnished in the Construction of the Public Infrastructure. Insurance coverage carried by Indemnitor shall in no way lessen or limit the liability of Indemnitor under the terms of this indemnification obligation.

4.2. Duty To Notify Indemnitee. If any action is filed at law or in equity or any judicial or non-judicial proceeding (including arbitration) is commenced against the Property that triggers Indemnitor's indemnification obligation in Section 4.1, Indemnitor agrees to promptly notify Indemnitee in writing of such claim, action or proceeding as soon as possible of Indemnitor's acquisition of knowledge thereof but, in no event, later than thirty (30) days from receipt of said knowledge.

4.3. Rights and Obligations. Indemnitor shall cause any Mechanic's Lien to be removed from the Property and/or the Public Infrastructure, as applicable, within thirty (30) days of written notice to Indemnitor of recordation thereof. In the event Indemnitor fails to do so, Indemnitee is authorized to use whatever means in its discretion it may deem appropriate to cause said Mechanics' Lien or suit to be removed or dismissed, and the costs thereof, together with reasonable attorneys' fees, will be immediately due and payable by Indemnitor. If the payment of a sum of money or bonding will discharge, eliminate or remove the effect of the Mechanics' Lien as to the Property, Indemnitor shall pay such sum or obtain such bond as is sufficient to discharge, eliminate or remove the Mechanics' Lien in a manner legally sufficient to effect the release of the Mechanics' Lien of record, and shall deliver documents to Indemnitee, in a form reasonably satisfactory to Indemnitee.

5. LIEN WAIVERS. Indemnitor's indemnification obligations set forth herein are given in lieu of providing lien waivers from all of the contractors who performed labor or supplies materials for the construction of the Public Infrastructure shall hereby be deemed satisfied.

6. REMEDIES. Indemnitor specifically acknowledges that upon any default by the Indemnitor under this Agreement after demand by Indemnitee, Indemnitee shall have the right to exercise any and all remedies available at law, in equity or under this Agreement against the Indemnitor, including, but not limited to, injunctive relief, specific performance, damages and/or self-help.

7. NOTICE. Any notices, demands or communications under this Agreement between Indemnitor and Indemnitee shall be in writing and may be given either by personal service, electronic-mail, by overnight delivery, or by mailing via United States mail, certified mail, postage prepaid, return receipt requested, addressed to each party as set forth on the signature page of this Agreement. If the address for Indemnitee is not completed on the signature page, notice to Indemnitee shall be given to Indemnitee's State office. All notices given in accordance with the requirements in this Section shall be deemed to be received as of the earlier of actual receipt by the addressee thereof or the expiration of ninety-six (96) hours after depositing same in the United States Postal System.

8. MISCELLANEOUS.

8.1. No Waiver. No delay or omission by Indemnitee in exercising any right or power under this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by Indemnitee of a breach of any of the covenants, agreements, restrictions, obligations or conditions of this Agreement to be performed by the Indemnitor shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions, obligations or conditions under this Agreement.

8.2. No Third-Party Beneficiaries. This Agreement is only between Indemnitor and Indemnitee, and is not intended to be, nor shall it be construed as being, for the benefit of any third-party.

8.3. Partial Invalidity. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

8.4. Modification or Amendment. Any alteration, change, modification or amendment of this Agreement or any documents incorporated herein, in order to become effective, shall be made by written instrument executed by all parties this Agreement.

8.5. Execution in Counterpart. This Agreement and any modification, amendment or supplement to this Agreement may be executed by Indemnitor in several counterparts, and as so executed, shall constitute one agreement binding on all Indemnitors, notwithstanding that all Indemnitors are not signatories to the original or the same counterpart.

8.6. Merger of Prior Agreements And Understandings. This Agreement and other documents incorporated herein by reference contain the entire understanding and agreement between the parties relating to the obligations of AMH and the District with respect to Mechanics' Liens, and all prior or contemporaneous agreements, understandings, representations and statements, oral or written, shall be of no force or effect.

8.7. Other. This Agreement shall be construed according to its fair meaning as if prepared by all parties to this Agreement. This Agreement shall be interpreted in accordance with the laws of the State of Colorado. Exclusive venue shall be in the Adams County District Court. The parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At Indemnitee's request, Indemnitor shall carry on its duties and obligations under this Agreement during any legal proceedings until and unless this Agreement is otherwise terminated. If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party in such action shall be entitled to have and to recover from the other party its reasonable attorneys' fees and other reasonable expenses in connection with such action or proceeding in addition to its recoverable court costs. Titles and captions are for convenience only and shall not constitute a portion of this Agreement. The recitals set forth hereinabove are incorporated into this Agreement. This Agreement shall inure to the benefit of and bind the personal representatives, successors and assigns of the parties hereto.

8.8. Governmental Immunity. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

The parties to this Agreement execute the same to become effective as of the Effective Date.

INDEMNITOR:

AMH Development, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

280 Pilot Road, Suite 200.
Las Vegas, Nevada 89119

INDEMNITEE:

BNC Metropolitan District No. 3, a quasi-municipal corporation and political subdivision of the State of Colorado

By: _____

Name: _____

Title: _____

Address:

Exhibit A

Property

After Recording Return To:
McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80237
Attn: Paula Williams

No Documentary Fee - Exempt

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made this ____ day of _____, 2024, between **CATELLUS CC NOTE, LLC**, a Delaware limited liability company (the “**Grantor**”), and **BNC METROPOLITAN DISTRICT NO. 3**, a quasi-municipal corporation and political subdivision of the State of Colorado, whose address is c/o Special District Management Services, Inc., 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228 (the “**Grantee**”).

WITNESSETH, that the Grantor, for and in consideration of the sum of TEN AND 00/100 DOLLARS and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto Grantee, and Grantee's successors and assigns forever, all the real property, together with all improvements, if any, situate, lying and being in the County of Adams, State of Colorado, being more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the “**Property**”).

EXCEPTING AND RESERVING unto the Grantor from the above-described conveyances:

1. Mineral Rights. Any and all Grantor’s right, title and interest in and to any and all oil, gas, rights in producing and nonproducing wells, geothermal rights and other minerals and mineral rights of every kind or character (whether similar or dissimilar) lying in, on, or under or that may be produced from the Property, including, without limitation, any and all royalties, bonus amounts, delay rentals and other payments due and payable under any existing or future oil, gas or mineral lease.
2. Water Rights. Any and all of Grantor’s right, title and interest in and to any and all water and water rights of any nature whatsoever, appurtenant to, associated with or historically used on the Property, including without limitation all surface and subsurface rights and all wells and well permits, springs and spring rights, reservoir and reservoir rights of every kind or nature, water storage rights, irrigation rights, sub-irrigation rights, return flows, conditional rights, ditches, ditch rights-of-way, and ditch rights of any type, including all shares or certificates of any type in ditch, reservoir, irrigation or water delivery companies or associations.

TOGETHER WITH all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and

remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever, of the Grantor, either in law or in equity, of, in and to the Property;

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto Grantee, and Grantee's successors and assigns forever. Grantor, for Grantor and Grantor's successors and assigns, does covenant and agree that Grantor shall and will WARRANT AND FOREVER DEFEND the above bargained Property in the quiet and peaceable possession of Grantee, and Grantee's successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under Grantor, subject to those matters in the real property records of Adams County, Colorado;

IN WITNESS WHEREOF, this Special Warranty Deed is executed by the Grantor as of the day and year first above written.

GRANTOR:

CATELLUS CC NOTE, LLC, a Colorado
limited liability company

A _____
Name: _____
Its: _____

Exhibit A
to Special Warranty Deed

Legal Description

Tracts E, F, and J, as shown on the Turnberry Subdivision Filing No. 5 Final Plat recorded April 20, 2021 at Reception Number 2021000048209 in Adams County, Colorado.

Tracts B, C, D, F, H, I, J and K as shown on the Turnberry Subdivision Filing No. 6 Final Plat recorded March 26, 2021 at Reception Number 2021000037352 in Adams County, Colorado.

Bill of Sale

KNOW ALL BY THESE PRESENTS that Catellus CC Note, LLC, a Delaware limited liability company (“**Grantor**”), for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant and convey unto BNC Metropolitan District No. 3, a quasi-municipal corporation and political subdivision of the State of Colorado, whose address is 141 Union Boulevard, Suite 150, Lakewood, Colorado 80228 (“**District**”), its successors and assigns, all of Grantor’s right, title and interest in and to the facilities, personal property and the improvements shown on **Exhibit A** attached hereto and incorporated herein by this reference (“**Improvements**”), excluding therefrom those Improvements previously conveyed to other jurisdictions for perpetual ownership.

TO HAVE AND TO HOLD the same unto the District, its successors and assigns forever; and Grantor, its successors and assigns, shall warrant and defend the sale of said Improvements made unto the District, its successors and assigns, against all and every person or persons whomsoever, and warrants that (i) the conveyance of the Improvements to the District, its successors and assigns, is made free from any known existing claims or demands; and (ii) the Improvements were constructed and installed in material conformance with plans and specifications reviewed and approved by the District and all applicable Rules and Regulations of the District.

IN WITNESS WHEREOF, Grantor executes this Bill of Sale this _____ day of _____, 2024.

GRANTOR:
CATELLUS CC NOTE, LLC, a Delaware
limited liability company

By: _____
Its: _____

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____ 2024, before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A
IMPROVEMENTS

District Improvements includes streets, sidewalks, landscaping, lighting, water lines, storm drains, sanitary and sewer lines and related dry utility (e.g., gas, electric and telephone) improvements necessary for the installation and/or operation of other District Improvements constructed within and adjacent to:

Tracts E, F, and J, as shown on the Turnberry Subdivision Filing No. 5 Final Plat recorded April 20, 2021 at Reception Number 2021000048209 in Adams County, Colorado.

Tracts B, C, D, F, H, I, J and K as shown on the Turnberry Subdivision Filing No. 6 Final Plat recorded March 26, 2021 at Reception Number 2021000037352 in Adams County, Colorado.

ASSIGNMENT OF WARRANTIES

“District Improvements”: Those public infrastructure improvements described on **Exhibit A**.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which is hereby acknowledged, **CATELLUS CC NOTE, LLC**, a Delaware limited liability company (“Grantor”), hereby assigns to **BNC METROPOLITAN DISTRICT NO. 3** (“District”) any and all contractual warranties, equipment warranties, and product warranties issued in connection with the District Improvements, and authorizes the District to enforce such warranties. The Grantor further agrees to cooperate in the prosecution of any and all such warranty claims, including providing records, drawings, blueprints, specifications, results of materials tests and inspections, and testimony of such witnesses as may be necessary to document any and all warranty claims. Additionally, in the event and to the extent that any contractor or supplier does not honor the District’s right to enforce any warranties hereunder assigned, Grantor shall reasonably cooperate with the District to enforce such rights for and on behalf of the District.

GRANTOR:

CATELLUS CC NOTE, LLC, a Delaware limited liability company

By: _____
Name:

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

On _____, 2024, before me, _____, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

DISTRICT IMPROVEMENTS

District Improvements includes streets, sidewalks, landscaping, lighting, water lines, storm drains, sanitary and sewer lines and related dry utility (e.g., gas, electric and telephone) improvements necessary for the installation and/or operation of other District Improvements constructed within and adjacent to Tracts E, F, and J, as shown on the Turnberry Subdivision Filing No. 5 Final Plat recorded April 20, 2021 at Reception Number 2021000048209 in Adams County, Colorado and Tracts B, C, D, F, H, I, J and K as shown on the Turnberry Subdivision Filing No. 6 Final Plat recorded March 26, 2021 at Reception Number 2021000037352 in Adams County, Colorado.