

## **LICENSE AGREEMENT**

THIS LICENSE AGREEMENT ("License") is made and entered into as of this 15<sup>th</sup> day of June, 2015, by and between **CITY OF COMMERCE CITY**, a Colorado home rule municipality ("City" or "Licensor"), and \_\_\_\_\_, a \_\_\_\_\_ ("Licensee" and together with the Licensor, the "Parties" or separately, a "Party").

### **1. PROPERTY LICENSED AND CONDITIONS.**

(a) The Licensor's property licensed for use pursuant to the terms of this License is the area described and depicted in Exhibit A attached hereto and incorporated herein (the "Licensed Property").

(b) This License is a non-exclusive license. Other license agreements affecting the Licensed Property may be granted to third parties. The general public also may have access to the Licensed Property and the adjacent property of the Licensor. The License is subject to (i) all covenants, easements, rights-of-way and encumbrances of record, (ii) other uses approved by the Licensor, and (iii) all laws, statutes, charters, ordinances, codes, regulations and other requirements of the City, the State of Colorado ("State"), the United States and all agencies thereof with jurisdiction over the Licensed Property.

(c) The Authorized Parties (as defined below) shall be solely responsible for locating all existing overhead, above ground and underground utilities, including without limitation electrical, sewer, water and other utilities. The Authorized Parties shall take all necessary precautions to avoid damage to or injury from such utilities during their use of the Licensed Property and shall be solely responsible for any damage to or injury from such utilities on the Licensed Property, which result from the Authorized Parties' use of the Licensed Property.

(d) The Licensee shall comply with all applicable licensing and permitting requirements. The Licensee shall be responsible, and obtain a permit from the City and/or State for all stormwater discharges from the Licensed Property during the term of this License. The Licensee shall provide a copy of such permit to the Licensor prior to any use or occupancy of the Licensed Property.

2. **PURPOSE OF LICENSE.** The Licensee wishes to obtain permission for itself, its employees, contractors, subcontractors and consultants (collectively, the "Authorized Parties") for the use of and access over, across, upon and through the Licensed Property for the work in accordance with the Intergovernmental Agreement between the City, City and County of Denver, and Park Creek Metropolitan District for Central Park Boulevard/Related Infrastructure Improvements ("IGA"), including the following purposes ("Authorized Uses"):

(a) staging and storage of materials, supplies, equipment, vehicles and trailers in connection with the Licensee's construction activity;

(b) ingress and egress to adjacent land owned or used by the Licensee; and

(c) any other use authorized by the Licensor in writing.

Any applicable provisions of the IGA, as may be amended, are incorporated into this License by reference.

3. **LICENSE TERM.** The term of this License shall commence on \_\_\_\_\_, 20\_\_, and shall terminate on \_\_\_\_\_, 20\_\_, subject to the provisions of paragraph 10 herein.

4. **REPAIR.** The Licensee covenants and agrees that it shall replace, repair, restore, revegetate and relandscape, to the reasonable satisfaction of the Licensor, any portion of the Licensed Property or improvements thereon or any adjacent property of the Licensor that is altered or damaged as a result of the Authorized Uses or any other act or omission of the Authorized Parties. The Licensee shall provide written notice to the Licensor within twenty-four (24) hours of any such alteration or damage of the Licensed Property or other property of the Licensor. The Licensee shall provide such notice by facsimile to the attention of the Licensor's Engineer at 303-289-8175 or such other number as may be noticed by the Licensor.

5. **INDEMNITY.** The Licensee covenants and agrees to defend, indemnify and hold harmless the Licensor, its officers, employees, agents and contractors, against any liability, loss, damage, demand, action or expense of whatever nature (including without limitation costs of environmental remediation, fines, penalties, court costs and attorney's fees) that may result from any act, omission, loss, injury, death or damage allegedly sustained by any person, corporation or other entity, which arises out of or is caused as a result of the Authorized Parties' use of the Licensed Property or their failure to comply with any of the terms and conditions of this License, except to the proportionate extent that such loss and damage result from the Licensor's gross negligence or willful misconduct.

6. **RE-ENTRY.** The Licensor shall retain all rights to the use and occupancy of the Licensed Property for any and all purposes without limitation. Without limiting other uses, the Licensor or its officers, employees and representatives may enter upon the Licensed Property, at any hour of the day, for the purpose of inspecting the same; constructing, maintaining or repairing improvements; regulating the use of any activities on the Licensed Property by the Authorized Parties; and taking such other action as the Licensor deems necessary for the protection of its interest therein.

7. **NOTICES.** All notices required to be given to the Licensor or the Licensee hereunder shall be in writing and addressed to:

|           |                                                                                                                            |
|-----------|----------------------------------------------------------------------------------------------------------------------------|
| Licensor: | City of Commerce City<br>Attn: City Engineer<br>8602 Rosemary Street<br>Commerce City, CO 80022<br>Facsimile: 303-289-8175 |
|-----------|----------------------------------------------------------------------------------------------------------------------------|

Licensee:

Notices may be delivered personally during normal business hours or by facsimile, overnight delivery or electronic mail, all of which shall provide proof of receipt. Notices shall be deemed effective upon the documented date of receipt. The Licensor and the Licensee may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification.

8. **NO COVENANT OF TITLE OR QUIET POSSESSION.** The rights granted herein are without covenant of title or warranty of quiet possession of the Licensed Property.

9. **ASSIGNMENT; SUCCESSORS AND ASSIGNS.** This License shall not be assigned without the consent of the Licensor in writing. This License shall inure to the benefit of, and be binding upon, the respective legal representatives, heirs, successors and assigns of the Parties.

10. **TERMINATION BY LICENSOR FOR BREACH.** The Licensee shall suspend use of the Licensed Property immediately upon receipt of written notice from the Licensor specifying the breach of any provision hereof by any of the Authorized Parties. This License shall terminate, and all of the Authorized Parties' property shall be removed from the Licensed Property within ten (10) days after delivery of such notice, unless the Licensee has cured such breach to the Licensor's reasonable satisfaction.

11. **REQUIRED INSURANCE.** Throughout the term of this License, the Licensee and all other Authorized Parties shall maintain (i) commercial general liability insurance with all endorsements in an amount not less than \$2,000,000 aggregate limit; (ii) business automobile liability insurance in an amount of not less than \$1,000,000 combined single limit; and (iii) worker's compensation insurance to cover liability as may be required under the laws of the State. Certificates from insurers (i) authorized to do business in the State and (ii) rated AVIII by A.M. Best or in one of the two highest rated categories of Standard & Poor's and Moody's evidencing such insurance shall name the Licensor as an additional insured and shall be delivered to the Licensor prior to entry on the Licensed Property.

12. **WAIVER OF SUBROGATION.** The Licensee and the Licensor mutually release each other and waive all claims for any and all liability or responsibility (to the other or anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage to property caused by fire or any of the extended coverages or supplementary contract casualties, even if such fire or other casualty is caused by the fault or negligence of the other Party or anyone for whom such Party may be responsible. The Parties agree that all applicable insurance policies shall include such a clause or endorsement waiving such rights of subrogation or otherwise be consistent with this paragraph.

13. **SURVIVAL.** Paragraphs 4, 5, 11, 12, 13 and 14 shall survive the termination of this License.

14. **VENUE.** For the resolution of any dispute arising under this License, venue shall be in the District Court of the County of Adams, State of Colorado.

15. **COUNTERPARTS.** This License may be executed in two (2) counterparts, each of which, when executed, shall be deemed an original and both of which together shall be deemed one and the same instrument. This License may be executed electronically.

The Parties mutually agree to all terms and provisions herein contained.

Executed to be effective as of the day and year above written.

**CITY OF COMMERCE CITY**

By: \_\_\_\_\_  
Director of Public Works

**LICENSEE NAME**

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