

## **EASEMENT AND SETTLEMENT AGREEMENT**

THIS EASEMENT AND SETTLEMENT AGREEMENT ("Agreement") is made and entered into as of this 1st day of June, 2022, by and between H4 INVESTMENTS, LLLP, a Colorado limited liability limited partnership; COMMERCE PLACE, INC., a Colorado corporation; KREMMLING CENTER, INC., a Colorado corporation; DAVID W. HAMMER; and KAREN J. HAMMER; (collectively, "Hammer"); the CITY OF COMMERCE CITY, COLORADO, a Colorado home rule municipal corporation, and the SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT, a special district and a quasi-municipal corporation of the State of Colorado, acting by and through its SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT ACTIVITY ENTERPRISE whose address is 6595 East 70<sup>th</sup> Avenue, Commerce City, Colorado 80037 ("District").

### **RECITALS:**

WHEREAS, the City and/or its affiliates has constructed and conveyed to the District a sewer main, manholes, and other related facilities ("Facilities") running from a lift station located on Brighton Boulevard north to the general vicinity of the southeast corner of Brighton Boulevard and E. 104<sup>th</sup> Avenue, then running easterly to Highway 85, on property owned by Hammer and subject to various deeded easements and public rights-of-way, which property is further depicted in the Stipulated Final Rule and Order recorded in the records of the Adams County Clerk and Recorder May 5, 2017 at Reception No. 2017000039392.

WHEREAS, concerns have arisen regarding whether portions of the Facilities are located within the described boundaries of formal easements and rights of way or whether such portions are located on property owned by Hammer outside of such easements and rights-of-way; and, in connection therewith, Hammer caused to be delivered to the City and the District a Notice of Claim dated May 24, 2019 ("Notice of Claim").

WHEREAS, Hammer engaged Flatirons, Inc. to survey and stake the described easements and rights-of-way, the District contemporaneously located its underground facilities, and representatives of Hammer and the District met on the site in 2019 to observe the work.

WHEREAS, Hammer and the District concluded and agreed that the Facilities are in fact located within the described boundaries of the formal easements and rights-of-way, except that the cement collar of a manhole, with an area of approximately eight square feet, appears to be located outside of the described boundaries of the easement, and concern was expressed that the underground portion of the manhole structure and base might be further outside of the described boundaries of the easement.

WHEREAS, the parties desire to expand the described boundaries of the easement around the manhole at issue and to settle all claims related to the Notice of Claim.

NOW, THEREFORE, for good and valuable consideration, the receipt of which is hereby acknowledged, it is hereby mutually covenanted and agreed by and between the parties hereto as follows:



1. Hammer hereby grants a utility easement to the District as described and depicted in Exhibit A (the "Easement") attached hereto and made a part hereof as if fully set forth herein.

2. The District hereby agrees to pay Hammer the sum of \$1,500.00.

3. Hammer, for themselves and their successors and assigns, hereby remise, release, and forever discharge the City and the District, together with all other persons, firms and corporations, whomsoever, of and from any and all actions, claims and demands whatsoever that Hammer now has or may hereafter have, of any kind, including all actions, claims and demands related to the subject matter of the Notice of Claim and/or arising out of the location of the Facilities on Hammer's property.

4. Portions of the sewer main are located near but within the described boundaries of the easement, and the District has determined that the described boundaries of the easement are adequate for its purposes; provided, however, that this Section is not intended and shall not be construed to act as a waiver or limitation on the District's or City's rights, including of eminent domain.

5. The parties agree that this agreement may be executed in counterparts, and an electronic signature, including a pdf file consisting of a scanned or faxed wet signature, shall be as valid and binding as an original signature.

6. The above and foregoing constitute the entire agreement between the parties and no additional or different oral representation, promise or agreement shall be binding on any of the parties hereto, with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the day and year first written above.

**H4 INVESTMENTS, LLLP:**

By: Karen Hammer  
Member/Mgr  
Title (if corporate or business entity)

**COMMERCE PLACE, INC.:**

By: Karen Hammer  
Cap Sec  
Title (if corporate or business entity)

*Signatures continue on the next page*

**KREMMLING CENTER, INC.:**

By:

Karen J. Hammer  
Cap Sec.  
Title (if corporate or business entity)

**DAVID W. HAMMER:**

David W. Hammer  
Title (if corporate or business entity)

**KAREN J. HAMMER:**

Karen J. Hammer  
Title (if corporate or business entity)

**CITY OF COMMERCE CITY,  
COLORADO:**

By:

Roger Trimbly  
City Manager  
Title (if corporate or business entity)

**SOUTH ADAMS COUNTY WATER  
AND SANIATION DISTRICT:**

By:

Steve Moore  
District Manager



STATE OF COLORADO )  
COUNTY OF Grand ) ss.

The foregoing instrument was acknowledged before me this 27 day of May, 2022, by Karen J Hammer as member/mgr of H4 INVESTMENTS, LLLP, a Colorado limited liability limited partnership.

Witness my hand and official seal:

Kendra Ahrens  
Notary Public

My commission expires:

9/27/2022

KENDRA LYN AHRENS  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20184038420  
MY COMMISSION EXPIRES 09/27/2022

STATE OF COLORADO )  
COUNTY OF Grand ) ss.

The foregoing instrument was acknowledged before me this 27 day of May, 2022, by Karen J Hammer as Corp. Sec of COMMERCE PLACE, INC., a Colorado corporation.

Witness my hand and official seal:

Kendra Ahrens  
Notary Public

My commission expires:

9/27/2022

KENDRA LYN AHRENS  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20184038420  
MY COMMISSION EXPIRES 09/27/2022

STATE OF COLORADO )  
COUNTY OF Grand ) ss.

The foregoing instrument was acknowledged before me this 27 day of May, 2022, by Karen J Hammer as Corp. Sec of KREMMLING CENTER, INC., a Colorado corporation.

Witness my hand and official seal:

Kendra Ahrens  
Notary Public

My commission expires:

9/27/2022

KENDRA LYN AHRENS  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20184038420  
MY COMMISSION EXPIRES 09/27/2022

STATE OF COLORADO       )  
  ) ss.  
COUNTY OF Grand       )

The foregoing instrument was acknowledged before me this 31 day of May, 2022, by  
**David W. Hammer.**

Witness my hand and official seal:

Kendra Ahrens  
Notary Public

My commission expires:

9/27/2022

KENDRA LYN AHRENS  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20184038420  
MY COMMISSION EXPIRES 09/27/2022

STATE OF COLORADO       )  
  ) ss.  
COUNTY OF Grand       )

The foregoing instrument was acknowledged before me this 27 day of May, 2022, by  
**Karen J. Hammer.**

Witness my hand and official seal:

Kendra Ahrens  
Notary Public

My commission expires:

9/27/2022

KENDRA LYN AHRENS  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20184038420  
MY COMMISSION EXPIRES 09/27/2022

STATE OF COLORADO       )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by  
\_\_\_\_\_ as \_\_\_\_\_ of **City of Commerce City,**  
**Colorado.**

Witness my hand and official seal:

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



STATE OF COLORADO       )  
  ) ss.  
COUNTY OF ADAMS )

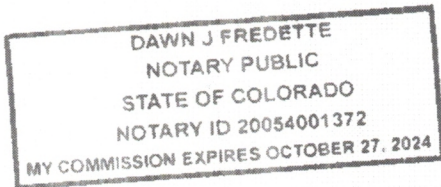
The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of May 2022,  
by Abel Moreno as District Manager of **South Adams County Water and Sanitation District**.

Witness my hand and official seal:

Dawn J. Fredette  
Notary Public

My commission expires:

10.27.24



# EXHIBIT "A"

LOCATED IN THE NORTHWEST QUARTER OF SECTION 15 & THE NORTHEAST QUARTER OF SECTION 16,  
TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
COUNTY OF ADAMS, STATE OF COLORADO

SHEET 1 OF 2

A PARCEL OF LAND, LOCATED IN THE NORTHEAST QUARTER OF SECTION 16 AND THE  
NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH  
P.M., COUNTY OF ADAMS, STATE OF COLORADO.

CONSIDERING THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 15 TO BEAR NORTH  
89°37'13" EAST, A DISTANCE OF 2644.44 FEET BETWEEN A FOUND 3-1/4" ALUMINUM CAP IN  
A RANGE BOX STAMPED "COLO. DEPT. OF TRANSPORTATION PLS 23516" AND A FOUND  
3-1/4" ALUMINUM CAP IN A RANGE BOX STAMPED "COLO. DEPT. OF TRANSPORTATION PLS  
23516", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT SAID NORTHEAST CORNER, THENCE SOUTH 00°12'53" EAST, A DISTANCE OF  
30.00 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF EAST 104TH AVENUE;  
THENCE SOUTH 89°36'04" WEST, A DISTANCE OF 963.33 FEET; THENCE SOUTH 00°23'56"  
EAST, A DISTANCE OF 13.32 FEET TO THE POINT OF BEGINNING;  
THENCE SOUTH 00°23'56" EAST, A DISTANCE OF 10.00 FEET;  
THENCE SOUTH 89°36'04" WEST, A DISTANCE OF 10.00 FEET;  
THENCE NORTH 00°23'56" WEST, A DISTANCE OF 10.00 FEET;  
THENCE NORTH 89°36'04" EAST, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 100 SQ. FT.

I, JAMES Z. GOWAN, A LAND SURVEYOR LICENSED IN THE STATE OF  
COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC.,  
THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A  
PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE,  
ARE ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF,  
ARE IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND ARE  
NOT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED. SAID  
PARCEL DESCRIPTION AND EXHIBIT WERE PREPARED AT THE REQUEST OF THE  
CLIENT AND ARE NOT INTENDED TO REPRESENT A MONUMENTED LAND  
SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

JAMES Z. GOWAN  
COLORADO P.L.S. #29038  
VICE PRESIDENT, FLATIRONS, INC.

JOB NUMBER: 21-77,782  
DRAWN BY: T. HENDERSON  
DATE: 05/24/2022

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS  
NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD  
INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.



**Flatirons, Inc.**  
Land Surveying Services



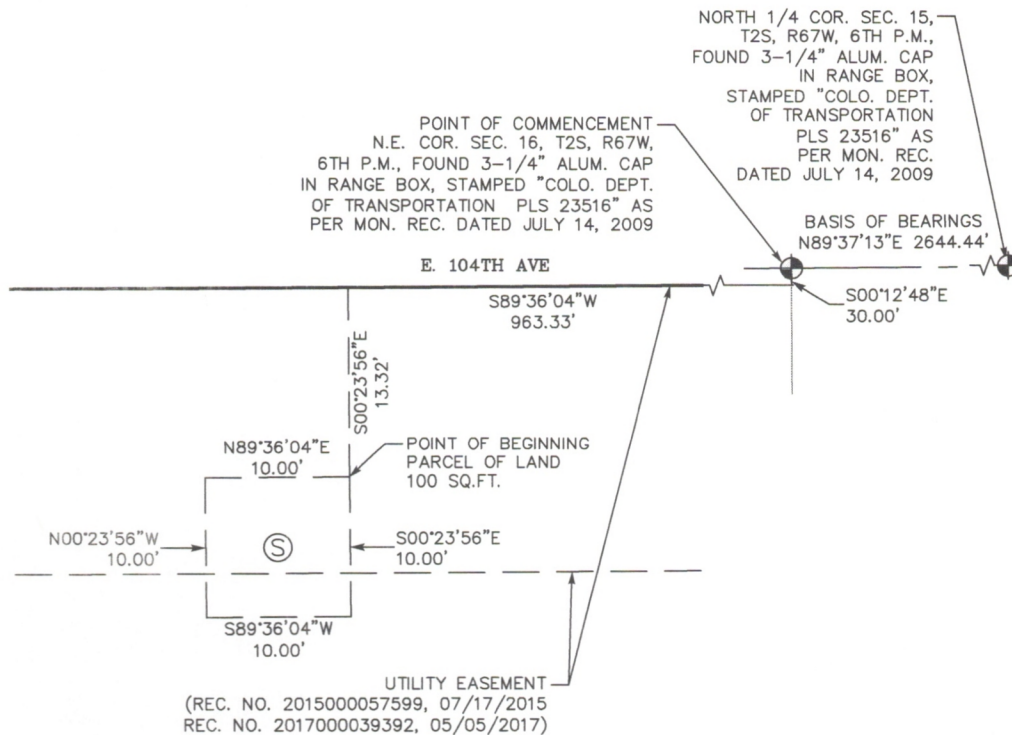
3825 IRIS AVE, STE 395  
BOULDER, CO 80301  
PH: (303) 443-7001  
FAX: (303) 443-9830

[www.FlatironsInc.com](http://www.FlatironsInc.com)

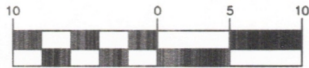
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COUNTY OF ADAMS, STATE OF COLORADO

SHEET 2 OF 2



GRAPHIC SCALE



( IN FEET )

1 inch = 10 ft.



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DRAWN BY: T. HENDERSON  
DATE: 05/24/2022

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INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

**Flatirons, Inc.**  
Land Surveying Services



3825 IRIS AVE, STE 395  
BOULDER, CO 80301  
PH: (303) 443-7001  
FAX: (303) 443-9830

[www.FlatironsInc.com](http://www.FlatironsInc.com)