

**PETITION FOR ANNEXATION OF UNINCORPORATED TERRITORY
IN THE COUNTY OF ADAMS, STATE OF COLORADO,
TO THE CITY OF COMMERCE CITY, STATE OF COLORADO**

COMMERCE PLACE ANNEXATION

TO THE MAYOR AND THE CITY COUNCIL OF THE CITY OF COMMERCE CITY,
COLORADO:

The undersigned ("**Petitioners**"), in accordance with the Municipal Annexation Act of 1965, Chapter 31, Article 12, of the Colorado Revised Statutes, 1973, as amended, hereby petition the City Council of the City of Commerce City for annexation to the City of Commerce City ("**Petition**") of the following described unincorporated territory located in the County of Adams, State of Colorado, to wit:

**LEGAL DESCRIPTION – SEE EXHIBIT A ATTACHED HERETO AND
INCORPORATED HEREIN BY THIS REFERENCE (the "Property")**

And in support of the said Petition, Petitioners allege that:

1. It is desirable and necessary that the above-described Property be annexed to the City of Commerce City.
2. One of the conditions set forth in section 30(1) of article II of the state constitution has been met.
3. The provisions of section 30 of article II of the state constitution have been complied with.
4. Not less than one-sixth (1/6) of the perimeter of the Property is contiguous with the City of Commerce City.
5. A community of interest exists between the Property and the City of Commerce City.
6. The Property is urban or will be urbanized in the near future.
7. The Property is integrated or is capable of being integrated with the City of Commerce City.
8. No land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate:
 - a) Is divided into separate parts or parcels without the written consent of the landowner(s) thereof, except and unless where such tracts or parcels are already separated by a dedicated street, road or other public way.

- b) Comprises 20 acres or more, which together with the buildings and improvements situated thereon, has an assessed value in excess of two-hundred thousand dollars for an ad valorem tax purpose for the year preceding the annexation is included within the territory proposed to be annexed, without the written consent of the landowner or landowner thereof.
9. The Property is not presently a part of any incorporated city, city and county, or town; nor have any proceedings been commenced for incorporation or annexation of an area that is part or all of the Property; nor has any election for annexation of the Property or substantially the same territory to the City of Commerce City been held within the 12 months immediately preceding the filing of this Petition.
10. The proposed annexation will not result in detachment of area from any school district or attachment of same to another school district.
11. Except to the extent necessary to avoid dividing parcels within the Property held in identical ownership, at least fifty percent (50%) of which are within the three mile limit, the proposed annexation will not have the effect of extending a municipal boundary more than three miles in any direction from any point of the City of Commerce City boundary in any one year.
12. The proposed annexation will not result in the denial of reasonable access to any landowner, owner of an easement, or owner of a franchise adjoining a platted street or alley which has been annexed by the City of Commerce City but is not bounded on both sides by the City of Commerce City.
13. The entire width of any street or alley to be annexed is included within the Property.
14. All requirements of CRS 31-12-104, as amended, and CRS 31-12-105, as amended, exist or have been met.
15. Petitioners comprise more than fifty percent (50%) of the landowners in the Property and own more than fifty percent (50%) of the Property, excluding public streets and alleys and any land owned by the City of Commerce City.
16. The legal description of the land owned by each Petitioner is set forth in Exhibit B attached hereto and incorporated herein by this reference.
17. Two portions of the Property that are not public right-of-way are owned by Public Service Company of Colorado, which is not one of the undersigned Petitioners. The lands owned by Public Service Company of Colorado are legally described in Exhibit C attached hereto and incorporated herein by this reference.
18. A portion of the Property that is not public right-of-way is owned by South Adams County Water and Sanitation District, which is not one of the undersigned

Petitioners. The land owned by South Adams County Water and Sanitation District is legally described on Exhibit D attached hereto and incorporated herein by this reference.

19. The mailing address of Petitioners and the date of signing of each Petitioner's signature are shown on this Petition.
20. Attached to this Petition as Exhibit E and incorporated herein by this reference is the Affidavit of the Circulator of this Petition affirming that each signature hereon is the signature of the person whose name it purports to be.
21. Accompanying this Petition are four (4) copies of an annexation map containing the following information:
 - a) A written legal description of the boundaries of the Property;
 - b) A map showing the boundary of the Property;
 - c) Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks; and
 - d) Next to the boundary of the Property, a drawing of the contiguous boundary of the City of Commerce City and the contiguous boundary of any other municipality abutting the Property.
22. In connection with the processing of this Petition, Petitioners request that the City of Commerce City:
 - a) Institute zoning approval processes for the Property in accordance with CRS 31-12-115 and Article III of the Land Development Code of the City of Commerce City;
 - b) Institute subdivision approval processes for the Property in accordance with CRS 31-12-115 and Article III of the Land Development Code of the City of Commerce City;
 - c) Approve access permits and a master access plan for the Property acceptable to Petitioners, including without limitation, (i) ingress to and egress from 104th Avenue; (ii) ingress to and egress from Highway 85; (iii) ingress to and egress from Old Brighton Road; and finally resolve and close out all open issues under that certain Possession and Use Agreement dated July 16, 2010 and recorded on September 22, 2010 at Reception No. 2010000063476 of the Adam County real estate records.
 - d) Approve and execute an annexation and development agreement, which establishes for the Property, among other matters, a cooperative funding arrangement with respect to facilitating the design and construction of the

public and other improvements required to enable development of the Property, vested property rights for a term greater than three years pursuant to Article 68, Title 24, Colorado Revised Statutes and the development plan for the Property, including drainage, floodplain and access matters ("**Annexation and Development Agreement**"). It is Petitioners' expectation that the cooperative funding arrangement mentioned above may include various elements, including Urban Renewal Authority tax increment financing, the establishment of one or more metropolitan districts and/or the creation of a public improvement fee in lieu of a portion of the Commerce City sales, lodging and use taxes applicable to the Property.

23. Petitioners have filed this Petition subject to the following conditions:

- a) Concurrently with its approval of annexation of the Property, the City of Commerce City: (i) approves zoning for the Property which is substantially consistent with the application for zoning which Petitioners submit in connection with this Petition; (ii) approves subdivision for the Property which is substantially consistent with the application for subdivision Petitioners submit in connection with this Petition; and (iii) approves, authorizes execution of and executes the Annexation and Development Agreement on terms and conditions acceptable to Petitioners in their sole discretion.
- b) On or before approval of annexation of the Property by the City of Commerce City, CDOT and/or the City of Commerce City approves access to the Property from 104th Avenue and Highway 85 on terms and conditions acceptable to Petitioners in their sole discretion.
- c) Petitioners hereby reserve the sole, exclusive and unilateral right to withdraw this Petition by so notifying the Clerk of the City of Commerce City in writing at any point prior to the later to occur of: (i) thirty-five (35) days after the latest final approval of the final ordinance(s) or other final approval(s) approving annexation of the Property, the Annexation and Development Agreement, zoning of the Property as requested pursuant to this Petition and any subdivision for the Property as requested pursuant to this Petition; (ii) final, non-appealable resolution of any "Legal Challenge" (defined below); or (iii) any later date contemplated in the Annexation and Development Agreement.
- d) Prior to expiration of the period described in the foregoing subparagraph (c) without Petitioners having withdrawn the Petition, neither Petitioners nor the City of Commerce City shall cause or permit the occurrence of the conditions to effectiveness of the annexation as set forth in CRS 31-12-113(2)(b).

For purposes of this Petition, "Legal Challenge" means either: (1) any third party commences any legal proceeding or other action that directly or indirectly challenges the annexation of the Property, the Annexation and Development Agreement, the approved zoning of the Property, any approved plat for the Property or any of the City's resolutions or ordinances approving any of the foregoing; or (2) any third party submits a petition for a referendum seeking to reverse or nullify any of such ordinances.

24. Upon the annexation of the Property becoming effective, and subject to the conditions set forth in this Petition and to be set forth in the Annexation and Development Agreement, the Property shall become subject to all ordinances, resolutions, rules and regulations of the City of Commerce City, except as otherwise set forth in the Annexation and Development Agreement, and except for general property taxes of the City of Commerce City, which shall become effective on January 1 of the next succeeding year following adoption of the annexation ordinance.
25. Except for the terms and conditions of this Petition and of the Annexation and Development Agreement, which terms and conditions Petitioners expressly approve and therefore do not constitute an imposition of additional terms and conditions within the meaning of CRS 31-12-107(4), -110(2), -111 or -112(1), Petitioners request that no additional terms and conditions be imposed upon annexation of the Property to the City of Commerce City.

Petitioners hereby request that the City of Commerce City approve the annexation of the Property pursuant to the provisions of CRS 31-12-101 *et seq.*, as amended.

[Signature Pages Follow This Page]

Petitioner/Landowner:

Commerce Place, Inc., a Colorado corporation

By: 

Name: David W. Hammer

Title: President

Date of Signature: 1/22/15

Petitioner's Address: 12210 Highway 40, Kremmling, CO 80459

Is Petitioner a resident of the Property?: No.

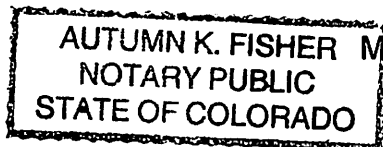
NOTARY CERTIFICATE

STATE OF COLORADO)
COUNTY OF Grand) ss.

The foregoing Petition for Annexation was subscribed and sworn to before me this 22nd day of January, 2015 by David W. Hammer as President of Commerce Place, Inc., a Colorado corporation.

WITNESS my hand and official seal. Notary Public: 

(SEAL)



My Commission Expires 03-21-2016

My Commission Expires: 03-21-2016

Petitioner/Landowner:

Kremmling Center, Inc., a Colorado corporation

By: _____

Name: David W. Hammer

Title: President

Date of Signature: _____

1/22/15

Petitioner's Address: 12210 Highway 40, Kremmling, CO 80459

Is Petitioner a resident of the Property?: No.

NOTARY CERTIFICATE

STATE OF COLORADO)

COUNTY OF Grand)

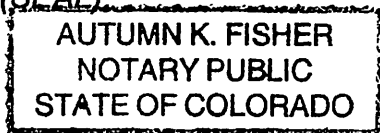
ss.

The foregoing Petition for Annexation was subscribed and sworn to before me this 22 day of January, 2015 by David W. Hammer as President of Kremmling Center, Inc., a Colorado corporation.

WITNESS my hand and official seal. Notary Public: _____

[Signature]

(SEAL)



My Commission Expires: _____

03-21-2016

My Commission Expires

03-21-2016

H4 Investments, LLLP, a Colorado limited liability limited partnership

Title: General Partner

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

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" AT THE NORTHWEST CORNER OF SECTION 15 AND A FOUND 3-1/4" ALUMINUM CAP IN A RANGE BOX STAMPED "COLO. DEPT. OF TRANSPORTATION PLS 23516" AT THE NORTH QUARTER CORNER OF SECTION 15, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE NORTHWEST CORNER OF SECTION 15, THENCE SOUTH 00°12'53" EAST, A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING AND TO THE CITY OF COMMERCE CITY BOUNDARY AND THE SOUTHERLY RIGHT-OF-WAY OF E. 104TH AVE.;

THENCE ALONG SAID BOUNDARY AND RIGHT-OF-WAY NORTH 89°37'13" EAST, A DISTANCE OF 1283.71 FEET TO THE WESTERLY RIGHT-OF-WAY OF THE UNION PACIFIC RAILROAD;

THENCE ALONG SAID BOUNDARY AND SAID RAILROAD RIGHT-OF-WAY SOUTH 30°44'33" WEST A DISTANCE OF 1643.10;

THENCE LEAVING SAID RAILROAD AND SAID CITY BOUNDARY SOUTH 84°53'12" WEST A DISTANCE OF 286.03 FEET;

THENCE NORTH 59°36'27" WEST A DISTANCE OF 178.37 TO THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 15;

THENCE ALONG SAID SECTION LINE NORTH 00°12'53" WEST A DISTANCE OF 499.26 FEET;

THENCE SOUTH 89°36'08" WEST, A DISTANCE OF 1929.50 FEET TO THE CITY OF COMMERCE CITY BOUNDARY AND THE EASTERLY RIGHT-OF-WAY OF BRIGHTON ROAD;

THENCE ALONG SAID CITY BOUNDARY AND SAID ROAD RIGHT-OF-WAY NORTH 23°20'29" EAST, A DISTANCE OF 917.28 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF EAST 104TH AVENUE;

THENCE ALONG SAID BOUNDARY AND SAID ROAD RIGHT-OF-WAY NORTH 89°36'04" EAST, A DISTANCE OF 1562.91 FEET TO THE POINT OF BEGINNING;

SAID ANNEXATION CONTAINING 2,677,467.70 SQ. FT. OR 61.47 ACRES, MORE OR LESS.

**EXHIBIT B
LEGAL DESCRIPTION OF THE PORTIONS OF THE PROPERTY OWNED BY EACH
PETITIONER**

Legal description of the property owned by H4 Investments, LLLP:

Parcel A (as labeled on the Annexation Map):

Lots 1 and 2,
Riggi Tract,
County of Adams,
State of Colorado.

[remainder of page intentionally blank]

Legal description of the property owned by Kremmling Center, Inc.:

Parcel C (as labeled on the Annexation Map):

Beginning at the Northwest corner of Section Fifteen, Township Two South, Range Sixty-Seven West of the 6th P.M., thence South 00°04' W, 30 feet along the West line of said Section 15 to the true point of beginning, thence continuing South 00°04' W along said West line of Section 15 a distance of 243.2 feet; thence North 37°03' East, 305.0 feet to a point 30.0 feet South of the North line of said Section 15; thence South 89°56' West 183.5 feet parallel to the North line of said Section 15 to the true point of beginning,

County of Adams, State of Colorado.

[remainder of page intentionally blank]

Legal description of the property owned by Commerce Place, Inc.:

Parcel B (as labeled on the Annexation Map):

That part of the Northeast quarter of Section 16, Township 2 South, Range 67 West of the 6th P.M., described as follows:

Beginning at the Northeast corner of said Section 16; thence S 00°08'00" W along the East line of said Northeast quarter, a distance of 30 feet to the true point of beginning; Thence continuing S 00°08'00" W along said East line a distance of 551.11 feet, more or less, to the Northwestern right of way line of U.S. Highway No. 85; Thence Southwesterly 113.26 feet along said right of way line being along the arc of a curve to the right having a radius of 2,765 feet and a long chord that bears S 44°52'29" W, 113.24 feet to a point on the North line of the South half of the North half of Northeast quarter of said Section 16; Thence N 89°56'00" W along said North line 1,759.03 feet to the Easterly right of way line of County Road No. 31; Thence N 23°47'00" E a distance of 687.73 feet to a point 30 feet South of the North line of said Northeast quarter; Thence N 90°00'00" E a distance of 1,562.88 feet to the true point of beginning, Except that part conveyed to South Adams County Water and Sanitation District by deed recorded May 19, 1999 in Book 5759 at Page 113,
County of Adams,
State of Colorado.

Parcel D (as labeled on the Annexation Map):

Lots 1 and 2,
Block 1,
Monson Tract No. 2,
County of Adams,
State of Colorado.

Parcel E (as labeled on the Annexation Map):

Block 2,
Monson Tract 2,
Together with an easement for roadway 60 foot wide reserved and created in Deed recorded December 21, 1962 in Book 1036 at Page 438,
County of Adams,
State of Colorado.

Parcel F (as labeled on the Annexation Map):

A parcel of land being located in the Northwest quarter of Section 15, Township 2 South, Range 67 West of the 6th P.M., County of Adams, State of Colorado, being more particularly described as follows:

Considering the North line of the Northwest quarter of said Section 15 to bear North 89°37'13" East, a distance of 2644.44 feet between the Northwest corner of Section 15, being found 3 ¼ aluminum cap Range Box "Colo. Dept. of Transportation Pls 23516" and the North quarter corner of Section 15, being a found 3 ¼ aluminum cap in Range Box "Colo. Dept. Transportation Pls 23516", with all bearings contained herein relative thereto.

Commencing at said North quarter corner; thence along the North line of said Section 15, South 89°37'13" West, a distance of 1342.70 feet; thence departing said North line, South 30°44'33" West, a distance of 35.04 feet to the Northeast corner of Block 1, Monson Tract No. 2 as described in the records of Adams County at File 12, Map 104, dated July 7, 1998; thence along the North line of said Block 1, South 89°37'13" West, a distance of 532.44 feet to the Northwest corner of said Block 1, a point on the Easterly line of the CDOT parcel described in Deed recorded in the records of Adams County, at Book 460,, Page 407, dated March 18, 1953; thence along said Westerly line of said Block 1, and the Easterly line of said Parcel, South 41°00'42" West, a distance of 275.87 feet to the Point of Beginning;

Thence along a Southerly line of said Block 1, South 48°59'18" East, a distance of 15.00 feet;

Thence along a Westerly line of said Block 1, South 41°00'42" West, a distance of 550.18 feet;

Thence departing said Westerly line, South 89°36'08" West, a distance of 20.00 feet, to a point on the Easterly line of said CDOT parcel;

Thence along said Easterly line, North 41°00'42" East, a distance of 563.40 feet to the Point of Beginning.

Parcel G (as labeled on the Annexation Map):

A parcel of land being located in the Northwest quarter of Section 15, Township 2 South, Range 67 West of the 6th P.M., County of Adams, State of Colorado, being more particularly described as follows:

Considering the North line of the Northwest quarter of said Section 15 to bear North 89°37'13" East, a distance of 2644.44 feet between the Northwest corner of Section 15, being found 3 ¼" aluminum cap in Range Box "Colo. Dept. of Transportation Pls 23516", and the North quarter corner of Section 15, being a found 3 ¼" aluminum cap in Range Box "Colo. Dept. of Transportation Pls 23516", with all bearings contained herein relative thereto.

Commencing at said North quarter corner; thence along the North line of said Section 15, South 89°37'13" West, a distance of 1342.70 feet; thence departing said North line, South 30°44'33" West, a distance of 35.04 feet to the Northeast corner of Block 1, Monson Tract No. 2, as described in the records of Adams County at File 12, Map 104, dated July 8, 1988; thence along the North line of said Block 1, South 89°37'13" West, a distance of 532.44 feet to the Northwest corner of said Block 1, also being a point on

the Easterly line of the CDOT parcel described in Deed recorded in the records of Adams County, at Book 460, Page 407, dated March 18, 1953; thence along said Westerly line of said Block 1, and the Easterly line said parcel, South 41°00'42" West, a distance of 275.87 feet; thence continuing along said Easterly line South 41°00'42" West, a distance of 843.40 feet to the Point of Beginning;

Thence departing said Easterly line and along the Northerly line of Block 2 of said Monson Tract No. 2 line extended, North 89°36'08" East, a distance of 20.00 feet to the Northwest corner of said Block 2;

Thence along a Westerly line of said Block 2, South 41°00'44" West, a distance of 51.02 feet;

Thence departing said Westerly line, North 00°13'11" West, a distance of 22.76 feet, to a point on the Easterly line of said CDOT parcel;

Thence along said Easterly line, North 41°00'42" East, a distance of 20.68 feet to the Point of Beginning.

EXHIBIT C
LEGAL DESCRIPTION OF THE PORTIONS OF THE PROPERTY OWNED BY
PUBLIC SERVICE COMPANY OF COLORADO

Parcel H (as labeled on the Annexation Map):

The South 210 feet of the North 870 feet of the NW1/4 of Section 15, Township 2 South, Range 67 West of the 6th P.M., lying South and East of a line described as follows: Beginning at a point on the North line of said Section 15, from which point the Northwest corner of said Section 15 bears S 89°56' W a distance of 804.9 feet; thence S 41°26' W a distance of 40.1 feet; thence S 89°56' W a distance of 26.7 feet; thence S 41°26' W a distance of 1137.8 feet to the West line of said Section 15; except the Right of Way of Union Pacific Railroad Company over and across said Section 15, the centerline intersecting the West line of said Section 15 at a point 2544.0 feet South of the Northwest corner of said Section; thence running Northeasterly on a tangent to an intersection with the North line of said Section at a point 1534.0 feet East of the Northwest corner of said Section 15; and rights-of-way of U.S. Highway 85;

County of Adams,

State of Colorado.

Parcel I (as labeled on the Annexation Map):

The North 210 feet of the S1/2N1/2NE1/4 of Section 16, Township 2 South, Range 67 West, 6th P.M. subject to existing right of way for U.S. Highway 6 and 85 and Brighton Road.

County of Adams,

State of Colorado.

EXHIBIT D
LEGAL DESCRIPTION OF THE PORTIONS OF THE PROPERTY OWNED BY
SOUTH ADAMS COUNTY WATER AND SANITATION DISTRICT

Parcel J (as labeled on the Annexation Map):

A TRACT OR PARCEL OF LAND BEING A PORTION OF A PARCEL OF LAND DESCRIBED IN BOOK 4582 AT PAGE 990 OF THE ADAMS COUNTY CLERK AND RECORDER'S OFFICE, SAID TRACT OR PARCEL OF LAND BEING SITUATED IN THE NE 1/4 OF SECTION 16, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER OF SAID SECTION 16; THENCE ALONG THE NORTH LINE OF THE NE 1/4 OF SAID SECTION 16 SOUTH 89 DEGREES 35 MINUTES 59 SECONDS WEST, A DISTANCE OF 1,549.77 FEET TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 31 (OLD BRIGHTON ROAD); THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE SOUTH 23 DEGREES 20 MINUTES 05 SECONDS WEST, A DISTANCE OF 229.40 FEET TO THE TRUE POINT OF BEGINNING;

1. THENCE DEPARTING SAID SOUTHEASTERLY RIGHT-OF-WAY LINE NORTH 89 DEGREES 35 MINUTES 59 SECONDS EAST, A DISTANCE OF 70.00 FEET;
2. THENCE SOUTH 00 DEGREES 24 MINUTES 01 SECONDS EAST, A DISTANCE OF 45.00 FEET;
3. THENCE SOUTH 89 DEGREES 35 MINUTES 59 SECONDS WEST, A DISTANCE OF 89.79 FEET TO A POINT ON SAID SOUTHEASTERLY RIGHT-OF-WAY LINE;
4. THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE NORTH 23 DEGREES 20 MINUTES 05 SECONDS EAST, A DISTANCE OF 49.16 FEET TO THE TRUE POINT OF BEGINNING,

COUNTY OF ADAMS,
STATE OF COLORADO.

EXHIBIT E
AFFIDAVIT OF CIRCULATOR

The undersigned, being of lawful age, who being first duly sworn upon oath deposes and states:

1. That the undersigned circulated the foregoing Petition for Annexation, consisting of 17 pages, including this Exhibit E.
2. That the signature of the Petitioners on the foregoing Petition for Annexation are the signatures of the persons whose name they purport to be.



David W. Hammer, Circulator

NOTARY CERTIFICATE

STATE OF COLORADO)
) ss.
COUNTY OF Grand)

The foregoing Affidavit of Circulator was subscribed and sworn to before me this 28th day of January, 2015, by David W. Hammer.

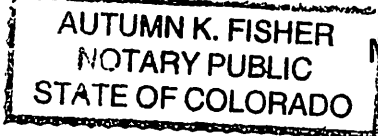
WITNESS my hand and official seal

Notary Public: 

Address:

100 W Park Freemont CO 80459
Street Number Street Name City State
Zip Code

(SEAL)



My Commission Expires: 03-21-2016

My Commission Expires 03-21-2016