

## EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (“Agreement”) is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2025, by and between the CITY OF COMMERCE CITY (hereinafter referred to as “City”) and GREYSTAR DEVELOPMENT CENTRAL, LLC, a Delaware limited liability company, and its successors and assigns (hereinafter referred to as “Greystar”).

### RECITALS

WHEREAS, Greystar requires an easement for constructing, accessing and maintaining stormwater improvements on City-owned property adjacent to O’Brian Canal, including installation of a stormwater outfall facility (hereinafter referred to as the “Project”);

WHEREAS, the City is the owner of certain real property adjacent to O’Brian Canal, which property encompasses the proposed easement area, which is legally described on **Exhibit A** attached hereto and is defined herein as the “Easement Area”; and

WHEREAS, Greystar shall be responsible for constructing the Project in the Easement Area, following which ownership of the Project shall transfer from Greystar to the City and this Agreement shall terminate.

### AGREEMENT

NOW, THEREFORE, for and in consideration of the promises and covenants contained herein, the sum of ten dollars (\$10.00), and other good and valuable consideration paid by Greystar to the City, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Easement. City does hereby grant and convey to Greystar an easement (the “Easement”) in, through, upon, over, under, and across the Easement Area for the construction, installation, operation, maintenance, repair, replacement, inspection and access to, including ingress and egress, on a regular and customary basis, the stormwater improvements described on **Exhibit B** hereto (the “Stormwater Improvements”), including the right to alter the topography of the Easement Area to the extent necessary to properly construct and maintain the Stormwater Improvements; provided, however, that the Stormwater Improvements shall be constructed in the manner and in the location shown on the engineering drawings prepared by J.R. Engineering, attached hereto as **Exhibit C** (the “Engineering Drawings”) and was approved by the City under permit number DIP24-00022. Greystar, together with its successors, assigns, licensees and its and their contractors, agents, employees and invitees, shall have the right to enter upon the Easement Area with machinery, trucks, materials, tools and other equipment which may be useful or required in the exercise of the Easement.

2. Term. The Easement shall begin on the date of complete execution of this Agreement and notwithstanding any provision contained herein, shall continue so that each and every benefit herein granted is a covenant running with title to the property from which the Easement Area is part of. Notwithstanding the foregoing, the Easement shall terminate once the

City issues a ‘Final Acceptance’ of the Stormwater Improvements, and ownership of the Stormwater Improvements is transferred to the City, or a third party designated by the City, at which point Greystar shall cease to have any rights or obligations under this Agreement.

3. Retained Rights. The City retains all rights to use, convey and enjoy the Easement Area, subject to the rights granted to Greystar herein. Except as otherwise authorized herein, Greystar shall not disturb or alter the Easement Area, except to the extent necessary to complete the Stormwater Improvements.

4. Indemnity. Greystar shall indemnify and hold the City harmless from and against any and all loss, cost, expense, liability and damages that result, or arise out of, or are in any way attributable to any negligence or reckless acts of Greystar, its agents, designees, contractors or any other persons authorized by Greystar to occupy the Easement Area in the use of the Easement.

5. Safety Measures. Greystar shall cause all contractors doing work on or about the Easement Area to take all necessary and appropriate safety measures with respect to all construction activities on or about the Easement Areas.

6. Mechanic’s Liens. Greystar shall pay or cause to be paid all costs for work done by or on behalf of Greystar or any of its designees, contractors, or assigns, occupying any portion of the Easement Area. And Greystar will keep the Easement Area free and clear of all mechanic’s liens and other liens on account of work done or performed on behalf of Greystar. Greystar hereby agrees to indemnify, defend and save the City harmless whatsoever including claims or liens of laborers or materials on or others for work performed for or materials or supplies furnished to Greystar or any persons claiming by, through, or under Greystar. Should any liens be filed or recorded against the Easement Area or any action affecting title thereto be commenced as a result of assigned work, Greystar shall cause such liens to be removed of record within ten (10) days thereof. If Greystar desires to contest any such claim of lien, Greystar shall furnish to the City adequate security of at least the amount of such claim, and obtain the release of such lien. If a final judgment establishing the validity or existence of any lien for any amount is entered, Greystar shall immediately pay and satisfy the claim.

7. Hazardous Substances. Greystar shall not use, store, or dispose of any hazardous substances on the Easement Area or adjacent property and Greystar shall prevent any of its agents, designees, contractors and any other person from using, storing or depositing any hazardous substances on the Easement Area or adjacent property. In the event that hazardous substances are deposited on the Easement Area or the adjacent property by Greystar or its assigns, Greystar shall be solely liable and responsible for the removal of such hazardous substances and shall immediately remove such substances from the Easement Area or the adjacent property, as the case may be, and restore the same to the conditions which existed prior to the introduction of such substances onto the property. For the purpose of this Agreement, the term “hazardous substances” shall have the meaning as set forth in any federal, or state law relating to hazardous substances or materials including OSHA, CERCLA, RECRA, and SARA.

8. Repair and Maintenance. Greystar shall repair and maintain the Stormwater Improvements installed in the Easement Area at its sole cost and expense, and shall keep the same

in good and operable condition at all times, until such time as the City issues a ‘Final Acceptance’ of the Stormwater Improvements and ownership of the Stormwater Improvements transfers to the City, or a third party designated by the City, at which point Greystar shall cease to have any obligations with respect to the Stormwater Improvements.

**9. Utilities.** In the event any party having an ownership interest in the Easement Area installs or authorizes installation of any improvement or any utility within such Easement Area, then such utilities and/or improvements shall be installed so as not to disturb, alter, injure, damage, or destroy the Stormwater Improvements. If the Stormwater Improvements are disturbed, altered, injured, damaged, or destroyed, it shall be the obligation of the responsible party to repair, replace, or rebuild the Stormwater Improvements to as good a condition as existed prior to the installation of the improvements to the property or the utility.

**10. Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their agents, successors, and assigns.

**11. Assignment.** The parties acknowledge and agree that Greystar may assign its rights and obligations under this Agreement to an affiliated special purpose entity of Greystar’s without the prior consent of the City. In the event Greystar assigns any rights or obligations of this Agreement, in whole or in part, including to a Greystar affiliated special purpose entity, Greystar shall provide notice of the assignment to the City, including a fully executed copy of the assignment, within 30 days of the execution of any assignment or assignment agreement. Notwithstanding the foregoing, none of Greystar’s obligations or responsibilities under this Agreement shall be assigned, transferred, or conveyed to a Residential Metropolitan District, either directly or indirectly, unless the specified Project improvements are expressly identified and included in an existing and previously approved metropolitan district service plan. For the purposes of this Agreement, a Residential Metropolitan District is defined as a metropolitan district formed pursuant to the Special District Act in which ten percent or more of the property in the Metro District area is developed or is expected to be developed for residential purposes.

**12. Notice.** Any notice or communication between City and Greystar which may be required, or which may be given, under the terms of this Agreement shall be made in writing and shall be deemed effective upon personal service of the other party or upon the date of mailing by certified mail, return receipt requested, addressed as follows (or other address the party to be notified may have designated by like notice to the sender):

**DEVELOPER:**

Adam Lea and Bo Chapman  
Greystar Development Central, LLC  
5445 DTC Parkway, Penthouse 1  
Greenwood Village, CO 80111

**With a copy to:**

Kirsten Crawford and Hanna Gustafsson  
Kaplan Kirsch LLP

1675 Broadway, Suite 2300  
Denver, CO 80202  
(303) 825-7000

**CITY:**

Director, Dept. of Public Works  
City of Commerce City  
8602 Rosemary Street  
Commerce City, CO 80022  
(303) 289-8156

**With copies to:**

Director, Dept. of Community Development  
City of Commerce City  
7887 E. 60<sup>th</sup> Avenue  
Commerce City, CO 80222

Director, Dept. of Parks, Recreation & Golf  
City of Commerce City  
6060 E. Parkway Drive  
Commerce City, CO 80022

City Attorney's Office  
City of Commerce City  
7887 E. 60th Avenue  
Commerce City, CO 80022

13. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

14. **Entire Agreement; Modifications.** This Agreement constitutes the entire agreement between the parties relating to the subject matter hereof and may not be modified or amended except by written instrument executed by the City and Greystar.

15. **Severability.** If any term, provision, covenant or agreement contained in this Agreement is determined to be illegal or unenforceable to any extent, then such provision shall be deemed severed from this Agreement and this Agreement shall then be enforced to the fullest extent permitted by applicable law.

IN WITNESS WHEREOF, and agreeing to be fully bound by the terms of this EASEMENT AGREEMENT, the parties have executed this EASEMENT AGREEMENT as of the date first written above.

**CITY OF COMMERCE CITY**

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Jason Rogers, City Manager

ATTEST:

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Dylan A. Gibson, City Clerk

Approved as to form:

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Genevieve "Jean" Gill Assistant City Attorney

Recommended for approval:

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James E. Tolbert, Assistant City Manager  
For: Department of Community Development

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City Engineer  
Department of Public Works

**GREYSTAR DEVELOPMENT CENTRAL,  
LLC**

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Signature [signature must be notarized]

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Printed Name & Title

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was signed before me this \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_\_, by \_\_\_\_\_ (Name of Authorized Signer), \_\_\_\_\_ (Title) of \_\_\_\_\_ (Developer).

WITNESS my hand and official seal.

My commission expires \_\_\_\_\_.

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Notary Public

**Exhibit A**

**Easement Area**

[See following page]



## EXHIBIT

J.R. ENGINEERING

### TEMPORARY CONSTRUCTION EASEMENT

#### PROPERTY DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF LOTS 1 AND 2, BLOCK 3, TRIANGLE POINT SUBDIVISION RECORDED UNDER RECEIPTION NO. B579458 IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER, LOCATED IN NORTHEAST QUARTER OF SECTION 11, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**BASIS OF BEARINGS:** THE EAST LINE OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE NORTH END BY A 2 " ALUMINUM CAP STAMPED "50' WC LS 38318" 50.00 FEET SOUTH OF LOCATION AND BEING MONUMENTED AT THE SOUTH END BY A 3.25" ALUMINUM CAP STAMPED "LS 37051", BEING ASSUMED TO BEAR N00°11'22"W.

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 11, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN;

THENCE ON THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 11, S89°43'33"W A DISTANCE OF 975.37 FEET, TO THE SOUTHEASTERLY CORNER OF LOT 1, BLOCK 3, TRIANGLE POINT SUBDIVISION RECORDED UNDER RECEIPTION NO. B579458 IN THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER AND THE POINT OF BEGINNING;

THENCE ON THE SOUTHERLY LINE OF SAID LOT 1, S89°43'33"W A DISTANCE OF 200.00 FEET;

THENCE DEPARTING SAID SOUTHERLY LINE, N00°16'27"W A DISTANCE OF 240.00 FEET;

THENCE N89°43'33"E A DISTANCE OF 440.00 FEET;

THENCE S00°16'27"E A DISTANCE OF 171.81 FEET, TO THE SOUTHERLY LINE OF LOT 2, BLOCK 3, TRIANGLE POINT SUBDIVISION AND A POINT OF NON-TANGENT CURVE;

THENCE ON SAID SOUTHERLY LINE, ON THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S10°05'01"E, HAVING A RADIUS OF 1183.45 FEET, A CENTRAL ANGLE OF 12°06'06" AND AN ARC LENGTH OF 249.96 FEET, TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 96,320 SQUARE FEET OR 2.2112 ACRES.

#### PROPERTY DESCRIPTION STATEMENT

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

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



# EXHIBIT

NE1/4 SEC 11,  
T2S, R67W, 6TH PM

LOT 2, BLOCK 3,  
TRIANGLE POINT  
SUBDIVISION  
REC. NO. B579458

N89°43'33"E 440.00'

CANAL AVENUE

15' R.O.W. & EASEMENT  
BOOK 81, PAGE 118, 119

N00°16'27"W 240.00'

LOT 1, BLOCK 3,  
TRIANGLE POINT  
SUBDIVISION  
REC. NO. B579458

25' O'BRIEN CANAL TRAIL  
(PUBLIC WAY)  
REC. NO. B579458

S89°43'33"W 200.00'

30' COUNTY ROAD  
BOOK 207, PAGE 123

O'BRIAN CANAL

15' R.O.W. & EASEMENT  
BOOK 81, PAGE 118, 119

POINT OF  
BEGINNING  
SE CORNER  
LOT 1

$\Delta=12^{\circ}06'06''$   
 $R=1183.45'$   
 $L=249.96'$

975.37'  
S89°43'33"W

S. LINE NE1/4 SEC. 11

LOT 4, BLOCK 1,  
ABERDEEN SUBDIVISION FILING NO. 1  
REC. NO. 20050322000288820

BASIS OF BEARINGS  
E: LINE OF SEC. 11,  
T2S, R67W, 6TH P.M.  
RECOVERED 2" ALUMINUM CAP  
STAMPED "50' WC LS 38318"  
N00°11'22"W 2644.63'

POINT OF COMMENCEMENT  
E1/4 COR SEC 11,  
T2S, R67W, 6TH P.M.  
RECOVERED 2" ALUMINUM CAP  
STAMPED "50' WC LS 38318"  
SOUTH OF CALCULATED POSITION



SE COR SEC. 11  
T2S, R67W, 6TH PM  
RECOVERED 3.25" ALUMINUM CAP  
STAMPED "LS 37051"

100 50 0 100

ORIGINAL SCALE: 1" = 100'

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

TEMPORARY CONSTRUCTION EASEMENT

ABERDEEN

PROJECT NO.: 16012.01

DATE: 11/14/2024

SHEET: 2 OF 2



**J.R. ENGINEERING**

A Westran Company

Centennial 303-740-8383 • Colorado Springs 719-533-2593  
Fort Collins 970-491-8888 • [www.jrengineering.com](http://www.jrengineering.com)

**Exhibit B**

**Stormwater Improvements**

A 72" storm sewer pipe is proposed to be constructed from the southern right-of-way (ROW) of Peoria Parkway to the south side of the O'Brian Canal to pipe the flows of Ragweed Draw across the Aberdeen Subdivision. The flows are then piped across the O'Brian Canal in an 8'x3' reinforced concrete box culvert (RCBC) before they outfall to the north on Commerce City's property (Parcel No. 0172111003002). The outfall includes the construction of a headwall, wingwalls, and riprap on City property.

**Exhibit C**

**Engineering Drawings**

[See following page]





























