

## NON-EXCLUSIVE HABITAT IMPROVEMENT EASEMENT AGREEMENT

THIS AGREEMENT, made effective as of \_\_\_\_\_, 2017, between the BOARD OF COUNTY COMMISSIONERS OF ADAMS COUNTY, a body politic organized under and existing by virtue of the State of Colorado, whose address is 4430 South Adams County Parkway, Brighton, Colorado 80601 (the "Country" or "Grantor"), and METRO WASTEWATER RECLAMATION DISTRICT, a public body politic and corporate, and a quasi-municipal corporation, and political subdivision of the State of Colorado (the "District" or "Grantee"), whose legal address is 6450 York Street, Denver, Colorado 80229.

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are acknowledged, Grantor hereby grants to the District, its successors, and assigns, the permanent and non-exclusive right to enter, re-enter, occupy, and use the property situate in the County of Adams, State of Colorado, and more fully described on Exhibit A attached hereto and incorporated herein by reference (the "Property"), to construct, install, inspect, monitor, maintain, repair, renew, substitute, replace, remove, and operate certain river habitat improvement structures and improvements, including without limitation tree and wetland plantings, boulder clusters, riffles, drop structures, pools, re-channeling, embankment fill and other protection works, and other reasonably necessary similar improvements and facilities, as determined by the District in, through, over, and across the Property.

THE PARTIES MUTUALLY COVENANT AND AGREE as follows:

1. The District shall have and may exercise the right of ingress and egress in, over, through, and across the Property for any purpose needful for the full enjoyment of any right of occupancy or use provided for herein. The District shall not unreasonably interfere with the Grantor's use and maintenance of its public trails and open space amenities. The District's activity shall comply with the terms of any permit(s) or approval(s) required for the District's installation, use, and maintenance of its facilities.
2. Grantor further grants to the District the right of ingress and egress from the Property over and across any adjacent lands of Grantor by means of roads and lanes thereon, if such there be; otherwise by such route or routes as shall occasion of the least practical damage and inconvenience to Grantor.
3. Grantor shall neither cause nor authorize the construction or placement of any new structure or building, street light, power pole, yard light, well, or reservoir on any part of the Property without prior written approval from the District, which approval shall not be unreasonably withheld, conditioned, or delayed. Improvements existing as of the date hereof which do not unreasonably interfere with the purposes of this easement as stated above, which are disturbed or destroyed by the District in the exercise of its rights hereunder, shall be replaced by the district to their original condition and location unless it interferes with District facilities. Should existing fencing interfere with District facilities, an alternate location for the fencing shall be agreed upon by both parties, and the existing fence shall be relocated to the mutually agreed upon location. Grantor shall not construct or install new fencing that would impair the ability of the District to exercise the rights herein granted. Grantor will, at Grantor's expense, move any vehicles, equipment, or other personal property stored



on the Property after the date of this Agreement, including new utility installations not conforming to Paragraph 7 hereof, may be removed by the District at Grantor's expense without liability to the District for damages.

4. The Grantor shall provide to the District all information within its possession or control about past and currently existing environmental contamination on the Property, if any. Such information, if any exists and is known to Grantor, shall include but not be limited to any environmental studies, reports, samples, agreements, liens, citations, notices, letters, as well as information related to any remediation work that has been done, is ongoing, or is planned to occur for the Property.
5. Any trails, utility facilities, or other improvements located on the Property and owned by Grantor that are damaged or disturbed by the District's activity shall be repaired, relocated, and/or replaced by the District as necessary.
6. Grantor retains the right to the undisturbed use and occupancy of the Property, insofar as such use and occupancy are subject to the restrictions of Paragraph 3, and are consistent with and do not impair any grant herein contained.
7. Grantor may authorize other public utilities, such as water, storm sewer, gas, electric, and telephone to be installed on the Property, as the same may then be free from the rights so abandoned or released, and shall own all material and structures of the District so abandoned or released, but nothing herein shall be construed as working a forfeiture or abandonment of any interest derived hereunder and not owned by the District at the time of the abandonment or release of the District's rights. In the absence of such express written abandonment as provided for herein, abandonment or cessation of the use of its facilities located on or under the Property by the District shall not constitute an abandonment of its rights under this Agreement.
8. If the District, by written instrument, abandons or releases its rights herein granted and the Grantor shall hold the Property, as the same may then be, free from the rights so abandoned or released and shall own all material and structures of the District so abandoned or released, but nothing herein shall be construed as working a forfeiture or abandonment of any interest derived hereunder and not owned by the District at the time of the abandonment or release of the District's rights. In the absence of such express written abandonment as provided for herein, abandonment or cessation of the use of its facilities located on or under the Property by the District shall not constitute an abandonment of its rights under this Agreement.
9. Grantor warrants that it has full right and lawful authority to make the grant herein contained and, subject to existing rights, easements, and other conditions affecting the Property, promises and agrees to defend the District in the exercise of its rights hereunder against any defect in Grantor's title to the Property, and against any defect in Grantor's right to make said grant.
10. The benefits and burdens of this Agreement shall run with the Property, and inure to and be binding upon, the respective legal representatives, heirs, executors, administrators, successors, and assigns of the parties hereto.

11. Not less than fourteen (14) days prior to its initial entry onto the Property for the purpose of constructing or replacing its facilities within the Property, the District will provide a copy of its construction plans to Grantor for review of possible impacts to the Property. Prior to any such entry or activity by the District, and at all times during such construction, repair, or replacement work, the District shall require any contractor engaged by it to perform such work to obtain, maintain, and provide written Certificate(s) of Insurance of and for a policy or policies of commercial general liability insurance for the Property and the District's activities hereunder, designating the County as an additional insured. Further, to the extent of its lawful authority and to the extent caused by a negligent act or omission of the District, the District agrees to defend and hold Grantor harmless against any and all claims arising out of the exercise by the District of its rights hereunder, but not for claims based upon alleged negligent or wrongful acts or omissions of Grantor. The district does not by this provision intend to waive or release any of the limitations or protections available to it under the provisions of the Colorado Governmental Immunity Act, §§24-10-101 *et seq.*, or any other limitation, protection or defense otherwise available to it under Colorado law.
12. Should any one or more provisions of this Agreement be judicially determined invalid or unenforceable, such judgment shall not affect, impair, or invalidate the remaining provisions of this Agreement, the intent being that the various sections and provisions hereof are severable.
13. This Agreement, together with any permit(s) or approval(s) required for the District's installation, use, and maintenance of its facilities, shall govern the District's access, construction, maintenance, and use of the Property, and there are no additional or different oral representations, promises, or agreements affecting the subject matter of this instrument.



IN WITNESS WHEREOF the parties have executed this instrument as of the day and year first above written.

GRANTOR:

BOARD OF COUNTY COMMISSIONERS,  
OF THE COUNTY OF ADAMS, STATE OF  
COLORADO

\_\_\_\_\_  
Chair

APPROVED AS TO FORM:

\_\_\_\_\_  
Adams County Attorney's Office

ATTEST:  
STAN MARTIN  
CLERK AND RECORDER

\_\_\_\_\_  
Deputy Clerk

ACCEPTED:

METRO WASTEWATER RECLAMATION  
DISTRICT

By:

Catherine R. Gerali  
Catherine R. Gerali, District Manager  
Apr: 1 25, 2017

APPROVED AS TO FORM:

By:

Micki Conry  
District General Counsel



LOCATED IN SECTION 19, TOWNSHIP 2 SOUTH,  
RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
COUNTY OF ADAMS, STATE OF COLORADO

AN EASEMENT FOR HABITAT IMPROVEMENT PURPOSES OVER AND ACROSS A PORTION OF A  
PARCEL OF LAND LOCATED IN SECTION 19, TOWNSHIP 2 SOUTH, RANGE 67 WEST OF THE  
6TH PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE SOUTHEAST QUARTER TO BEAR NORTH 00°32'40" EAST,  
A DISTANCE OF 2573.67 FEET BETWEEN THE SOUTH QUARTER CORNER OF SAID SECTION 19,  
BEING A FOUND ALUMINUM POST WITH 3 1/4" ALUMINUM CAP IN RANGE BOX "T2S R67W  
6PM SEC 19 1/4 SEC 30 2010 PLS 34977 AND THE CENTER QUARTER CORNER  
SECTION 19, BEING A FOUND #6 REBAR WITH A 2 1/2" ALUMINUM CAP "GREENHORNE &  
OMARA INC S19 T2S R67W C 1/4 1994 PLS 28656", WITH ALL BEARINGS CONTAINED HEREIN  
RELATIVE THERETO.

COMMENCING AT SAID CENTER QUARTER CORNER; THENCE N85°57'07"E, A DISTANCE OF  
642.66 FEET TO A POINT ON THE SOUTHEAST LINE OF A PARCEL AS DESCRIBED IN THE  
RECORDS OF ADAMS COUNTY, RECORDED ON AUGUST 27, 1962 AT RECEPTION NO. 72447  
AND THE POINT OF BEGINNING;

THENCE ALONG SAID SOUTHEAST LINE, NORTH 40°45'03" EAST, A DISTANCE OF 40.96 FEET  
TO A POINT ON THE EAST LINE OF LOT 5 OF COOLEY GRAVEL PIT AS DESCRIBED IN THE  
RECORDS OF ADAMS COUNTY, RECORDED ON JUNE 18, 1974, AT FILE 14 PAGE 138 AND THE  
WESTERLY LINE CITY OF THORNTON PROPERTY AS DESCRIBED IN THE RECORDS OF ADAMS  
COUNTY, RECORDED ON DECEMBER 12, 2000 AT BOOK 6360 PAGES 422-428;  
THENCE ALONG SAID EAST AND WEST LINES SOUTH 11°37'52" WEST, A DISTANCE OF 56.21  
FEET TO THE NORTHEAST CORNER OF PARCEL E AS DESCRIBED IN THE RECORDS OF ADAMS  
COUNTY, RECORDED ON DECEMBER 31, 2003 AT RECEPTION NO. C1259596;  
THENCE ALONG SAID EAST LINE, SOUTH 21°02'18" EAST, A DISTANCE OF 686.91 FEET TO THE  
NORTHEAST CORNER OF LOT 3 OF SAID SUBDIVISION;  
THENCE ALONG SAID EAST LINE OF SAID LOT 3, SOUTH 16°06'42" EAST, A DISTANCE OF  
66.98 FEET;  
THENCE SOUTH 01°11'21" EAST, A DISTANCE OF 240.61 FEET;  
THENCE SOUTH 13°26'02" EAST, A DISTANCE OF 183.44 FEET;  
THENCE SOUTH 06°58'04" WEST, A DISTANCE OF 166.21 FEET TO THE SOUTHEAST CORNER  
OF SAID LOT 3;  
THENCE ALONG THE SOUTH LINE OF SAID LOT 3, SOUTH 88°51'40" WEST, A DISTANCE OF  
161.09 FEET TO THE NORTHEAST CORNER OF PARCEL D OF SAID RECEPTION NO. C1259596;  
THENCE ALONG THE EAST LINE OF SAID PARCEL D, SOUTH 30°39'10" WEST, A DISTANCE OF  
80.23 FEET;  
THENCE SOUTH 42°54'40" WEST, A DISTANCE OF 81.27 FEET;  
THENCE SOUTH 29°01'20" WEST, A DISTANCE OF 91.00 FEET TO A POINT ON THE EAST LINE  
OF LOT 1 OF SAID COOLEY GRAVEL PIT;



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.

Dwg. T. COLVIN

Ckd. JZG/BOL/NBV

App. \_\_\_\_\_



METRO WASTEWATER  
RECLAMATION DISTRICT

EXHIBIT A

PARCEL SPRS-023

SOUTH PLATTE RIVER SYSTEM

DATE:  
APRIL 4, 2017

DWG. NO.  
15-67,368 (4)

SH 1 OF 3



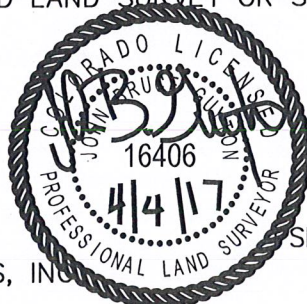
LOCATED IN SECTION 19, TOWNSHIP 2 SOUTH,  
RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
COUNTY OF ADAMS, STATE OF COLORADO

THENCE ALONG SAID EAST LINE, SOUTH 00°20'45" WEST, A DISTANCE OF 442.34 FEET;  
THENCE LEAVING THE WESTERLY LINE OF SAID THORNTON PROPERTY AND ALONG THE EAST  
LINE OF LOT 2 OF COOLEY GRAVEL PIT 4TH FILING AS DESCRIBED IN THE RECORDS OF  
ADAMS COUNTY, RECORDED ON OCTOBER 31, 1986 AT MAP FILE 16 PAGE 483, SOUTH  
00°20'45" WEST, A DISTANCE OF 55.15 FEET;  
THENCE LEAVING SAID EAST LINE AND ACROSS SAID LOT 2, SOUTH 44°11'41" WEST, A  
DISTANCE OF 239.64 FEET;  
THENCE SOUTH 51°38'32" WEST, A DISTANCE OF 87.22 FEET;  
THENCE SOUTH 57°21'40" WEST, A DISTANCE OF 74.97 FEET;  
THENCE SOUTH 59°01'02" WEST, A DISTANCE OF 35.03 FEET;  
THENCE SOUTH 66°01'07" WEST, A DISTANCE OF 31.11 FEET;  
THENCE SOUTH 77°33'56" WEST, A DISTANCE OF 28.95 FEET;  
THENCE SOUTH 83°14'05" WEST, A DISTANCE OF 45.34 FEET;  
THENCE SOUTH 88°21'55" WEST, A DISTANCE OF 113.11 FEET;  
THENCE SOUTH 89°46'57" WEST, A DISTANCE OF 138.22 FEET;  
THENCE CONTINUING ACROSS SAID LOT 2 AND PARCEL B AS DESCRIBED IN THE RECORDS OF  
ADAMS COUNTY, RECORDED ON DECEMBER 31, 2003 AT RECEPTION NO. C1259596, NORTH  
77°06'35" WEST, A DISTANCE OF 148.58 FEET;  
THENCE ACROSS SAID PARCEL B AND LOT 1 OF SAID COOLEY GRAVEL PIT, NORTH 19°30'03"  
EAST, A DISTANCE OF 604.72 FEET;  
THENCE CONTINUING ACROSS SAID LOT 1 AND LOT 2 OF SAID COOLEY GRAVEL PIT, NORTH  
33°37'41" EAST, A DISTANCE OF 832.80 FEET;  
THENCE CONTINUING ACROSS SAID LOT 2 AND LOTS 4 AND 5 OF SAID COOLEY GRAVEL PIT,  
NORTH 08°45'02" EAST, A DISTANCE OF 1050.24 FEET TO A POINT ON THE SOUTHEAST LINE  
OF SAID PUBLIC SERVICE EASEMENT AND THE POINT OF BEGINNING;

SAID PARCEL CONTAINING 1,040,138 SQ.FT. OR 23.88 ACRES, MORE OR LESS.


I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY  
STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS EASEMENT DESCRIPTION AND  
ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY  
RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO  
REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE  
STATUTE.

JOHN B. GUYTON  
COLORADO P.L.S. #16406  
CHAIRMAN/CEO, FLATIRONS, INC.

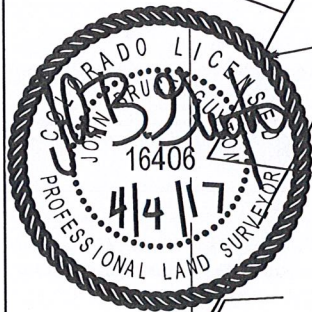


SI JOB NO. 15-67,368

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INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Dwg. <u>T. COLVIN</u>	 METRO WASTEWATER RECLAMATION DISTRICT	EXHIBIT A PARCEL SPRS-023 SOUTH PLATTE RIVER SYSTEM	DATE: APRIL 4, 2017
Ckd. <u>JZG/BOL/NBV</u>			DWG. NO. 15-67,368 (4)
App. _____			SH 2 OF 3



[illegible]

WEST 1/16 QUARTER CORNER  
SEC 19  
FOUND 2" PIPE  
W/ 3 1/4" ALUMINUM CAP  
"CHARLES H RUSSELL T2S W 1/16  
19/30 R67W 1993 LS23519"  
(PER MON REC 12/6/1993)

Dwg. T. COLVIN  
Ckd. JZG/BOL/NBV  
App. \_\_\_\_\_



METRO WASTEWATER  
RECLAMATION DISTRICT

DATE:	APRIL 4, 2017
DWG. NO.	15-67,368 (4)
SH	3 OF 3