

## **EASEMENT AGREEMENT**

**THIS EASEMENT AGREEMENT** is made and entered into as of the \_\_\_\_ day of August, 2020, by and between **Adams County, Colorado**, a body corporate and politic and a political subdivision of the State of Colorado, hereinafter called "Grantor," (whether grammatically singular or plural) and the **74<sup>th</sup> Avenue Clayton Street Denver Investments, LLC**, hereinafter called "Grantee."

By way of example and not by way of limitation, the parties intend to include within the terms "pipelines" and "appurtenances" the following: pipes and conduits, manholes, ventilators, and the like, in, through, over and across the parcel of land situate, lying and being in the County of Adams and State of Colorado, to-wit:

**The real property described in Exhibit A attached hereto and incorporated herein by this reference (the "Easement Area").**

**IT IS HEREBY MUTUALLY** covenanted and agreed by and between the parties hereto as follows:

1. Grantor hereby grants to Grantee and its representatives, agents contractors, and licensees, an easement on, under, over, across and through the Easement Area, and the Grantee shall have and exercise the right of ingress and egress in, to, over, through and across the Easement Area, and for the installation, maintenance, operation, replacement and repair of storm sewer pipelines and appurtenances in the Easement Area, and related purposes. The Easement Area shall be free of obstacles throughout the length of the Easement.

2. The Grantor shall not construct or place any structure or building, fence, retaining wall, street light, power pole, yard light, mail box, sign, trash receptacle, temporary or permanent, or plant any shrub, tree, woody plant or nursery stock, on any part of the Easement Area, except as specified in writing by the Grantee, and except for the South Platte River Trail, which is specifically allowed by this Easement. Any structure or building, fence, retaining wall, street light, power pole, yard light, mail box, sign, trash receptacle, temporary or permanent, or shrub, tree, woody plant or nursery stock, of any kind situated on the Easement Area, except as specified in writing by the Grantee, may be removed by the Grantee without liability for damages arising therefrom.

3. In the event Grantor, in its sole discretion, directs Grantee to relocate Grantee's infrastructure within the easement area, the Grantee shall relocate the storm sewer pipeline and appurtenances within the easement area at the Grantee's sole cost and expense. The Grantor shall provide the Grantee written notice of its need to relocate the storm sewer pipeline and appurtenances at least 180 Calendar days prior to disturbance. The County will provide the Grantee information regarding the Grantor's project. If the Grantor decides to require the Grantee to relocate the Improvements, the Grantor will specify a date by which the storm sewer pipeline and appurtenances shall be relocated. It shall be the Grantee's responsibility to reinstall the storm sewer pipeline and appurtenances according to current development standards and regulations and approved by Adams County.

4. The storm sewer pipelines and all appurtenances shall be installed in accordance with the Grantee's current design standards. Grantee shall be solely responsible for obtaining, at its sole expense, any applicable governmental approvals.

5. The Grantee shall have and exercise the right of subjacent and lateral support to whatever extent is necessary or desirable for the full, complete and unmolested enjoyment of the rights hereinabove described. It is specifically agreed between the parties that the Grantor shall take no action that would impair the earth cover over, or the lateral or subjacent support for any storm sewer pipeline or lines and appurtenances within the Easement Area.

6. Grantor retains the right to use the Easement Area for ingress and egress, including vehicular traffic, insofar as such use and occupancy is consistent with and does not impair any grant herein contained.

7. The Grantee agrees that other public utilities such as water, sanitary sewer, storm sewer, gas, and electric lines, may be installed in the Easement Area as long as they do not interfere with the Grantee's easement and as long as piping crossing the storm sewer line at the discretion of the Grantee is metallic or concrete and is encased in an acceptable material. Any piping or cable crossing the line must be installed in accordance with Grantee's Standards. Grantor shall reserve for the non-exclusive use of the Grantee's storm sewer lines at least 30 feet of the Easement Area width.

8. The Grantee acknowledges that the Grantor has the right to maintain and operate the South Platte River Trail over the Easement Area. The Grantee shall keep the trail open and safe whenever the Grantee accesses the easement for the purposes of this Agreement.

9. When the Grantee deems it necessary to reconstruct, repair, relocate, remove, replace, enlarge, operate or in any way maintain its storm sewer pipelines, and appurtenances thereto, the Grantee will be solely responsible to, at Grantee's expense, backfill, compact and resurface the area of excavation, to include replacement of gravel, asphalt and/or concrete pavement, curbs and gutters, damaged by the Grantee's activity, to the grade and condition existing immediately prior to excavation, as nearly as reasonable. The Grantee will exercise all reasonable means to prevent damage to the surface, including gravel, pavement, curbs and gutters that are situated within the Easement Area but outside the immediate area of excavation. In the event said improvements are damaged due solely to Grantee negligence, the Grantee will repair and/or replace said improvements at its expense. Grantor shall maintain insurance consistent with the Colorado Governmental Immunity Act. Grantee shall maintain insurance, and shall, to the extent allowed by law, indemnify Grantor for any damages caused by the negligent act or omission of Grantee, its employees, and contractors while on Grantor's property or related to Grantee's facilities/infrastructure located on Grantor's property.

10. The Grantee is acquiring the rights in the subject property in order to ensure to the Grantee an easement for the exercise of the Grantee's functions, and that the exercise of any rights in the subject property other than those retained by the Grantor shall be within the discretion of the Grantee. The Grantee agrees to permit and authorize such other uses of the subject property, not reserved in the Grantor, as will not impair the Grantee's rights, upon such terms, limitations,

and conditions as the Grantee shall find reasonably necessary to protect its easement without undue or unnecessary injury to or impairment of the estate retained by the Grantor.

11. The Grantee agrees that at such time and in the event that the line and/or Easement are abandoned by the Grantee or any permitted assignee by written notice to Grantor, such Easement shall terminate and the real property interest represented by such Easement shall revert to the Grantor, its successors and/or assigns, and Grantee shall cooperate with Grantor to execute any necessary recordable documentation to clear title to the easement property.

12. Each and every one of the benefits and burdens of this Agreement shall run with the land and shall inure to the benefit of and be binding upon the respective successors and assigns of the parties.

13. Unless special provisions are listed below or attached, the above constitutes the whole agreement between the parties and no additional or different oral representation, promise, or agreement shall be binding on any of the parties with respect to the subject matter of this instrument. To the extent that any special provisions are in conflict with any other provisions, the special provisions shall control and supersede any other term or provisions.

SPECIAL PROVISIONS: NONE.

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

THE BOARD OF COUNTY COMMISSIONERS  
OF AND FOR THE COUNTY OF ADAMS,  
STATE OF COLORADO, a body corporate and  
politic and a political subdivision of the State of  
Colorado

By: \_\_\_\_\_  
Chair

ATTEST:

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

APPROVED AS TO FORM

\_\_\_\_\_  
County Attorney

74<sup>TH</sup> AVENUE CLAYTON STREET  
DENVER INVESTMENTS, LLC manager of 74th  
Avenue Clayton Street Denver, LLC

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

Printed Name: Jason K. Bria

Title: Authorized Signatory

STATE OF NORTH CAROLINA )  
 ) ss.  
COUNTY OF MECKLENBURG )

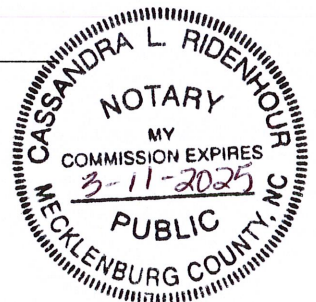
The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of August, 2020,  
by Jason K. Bria, as Authorized Signatory of 74<sup>th</sup> Avenue Clayton Street Denver Investments,  
LLC.

Witness my hand and official seal:

Cassandra L. Ridenhour  
Notary Public

My commission expires:

March 11, 2025



**EXHIBIT A**  
**EASEMENT AREA**  
**(see attached)**

# EXHIBIT A

## LEGAL DESCRIPTION:

A PARCEL OF LAND THIRTY (30) FEET IN WIDTH BEING A PART OF THAT PROPERTY CONVEYED TO ADAMS COUNTY, COLORADO IN THE DEED RECORDED IN BOOK 255 AT PAGE 67 OF THE RECORDS OF THE ADAMS COUNTY CLERK AND RECORDER, LOCATED IN THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 SOUTH, RANGE 68 WEST OF THE 6<sup>TH</sup> PRINCIPAL MERIDIAN, COUNTY OF ADAMS, STATE OF COLORADO, SAID PARCEL LYING FIFTEEN (15) FEET ON BOTH SIDES OF THE FOLLOWING DESCRIBED CENTERLINE, AND SHORTENING OR EXTENDING THE SIDELINES OF SAID PARCEL TO END AT THE BOUNDARY LINES AS SET FORTH BELOW:

**COMMENCING** AT THE CENTER OF SAID SECTION 36, AND CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 36 TO BEAR SOUTH 00°10'23" EAST WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO;

THENCE SOUTH 24°45'45" EAST A DISTANCE OF 786.30 FEET TO THE APPROXIMATE WESTERLY BOUNDARY OF SAID BOOK 255 AT PAGE 67, ALSO BEING THE APPROXIMATE EASTERLY BOUNDARY OF THAT PROPERTY CONVEYED TO PUBLIC SERVICE COMPANY OF COLORADO IN THE DEED RECORDED IN BOOK 1053 AT PAGE 93, AND THE **POINT OF BEGINNING**;

THENCE NORTH 65°59'47" EAST A DISTANCE OF 98.20 FEET TO THE **POINT OF TERMINUS**, FROM WHICH POINT SAID CENTER OF SECTION 36 BEARS NORTH 31°52'09" WEST A DISTANCE OF 793.70 FEET.

SAID PARCEL CONTAINS AN AREA OF 2,946 SQUARE FEET, OR 0.07 ACRES, MORE OR LESS.

THE LINEAL DISTANCE UNIT USED IN THE PREPARATION OF THIS LEGAL DESCRIPTION IS THE UNITED STATES SURVEY FOOT. THE UNITED STATES DEPARTMENT OF COMMERCE, NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY DEFINES THE UNITED STATES SURVEY FOOT AS 1200/3937 METERS.

I, THOMAS D. STAAB, A SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND CHECKING, IS BASED ON MY KNOWLEDGE, INFORMATION AND BELIEF, IS IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE, AND DOES NOT REPRESENT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED.

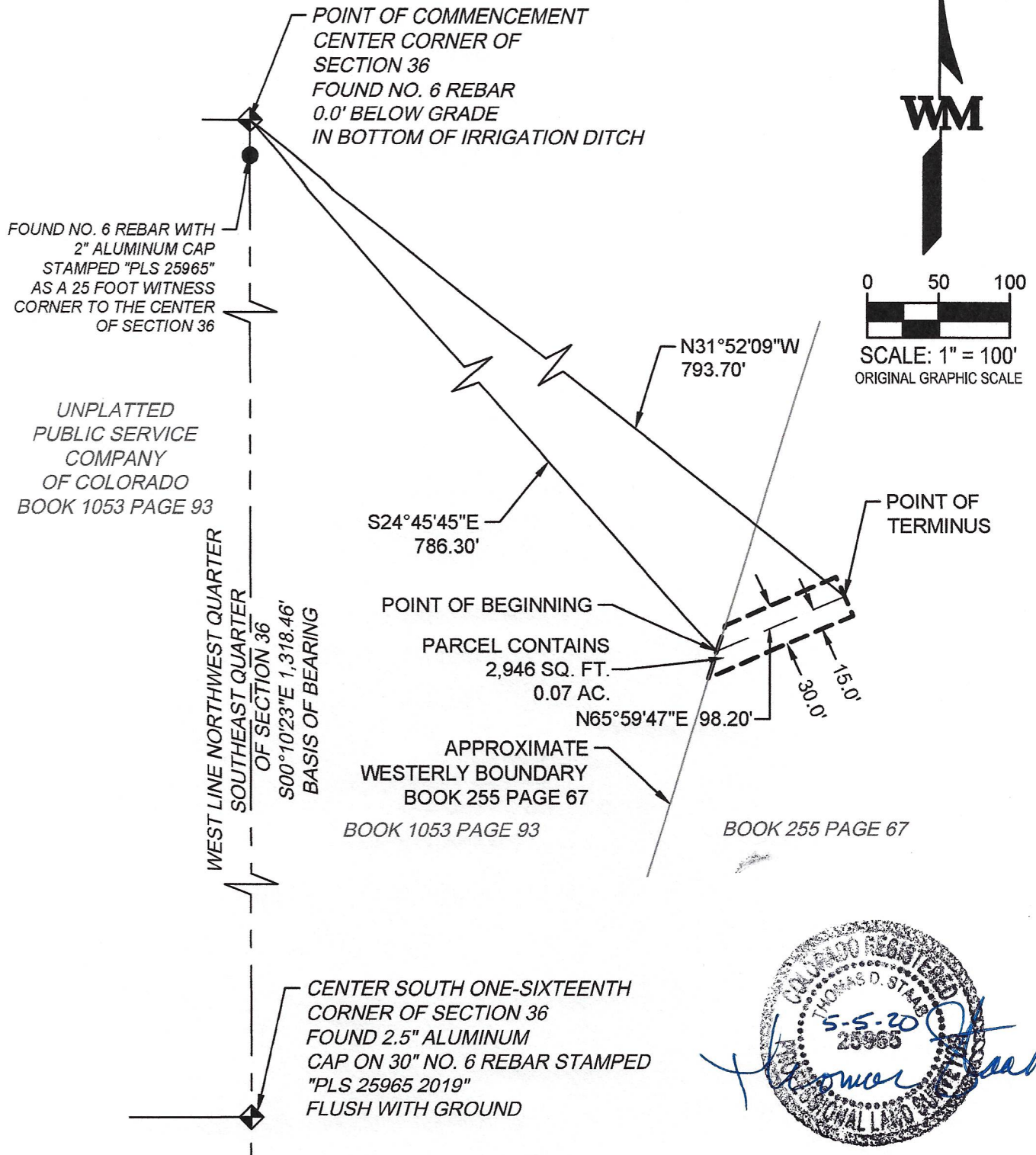
THOMAS D. STAAB, P.L.S. 25965  
FOR AND ON BEHALF OF  
WARE MALCOMB  
990 SOUTH BROADWAY  
SUITE 230  
DENVER, COLORADO 80209  
P 303.561.3333



<div>990 south broadway suite 230 denver, co 80209 p 303.561.3333 waremalcomb.com</div> <div><b>WM</b> WARE MALCOMB</div> <div>CIVIL ENGINEERING &amp; SURVEYING</div>	PROJECT NAME: FLATIRON			1 OF 2
	JOB NO.: DEN19-0010		DATE : 05/05/2020	
	DRAWN: KMF	PA/PM: JCS	SCALE: N/A	



# EXHIBIT A



## NOTE:

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



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suite 230  
denver, co 80209  
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waremalcomb.com



CIVIL ENGINEERING & SURVEYING

PROJECT NAME: FLATIRON

JOB NO.: DEN19-0010

DATE : 05/05/2020

DRAWN: KMF

PA/PM: JCS

SCALE: 1" = 100'

2 OF 2