

Right-of-Way Agreement

This Agreement is made and entered into by and between **Hillen Holdings, LLC** whose address is **2303 Fossil Trace Drive, Golden, CO 80401** ("Owner"), and the County of Adams, State of Colorado, a body politic, whose address is 4430 South Adams County Parkway, Brighton, Colorado, 80601 ("County") for the conveyance by Owner of a temporary construction easement ("Temporary Construction Easement") over and across certain property located 7500, 7550, and 7600 Dahlia Street, Commerce City, Colorado 80022 hereinafter (the "Property") and for compensation to Owner to replace the landscaping and existing sign on the Property that will be disturbed ("Disturbed Landscaping") as part of and for the County's Dahlia Street Roadway and Drainage Improvements, East 74th Avenue to East 78th Avenue (the "Project"). The legal description and conveyance documents for the Construction Easement are set forth in Exhibit A, and the construction designs and plans showing the Project and restoration of the Property are attached hereto as Exhibit B, with both exhibits being fully integrated and incorporated herein by this reference.

The County hereby agrees to compensate Owner in the total amount of **TWO HUNDRED EIGHTY-EIGHT THOUSAND EIGHT HUNDRED SIXTEEN DOLLARS (\$288,816.00)** which consists of \$13,810.00 for conveyance of the Temporary Construction Easement and \$273,136.00 in compensation to replace the Disturbed Landscaping and \$1,870.00 for removal of the existing sign. This consideration has been agreed upon and between the parties as the total just compensation due to the Owner and the consideration shall be given and accepted in full satisfaction of this Agreement.

In consideration of the above premises and the promises and covenants below, the Owner and the County agree to the following:

1. The Owner hereby warrants that the Owner is the sole Owner of the Property, that the Owner owns the Property in fee simple subject only to matters of record and that the Owner has the power to enter into this Agreement.

2. The County hereby warrants that it has full authority to enter into this Agreement, and it has full authority to fulfill and enforce all representations and warranties provided herein.
3. The Owner agrees to execute and deliver to the County the attached conveyance documents as soon as possible following the execution of this Agreement and the County agrees to tender payment by check or wired funds for the compensation agreed upon during the month of February, 2021.
4. The Owner hereby irrevocably grants to the County the Temporary Construction Easement on the Property, as described in Exhibit A, and according to the terms and conditions herein, upon execution of this Agreement by the Owner and the County.
5. The County intends to construct the project pursuant to the attached Hillen Plan Sheets. The Parties acknowledge that the Hillen Plan Sheets are subject to modification and the actual construction of the Project might vary from the plan sheets. If the County determines that significant changes or deviations are necessary within the Owner's property, the County will address the impacts of such significant changes or deviations with the Owner and may provide compensation when appropriate. The County represents that the construction of the Project may last up to twelve months. As set forth in Exhibit B, the County may extend the duration of the Temporary Construction Easement in exchange for additional compensation to Owner in the amount of \$1,150.00 for each month that the Project continues beyond twelve months. During construction of the Project, the County or its contractor will provide Hillen with a monthly update of the progress of construction that will include a copy of the current construction schedule.
6. The County through its contractor shall assure that reasonable access shall be maintained to the Owner's property for ingress and egress, at all times during the Project and during the term of the Temporary Construction Easement. If necessary, any full closure of access shall be coordinated between the contractor and

the Owner and/or its agent.

7. The County agrees to replace the existing fencing around the Property with a temporary fence that will ensure the security of Owner's Property at all times during the County's Project and the duration of the Temporary Construction Easement. The County also agrees that all electrical outlets located within or adjacent to the Temporary Construction Easement shall be protected in place during the Project and the duration of the Temporary Construction Easement.
8. The County will remove all existing landscaping located on the parts of Owner's Lots 1, 2, 3, 4, and 5 that are subject to the Temporary Construction Easement, which consists of approximately 23,003 square feet of irrigated landscaping ("Removed Landscaping"). Owner agrees to remove from the Temporary Construction Easement, at his sole cost, all existing decorations, equipment, and other material that he wishes to salvage. Any and all privately owned improvements such as fences, and mailboxes will be replaced by the County.
9. The County's construction plans indicate an existing freestanding sign that is located on the property within the affected area of the temporary construction easement. The County will not reset or reconstruct the sign. But the County has agreed to reimburse the owner the expense to reset or reconstruct the improvements as made part of this agreement. The County has agreed to pay \$1,870 for the relocation and permitting costs. Owner must comply with the County's normal approval process before re-installing the sign.
10. In order to compensate Owner for the costs to replace the Removed Landscaping with new landscaping that will meet the County's landscaping requirements for Lots 1, 2, 3, 4, and 5, the County has agreed to pay to owner the amount of: \$273,136.00. It will be the Owner's responsibility to use these funds to restore the Removed Landscaping.
11. The Owner has entered into this Agreement acknowledging that the County has the power of eminent domain and required the Property for a public purpose.

12. If the Owner fails to convey the Temporary Construction Easement set forth in this Agreement for any reason, except the County's nonpayment of compensation due under this Agreement, the County may at its option, bring an action against the Owner for specific performance regarding conveyance of the Temporary Construction Easement.
13. This Agreement and the documents incorporated herein contains all agreements, understandings and promises between the Owner and the County, relating to the Project and shall be deemed a contract binding upon the Owner and County and extending to the successors, heirs and assigns.
14. The Owner shall be responsible for reporting proceeds of the sale to taxing authorities, including the submittal of Form 1099-S with the Internal Revenue Service, if applicable.
15. Owner or his contractor may restore and replace the Removed Landscaping to a condition conforming to Conditional Use Permit requirements without obtaining a permit or any other approval from the County.
16. This Agreement has been entered into in the State of Colorado and shall be governed according to the laws thereof.

Owner:

By: 

William D. Hillen for Hillen Holdings, LLC

Date:

Approved:

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

Chair

Date

Approved as to Form:

County Attorney