

DRAINAGE EASEMENT AGREEMENT

THIS DRAINAGE EASEMENT AGREEMENT (the "Easement Agreement") is made this 2nd day of JANUARY, 2024, by and between Plaza Street Fund 106, LLC, a Kansas limited liability company, having an address of 2400 W 75th Street, Suite 220, Prairie Village, KS 66208 ("Grantor"), and the TOWN OF PARKER, a Colorado home rule municipality, having an address of 20120 East Mainstreet, Parker, Colorado 80138 ("Grantee").

RECITALS

A. Grantor constructed a drainage pipe and appurtenant drainage facilities (the "Drainage Facilities") within its privately owned property.

B. Pursuant to Section 4.08.090(b) of the Parker Municipal Code, the Grantor is responsible for the maintenance of the Drainage Facilities. However, the Grantee may choose to maintain the Drainage Facilities if the Grantor fails to do so in order to protect the public health, safety, and welfare from stormwater runoff damage.

C. Grantee desires to acquire an easement for the purpose of the maintenance of the Drainage Facilities on and through the property more particularly described and depicted in **Exhibit A** ("Easement Property"), attached hereto and incorporated herein by this reference; and

D. Grantor is willing to grant an easement to Grantee for the aforesaid purposes on the terms and conditions set forth hereinbelow.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration by Grantee to Grantor, the covenants of Grantee herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Grant of Easement. Grantor does hereby grant and convey unto Grantee, its successors, assigns, lessees, licensees and agents, an easement under and through the Easement Property, for the purpose of providing the maintenance of the Drainage Facilities. Subject to the terms of this Easement Agreement, Grantee shall also have the specific rights of ingress and egress for the construction, reconstruction, operation and maintenance of a drainage pipe and appurtenant drainage facilities; additionally, Grantee shall have the right to remove impediments to operation and maintenance of the Easement Property such as trees, asphalt and sidewalks. Grantee further agrees to coordinate all construction, reconstruction, operation, maintenance, removal and any other activities which disturb the Easement Property with Grantor so as to minimize any disruption to Grantor's property. Grantor and Grantee agree that this Easement Agreement may be released in writing by the Town of Parker's Engineering/Public Works Director or designee, subject to the Grantor providing a suitable replacement for the drainage easement described herein, as determined in the sole discretion of the Town of Parker's Engineering/Public Works Director or designee.

2. Unencumbered Title. Grantor warrants that the Easement Property is free and clear of all liens and encumbrances that could have any impact on the easement granted to the Grantee by this Agreement.

3. Operation and Maintenance.

a. The operation and maintenance of the Drainage Facilities described herein and located within the Easement Property shall be the responsibility of the Grantor; provided, however, that Grantee shall have the right to maintain the Drainage Facilities in the event Grantee, in its sole discretion, determines to enter the Easement Property for the operation and/or maintenance of the Drainage Facilities as set forth in subsection b. hereinbelow. The Grantor acknowledges and agrees that the Grantee has the right to enter the Easement Property to maintain and operate the Drainage Facilities covered by Chapter 4.08 of the Parker Municipal Code or to maintain and operate the Drainage Facilities in the manner described herein.

b. If Grantor fails to adequately maintain the Drainage Facilities located within the Easement Property, and the Grantor (i) fails to correct the maintenance problem within fourteen (14) days after the date of written notice from Grantee (the "Correction Period"); or (ii) fails to begin to clean, cure or correct such problem within fourteen (14) days after receipt of notice if such problem cannot be reasonably cleaned, cured or corrected within the Correction Period, and fails to diligently prosecute such cleaning, cure or correction to completion, then Grantee may correct the maintenance problem as provided herein. Notwithstanding the foregoing, Grantee may, in the event of an emergency, as determined by Grantee in its sole discretion, clean, cure or correct any damage caused by Grantor's failure to adequately maintain the Drainage Facilities located within the Easement Property. The Grantor shall reimburse the Grantee for the cost of such maintenance to the extent that (i) the Drainage Facilities and/or the type of maintenance performed by Grantee are not covered by Chapter 4.08 of the Parker Municipal Code, as amended, or (ii) if the Drainage Facilities and/or the type of maintenance performed by the Grantee is covered by Chapter 4.08 of the Parker Municipal Code, as amended, and the Grantee determines in its sole discretion that there are not sufficient funds available for such maintenance. If Grantor fails to reimburse Grantee for the cost of such maintenance, within thirty (30) days after receipt of an invoice from Grantee describing the corrective or maintenance action taken, the unpaid amount shall constitute a lien on the Easement Property until paid in full, with priority over all other liens, except general tax liens, which liens shall be certified to the Douglas County Treasurer and collected in the same manner as other taxes are collected. Grantor further agrees that Grantee may also pursue any and all other remedies available at law or in equity.

4. Grantor Defined. The word "Grantor" as used herein, whenever the context requires or permits, shall include the heirs, personal representatives, beneficiaries, successors, grantees and assigns of the owners of the land through which the easement runs, or the respective owners from time to time of portions thereof. The burdens and benefits of this Easement Agreement shall be deemed covenants running with the real property identified on **Exhibit A**. Notwithstanding any contrary provision in this Easement Agreement, however, any obligation under this Easement Agreement which is to be performed by the owner of any land which is burdened by this Easement Agreement shall be enforceable only against the then owner of such land, and not against any such owner's predecessors in interest.

5. Covenants of Grantee. Grantee hereby represents, covenants and warrants in favor of Grantor, and its successors and assigns, as follows:

a. Grantee shall protect the Easement Property, and the adjacent lands of Grantor over which Grantee has rights of ingress and egress, from damage caused, in whole or in part, by acts or omissions of Grantee, its employees, agents, contractors, subcontractors, assigns, lessees, licensees and agents.

b. Grantee shall not cause or permit to be caused by any of its employees, agents, contractors, subcontractors, successors, assigns, lessees or licensees, any hazardous substances, as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), pollutants or contaminants, as defined by CERCLA, or hazardous waste, as defined by the Resource, Conservation and Recovery Act ("RCRA"), including, but not limited to, asbestos and/or urea formaldehyde, or any pollutants or toxic pollutants as defined by the Clean Water Act, and any amendments thereto, to be dumped, spilled, released, permanently stored or deposited on, over or beneath the Easement Property or any other lands owned by Grantor.

6. Retained Rights. Grantor shall have all rights to the Easement Property not granted hereby.

7. Miscellaneous.

a. Except as otherwise expressly provided herein, all provisions herein contained, including the benefits, burdens and covenants, are intended to run with the land and shall be binding upon and inure to the benefit of the respective successors and assigns of the parties hereto.

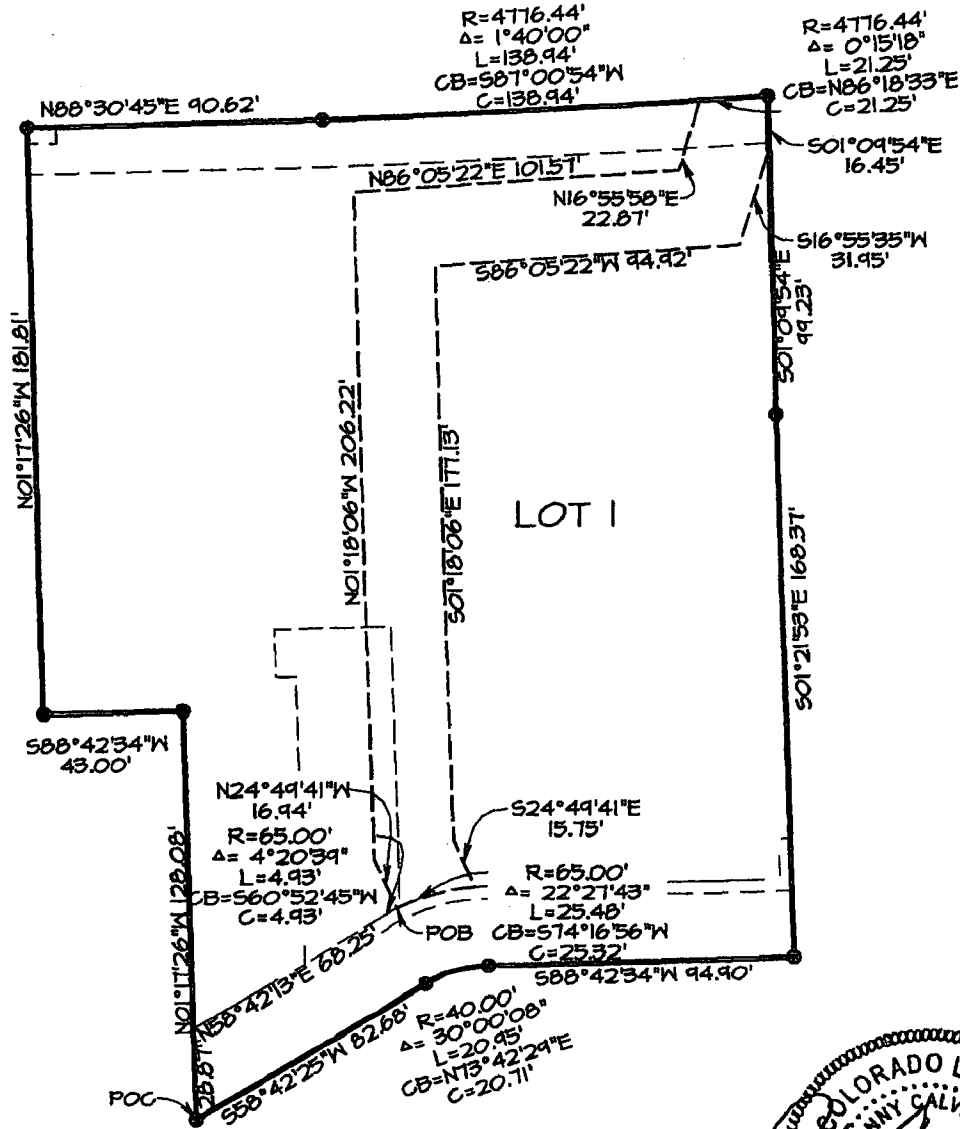
b. This easement constitutes all of the agreements, understandings and promises between the parties hereto, with respect to the subject matter hereof.

c. This easement shall be of no force and effect until this easement is duly and validly executed by all parties hereto.

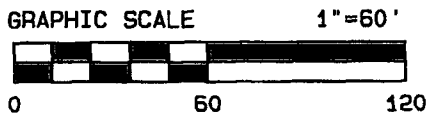
[Remainder of page intentionally left blank. Signatures on following page.]

EXHIBIT A

DRAINAGE & UTILITY EASEMENT EXHIBIT
LOT 1, LINCOLN PROFESSIONAL PARK, FILING 1
In Section 15, Township 6 South, Range 66 West,
6th P.M., Douglas County, Colorado



Signed _____
 JOHNNY CALVIN HICKS
 COLORADO LICENSE NO. 36573
 PROFESSIONAL LAND SURVEYOR
 for and on behalf of
 David E. Aronson & Assoc.



SCALE: 1"=60'
DATE: 06-22-23
REVISIONS





DAVID E. ARCHER & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS & ENGINEERS

105 Wilcox Street * Castle Rock, CO 80104
PHONE (303) 688-4642 * FAX (303) 688-4675 * karcher@davidearcher.com

Job No. 23-0438
July 27, 2023

PROPERTY DESCRIPTION: DRAINAGE & UTILITY EASEMENT

An easement in Lot 1, Lincoln Professional Park, Filing 1, in Section 15, Township 6 South, Range 66 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Southwest corner of Lot 1 and considering the East line to bear N 01°17'26"W with all bearings contained herein relative thereto;
Thence N 01°17'26"W along said West line a distance of 28.87 feet;
Thence N 58°42'13"E a distance of 68.25 feet to a point of curve;
Thence along the arc of a curve to the right a distance 4.93 feet said curve has a radius of 65.00 feet a delta of 04°20'39" and a cord that bears N 60°52'45"E a distance of 4.93 feet to the true point of beginning;
Thence N 24°49'41"W a distance of 16.94 feet;
Thence N 01°18'06"W a distance of 206.22 feet;
Thence N 86°05'22"E a distance of 101.57 feet;
Thence N 16°55'58"E a distance of 22.87 feet to a point of curve;
Thence along the arc of a curve to the left a distance 21.25 feet said curve has a radius of 4776.44 feet a delta of 00°15'18" and a cord that bears N 86°18'33"E a distance of 26.23 feet to a point on the Northeast corner of Lot 1;
Thence S 01°09'54"E along said East line a distance of 16.45 feet;
Thence S 16°55'35"W a distance of 31.95 feet;
Thence S 86°05'22"W a distance of 94.92 feet;
Thence S 01°18'06"E a distance of 177.13 feet;
Thence S 24°49'41"E a distance of 15.75 feet to a point of curve;
Thence along the arc of a curve to the left a distance 25.48 feet said curve has a radius of 65.00 feet a delta of 22°27'43" and a cord that bears S 74°16'56"E a distance of 25.32 feet to the point of beginning;

Containing 0.20 acres 8495 square feet more or less

This description was prepared under the direct supervision of Johnny Calvin Hicks, PLS36570 for and on behalf of David E. Archer and Associates, Inc.