

MEMORANDUM OF AGREEMENT

Project No.: STU C100-038

This Agreement is made and entered into by and between the County of Arapahoe, Colorado (the “County”), and CP Denver REH, LLC, a Delaware limited liability company (“Landowner”) (collectively, the “Parties”) for the conveyance of a fee simple partial acquisition, permanent easements, and temporary construction easements (the “Property Interests”), all as more particularly described in **Exhibit A** attached hereto and incorporated herein by this reference. The conveyance of the Property Interests is for Arapahoe County Project No. C15-002, Iliff Avenue – Quebec Street to Parker Road (the “Project”).

The compensation agreed to by the Landowner and the County for the acquisition of the Property Interests described herein is **ONE MILLION EIGHT HUNDRED SIXTY THOUSAND DOLLARS (\$1,860,000.00)**, less amounts already paid pursuant to the Parties’ Possession and Use Agreement dated March 26, 2021 (“PUA”) for a deposit (\$880,100) and appraisal reimbursement (\$32,345), including the performance of the terms of this Agreement by the County, the sufficiency of which is hereby acknowledged. This consideration has been agreed upon and between the Parties as the total just compensation due to the Landowner for all property rights being acquired, including, but not limited to, property acquired in fee, permanent and temporary easements, damages to the remainder, appraisal fees, attorney fees, interest, costs and expenses and the consideration shall be given and accepted in full satisfaction of this Agreement and shall not be subject to any future adjustment.

The Landowner and the County also agree to the following:

1. The Landowner acknowledges and agrees that, by entering into this Agreement, it is waiving the right to contest the County’s taking of title to the Property Interests. This transaction is under threat of eminent domain.
2. The Landowner agrees to execute and deliver to the County the attached Quitclaim Deed, Permanent Easement, and Temporary Construction Easement conveying the Property Interests upon tender by the County of the compensation agreed upon, in the form of a wire transfer in the amount of **NINE HUNDRED FORTY-SEVEN THOUSAND, FIVE HUNDRED FIFTY-FIVE DOLLARS (\$947,555)** to Faegre Drinker Biddle & Reath LLP at closing, which shall be held on or before August 31, 2022.
3. The County will pay all closing costs, including the title insurance policy.
4. All work performed pursuant to the Project shall be at County expense.
5. The Parties acknowledge and agree that the “Other conditions” listed in the PUA, **Paragraph 9, parts A-D and H-I** are incorporated into this Agreement by this reference and shall survive closing.
6. The Parties acknowledge and agree that the Letter attached as **Exhibit B**, signed by Jason Reynolds, AICP, Planning Division Manager, Arapahoe County Public Works

and Development, which includes a variance in certain parking requirements, is a material part of the compensation for the Property Interests.

7. Sections 4 through 7 of this Agreement shall survive closing.
8. If the Landowner fails to consummate this Agreement for any reason, except the County's default, the County may at its option, enforce this Agreement by bringing an action against the Landowner for specific performance.
9. This Agreement contains all agreements, understandings and promises between the Landowner and the County relating to the Project, except that the Parties acknowledge the surviving provisions of the PUA. This Agreement shall be deemed a contract and it shall bind the parties only when signed by Landowner or its designated representatives and one of the following on behalf of the County: Bryan D. Weimer or his superior. This Agreement shall also extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors and assigns of the parties.
10. This Agreement has been entered into in the State of Colorado and shall be governed according to the laws thereof.

Landowner:

CP Denver REH, LLC

By: _____

Name: _____

Date: _____

County:

By: _____

Name: _____

Date: _____

Authority Granted by Commissioner Resolution 22-049



ARAPAHOE COUNTY
COLORADO'S FIRST

Public Works and Development

6924 South Lima Street
Centennial, Colorado 80112-3853
Phone: 720-874-6500
Fax: 720-874-6611
Relay Colorado: 711
www.arapahoegov.com
publicworks@arapahoegov.com

BRYAN D. WEIMER, PWLF
Director

August 12, 2022

Re: Right-of-Way Acquisition at Central Park Center (7475, 7585, and 7595 E Iliff Avenue)

To Whom It May Concern:

The Central Park Center properties owned by CP Denver REH Llc is zoned as a Planned Unit Development (Iliff and Quebec Preliminary Development Plan, Case No. Z85-001). Several approved Final Development Plans and amendments provide further site details (Case No. A10-003 and others). The Iliff Avenue construction project will remove some parking stalls and landscaping adjacent to 7475, 7585, and 7595 E Iliff Avenue. In addition to this letter the County agrees to the terms and conditions set forth in Exhibit A submitted with and incorporated into this letter by this reference.

No new Site Development Plan will be necessary to address changes that have occurred solely as the result of the project and the owner may proceed with items such as parking lot striping, re-installation of signage and other matters as stated and according to the terms and conditions contained in this letter and Exhibit A. New landscaping will not be required but the owner is free to install landscaping so long as it does so in compliance with the standards in Section 4-1.3.G.2 of the Land Development Code.

Parking Stalls

Arapahoe County will not require the parking stalls affected by the project to be replaced, relocated, or restriped. However, the owner may restripe the parking stalls affected by the project after the Iliff Avenue project is complete and such restriping, even if it deviates from Exhibit A, will not trigger the requirement of landscape islands in the parking lot so long as the restriping is consistent with the dimensional standards for parking spaces in Section 4-1.2.1 of the Land Development Code. Arapahoe County will not require an amendment to the Central Park Center Final Development Plan (Case No. A10-003 and other amendments) for the reconfiguration/restriping and owner may restripe the parking so long as it is in all material respects consistent with the Exhibit A.

CP Denver's leadership team has asked Arapahoe County to approve an administrative parking reduction of 10%, which would result in a minimum parking requirement of 3.6 parking spaces per 1,000 square feet of commercial. Section 4-1.2.B.3 of the Land Development Code allows the Planning Manager to authorize up to a 10% reduction as part of a land development application. Based on the Institute of Transportation Engineers *Parking Generation Manual, 5th Edition*, which finds "shopping center" peak parking demand to be in the range of 2.72 to 3.10 spaces per 1,000



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Exhibit B-1 to MOA

square feet, Arapahoe County supports and approves an administrative reduction from the existing Land Development Code parking requirements to a minimum parking requirement of 3.6 parking spaces per 1,000 square feet within the Central Park Center.

Signs

Arapahoe County will allow the owner to relocate existing signs displaced by the Iliff Avenue project. Relocation will require sign/building permits, but the County will recognize the existing signs as legal non-conforming for purposes of issuing such sign permits. Arapahoe County will not require an amendment to the Central Park Center Final Development Plan (Case No. A10-003 and other amendments) for the sign relocations. Owner may relocate signs and light poles to, or install new signs and light poles in, the locations and according to the terms and conditions identified in the Exhibit A.

Landscaping

The project will remove mature landscaping in front of the parking lot. Arapahoe County will not require the owners to replace that landscaping. However, if they wish, the owners may install landscaping in any remaining planting strip after the project is complete, as long as the landscape in those planting areas meets Arapahoe County standards in Section 4-1.3.G.2 of the Land Development Code. Generally, the standards require one tree and ten shrubs per 1,000 square feet of landscaped area for commercial sites (see 4-1.3.G.2.a of the Land Development Code). Arapahoe County will not require an amendment to the Central Park Center Final Development Plan (Case No. A10-003 and other amendments) for the landscaping and the restoration of landscaping within the permanent easement areas may be in accordance with the Exhibit A.

Parcel 9

After the Iliff Avenue construction project is complete, Parcel 9 (Tax Parcel ID 1973-28-2-05-005) shall be deemed in compliance with the minimum lot area, lot width and setback standards of the Arapahoe County Land Development Code, even if future repairs, maintenance, remodeling, renovation, or reconstruction of the existing structures exceed 50 percent of the then current replacement cost of the existing structures.

If you have any questions please contact me at jreynolds@arapahoegov.com or 720-874-6650.

Sincerely,

Jason
Reynolds, AICP

Digitally signed by Jason Reynolds,
AICP
DN: cn=Jason Reynolds, AICP,
o=Arapahoe County, ou=Planning,
email=jreynolds@arapahoegov.com,
c=US
Date: 2022.08.12 14:41:23 -06'00'

Jason Reynolds, AICP
Planning Division Manager



PERMANENT EASEMENT AGREEMENT

Project No.: STU C100-038

Parcel No.: PE-8, PE-9A, PE-9B, PE-9C, PE-10, PE-19

For and in consideration of the sum of TEN AND 00/100 DOLLARS (\$10.00) and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, CP DENVER REH, LLC, a Delaware limited liability company, (the “Grantor”), hereby grants, bargains, sells and conveys to the COUNTY OF ARAPAHOE, COLORADO, a body corporate and politic duly organized and existing under and by virtue of the laws of the state of Colorado, whose address is 5334 S. Prince Street, Littleton, CO, 80166 (the “Grantee”), its successors and permitted assigns, a perpetual non-exclusive easement (the “Easement”) to construct sidewalks; construct and maintain slopes and cuts and fills; to ensure proper support for and drainage from the roadway; to construct or reconstruct, install, operate, use, maintain, repair, replace and/or remove certain utilities, including but not limited to, gas, electric, irrigation, traffic signal, storm drainage facilities such as ditches culverts or pipes, underground telephone lines, and street lights, and appurtenances thereto; certain public signage; and for purposes of snow storage (collectively the “Improvements”) as identified in the Iliff Avenue - Quebec Street to Parker Road Project Plans (STU C100-038) in, to, through, over, under and across a certain parcel of real property located in Arapahoe County, Colorado, as more particularly described in Exhibit A (PE-8, PE-9A, PE-9B, PE-9C, PE-10, PE-19), attached hereto, and incorporated herein by this reference (the “Easement Area”), pursuant to the following terms and conditions:

1. The Grantee, its agents, successors and permitted assigns, shall have and exercise the right of ingress and egress in, through, over, under and across the Easement Area for any purpose necessary for the construction, reconstruction, installation, operation, use, maintenance, repair, replacement and/or removal of the Improvements. All work

performed by the Grantee in connection with this Easement shall be done with care; in a manner that does not unreasonably threaten the safety of customers, employees, and vendors using the remaining shopping center property; and in a manner that is consistent with the ongoing operation of a first-class shopping center.

2. The Grantor shall not construct or place any structure or building, street light, power pole, yard light, mail box or sign, whether temporary or permanent, or plant any shrub, tree, woody plant, nursery stock, garden or other landscaping design feature on any part of the Easement Area, except with the prior consent of the Grantee. Any structure or building, street light, power pole, yard light, mail box or sign, whether temporary or permanent, or shrub, tree, woody plant, nursery stock, garden or other landscaping design feature of any kind situated on the Easement Area as of the date of this Easement or subsequently placed thereon may, except where the Grantee has consented thereto, be removed by the Grantee without liability for damages arising therefrom.
3. The Grantor hereby reserves the priority of its property interests and all rights to use and quietly enjoy the Easement Area that are not expressly precluded or restricted herein.
4. Upon completion of its activities, the Grantee, to the extent practicable, shall restore the Easement Area, including the surface of the ground and all landscaping, reasonably to the condition it was in immediately prior to the initiation of construction, except as necessarily modified to accommodate the Improvements.
5. The Grantee shall have the right to enter upon the Easement Area and to survey, construct, reconstruct, operate, use, maintain, repair, replace, and remove the Improvements, and to remove objects interfering therewith, including but not limited to these items placed on the Easement Area under paragraph 2 hereof. In addition, the Grantee shall have the right,

subject to the Grantor's prior, written approval, to use so much of the adjoining premises of the Grantor during surveying, construction, reconstruction, use, maintenance, repair, replacement and/or removal of the Improvements as may be reasonably required.

6. It is specifically agreed between and among the parties that, except as provided in this Agreement, the Grantors shall not take any action, which would impair the lateral or subjacent support for the Improvements.
7. It is expressly acknowledged and agreed that the Grantee shall have the right and authority to assign to any appropriate local governmental entity or to any public utility provider all rights to use, and all obligations associated with, the Easement as are granted to and assumed by the Grantee herein. In addition, the Grantee shall have the right and authority to grant temporary construction easements or license agreements within the Easement Area to any appropriate local governmental entity or public utility provider for purposes authorized herein and subject to the limitations herein with respect to the Improvements.
8. The Grantee agrees that at such time and in the event that the Easement described herein be abandoned by the Grantee and any permitted assignee under paragraph 6 hereof, such Easement shall terminate, and the real property interest represented by such Easement shall revert to the Grantor, its heirs, successors and/or assigns.
9. Each and every one of the benefits and burdens of this Easement shall inure to and be binding upon the respective legal representatives, heirs, administrators, successors and permitted assigns of the Grantor and the Grantee.

**TEMPORARY CONSTRUCTION
EASEMENT**

Project No.: STU CJ00-038

Parcel No.: TE-8 REV, TE-9 REV2, TE-10
REV2, TE-19

This Temporary Construction Easement is granted this _____ day of _____, 2022, by **CP DENVER REH, LLC, a Delaware limited liability company** (“the Owner(s)”) of certain property needed for a Temporary Construction Easement on the Iliff Avenue - Quebec Street to Parker Road Project (the “Project”) to the **County of Arapahoe** (“the County”) for use of said parcel by the County’s contractor in the construction of the Project.

In consideration of the sum of **Ten and 00/100 Dollars(\$10.00)**, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Owner for the purpose of construction of the Project, the Owner hereby grants to the County a Temporary Construction Easement on, through, over, under, and along a certain parcel of land owned by the Owner, which parcel is described in the attached **Exhibit “A” (TE-8 REV, TE-9 REV2, TE-10 REV2, TE-19)**, which is hereby incorporated by reference (“the Temporary Easement Property”). The Project includes but is not limited to construction, reconstruction and relocation of existing improvements along with any other uses incidental to the construction of the Project as identified in the Iliff Avenue - Quebec Street to Parker Road Plan set.

The term of the Temporary Construction Easement shall commence after the County has provided 30 days prior written notice to the Owner(s), via email to dblum@cireequity.com and via certified mail to CIRE Equity, c/o Daniel Blum, Sr. Asset Manager, 530 B St., Ste. 2050 San Diego, CA 92101, or at the latest on October 1, 2022, and shall extend for a period of one year. The Owner also grants to the County the option to extend this Temporary Construction Easement for a period not to exceed one year from the date of expiration hereof. The County shall provide notice in writing to the Owner 30 days prior to expiration of the initial period, via email to dblum@cireequity.com and via certified mail to CIRE Equity, c/o Daniel Blum, Sr. Asset Manager, 530 B St., Ste. 2050 San Diego, CA 92101, for the desire to exercise the extension period. If the Temporary Construction Easement is so extended, the County shall pay the Owner the sum of \$5,351 for each month (on a prorated basis) that the County or its contractor occupies the Temporary Easement Property beyond the original term stated herein. At the end of the term and any extension thereto, all rights granted under this Temporary Easement are released and the Temporary Easement Property shall be considered free and clear of this Temporary Construction Easement.

The Owner warrants that no building, structure, or other above or below ground obstruction that may interfere with the purposes for which this Easement is granted may be placed, erected, installed or permitted upon the Temporary Easement Property during the term of this Temporary Construction Easement. The Owner further agrees that in the event the terms of this Easement are violated, that such violation shall immediately be corrected upon receipt of written notice from the County, or the County may elect to correct or eliminate such violation at the Owner’s expense.

The Owner shall promptly reimburse the County for any expenses incurred by the County in enforcing the terms of this paragraph.

The County assumes all risks, known and unknown, associated with its use of the Temporary Easement Property. The Owner shall not be liable for any damage caused directly or indirectly by the County or any of the County's contractors or employees in the exercise of the rights granted to the County herein.

This Temporary Construction Easement is granted by the Owner with the understanding that all work performed by the County in connection with this Easement shall be done with care; in a manner that does not unreasonably threaten the safety of customers, employees, and vendors using the remaining shopping center property; and in a manner that is consistent with the ongoing operation of a first-class shopping center. Except for items in which the Owner is being paid to restore or cure, the surface of the Temporary Easement Property damaged or disturbed during the use of this Easement shall be restored to as near a condition as existed prior to the County's use of this Easement as is reasonably practicable. This Easement shall not be recorded in the real property records.

OWNER:

CP DENVER REH, LLC, A DELAWARE LIMITED LIABILITY COMPANY

By: _____

Title: _____

STATE OF _____)
)SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ , by _____ as _____ for _____.

WITNESS my hand and official seal.

My commission expires:

Notary Public

By: _____
Bryan D. Weimer, PWLF
Director of PW&D, Arapahoe County
Pursuant to Resolution No. 22-049