

PERMANENT ACCESS EASEMENT AGREEMENT DOVE CREEK TRAIL

This PERMANENT ACCESS EASEMENT AGREEMENT (this “**Agreement**”) is made and entered into as of this date _____, 2025, by and between **SOUTHEAST METRO STORMWATER AUTHORITY**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**SEMSWA**”), and **ARAPAHOE COUNTY**, a body corporate and politic of the State of Colorado (“**County**”). SEMSWA and the County shall be collectively referred to within this Agreement as the “**Parties**” and individually as a “**Party**.”

RECITALS

A. SEMSWA owns that certain real property located within Arapahoe County, Colorado, used as a drainageway maintenance path as more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the “**Easement Property**”).

B. The County wishes to access the Easement Property for public trail use, maintenance of the trail for public use, and associated benches, trash cans, and signage (the “**Trail Improvements**”).

C. It is necessary for SEMSWA to utilize the Easement Property for drainageway maintenance.

D. It is necessary for the County to utilize the Easement Property for maintenance of the Trail Improvements.

E. SEMSWA desires to grant the County a non-exclusive, perpetual easement for the purpose of accessing and maintaining the Trail Improvements subject to the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, SEMSWA and the County covenant and agree as follows:

1. Grant of Easement. SEMSWA hereby grants, sells, bargains, and conveys to the County and its successors a perpetual, non-exclusive easement to allow pedestrians, bicycles, and motor vehicles on, over, across and through the drainageway maintenance path within the Easement Property for the purpose of ingress and egress for public trail use and the construction, maintenance, operation and repair of the Trail Improvements together with all rights and privileges as are incidental to the County’s full use and enjoyment of its easement rights, on, over, across, and through the Easement Property (the “**Easement**”). No other use of the Easement Property is granted by this Agreement. This Agreement may not be assigned. SEMSWA understands and agrees that, subject to the terms and conditions set forth in this Agreement, the County may permit the Easement Property to be used by the County’s

employees, agents, contractors and sub-contractors solely for the purposes set forth herein. Motor vehicles shall only be permitted pursuant to this Agreement for the sole purpose of the County fulfilling its maintenance obligations under this Agreement. The County acknowledges that the public is strictly prohibited from the use of motor vehicles in the Easement and will take all reasonable steps to assure that use is not permitted by the County.

The sole purpose of this Agreement is to grant the County an easement so that the public may use the Easement for its enjoyment. The public shall be considered a licensee.

SEMSWA may immediately terminate this Agreement upon written notice to the County if the County violates the terms and conditions of this Easement and does not cure its default within a reasonable time.

2. Reservation of Rights. SEMSWA reserves the right to use, and to grant to others the right to use, the Easement Property for any and all purposes not inconsistent with and which do not interfere with the use of the Easement by the County, pursuant to the terms of this Agreement.

3. Maintenance and Restoration of Easement Property. SEMSWA shall maintain the drainageway maintenance path and adjacent drainage located within the Easement Property as needed for its intended use for drainageway maintenance and not for the public's access. Such maintenance may include weed control, mowing, and debris removal. SEMSWA shall make a good faith effort to avoid closing the trail to public use during its maintenance activities. Except in the case of emergencies, SEMSWA shall make a good faith effort to avoid entering the Easement Property with motor vehicles when the Easement Property is wet, in order to avoid causing damage to the public trail. The County shall maintain the Trail Improvements as needed for its intended use of the Easement Property for public access. Such County maintenance may include aggregate trail surface repairs, weed control and mowing along the trail corridor, debris removal on and adjacent to the trail, graffiti removal on Trail Improvements, and bench and sign maintenance. Maintenance activities shall be coordinated between the agencies at a minimum annually to ensure services are planned efficiently.

a. SEMSWA shall be responsible for restoring the drainageway maintenance path located within the Easement Property caused by emergency events such as flooding that causes damage such that the drainageway maintenance access becomes impassable for maintenance vehicles and equipment. SEMSWA may temporarily limit the County's use of the Easement Property to allow for the restoration of the drainageway maintenance path and adjacent property. SEMSWA will be responsible for notifying the County and the public of temporary closures. To the extent reasonably practical, SEMSWA shall substantially restore the surface and subsurface within the Easement Property to the same condition as immediately preceding the emergency event.

b. The County shall be responsible for the surface repairs of Trail Improvements located within the Easement Property caused by localized erosion as required for pedestrian and bicycle use. The County may temporarily limit SEMSWA's use of the

Easement Property to allow for the Trail Improvement repairs, if it does not limit SEMSWA's ability to address public safety issues in the Easement Property.

4. Subject to Appropriation. All financial obligations of the Parties under this Agreement are subject to annual appropriation, budgeting, and availability of funds to discharge such obligations. Nothing in this Agreement constitutes a pledge of either Party's credit or faith, directly or indirectly, to one another.

5. Limitation of Liability. SEMSWA shall not be liable to the County or any other person or entity whatsoever for any injury or damage to persons or property occasioned by reason of the use by the County and its contractors, subcontractors, agents, employees, licensees, or invitees of the Easement Property except to the extent caused by or arising out of the negligent or intentionally wrongful conduct of SEMSWA.

6. Liability. Each Party shall be solely responsible for its own acts and omissions, including those of its employees, agents, and subcontractors, and shall not be responsible for the acts or omissions of the other Party.

7. Inurement. This Agreement shall run with the land, and each and every one of the benefits and burdens of this Agreement shall inure to and be binding upon the Parties, their respective legal representatives and successors.

8. No Joint Venture, Partnership, Agency, Etc. This Agreement will not be construed as in any way establishing a partnership, joint venture, express or implied agency, or employer-employee relationship between SEMSWA and the County.

9. Subject to Matters of Record. This Agreement and the rights granted hereunder shall be subject to any existing liens and/or encumbrances affecting the Easement Property.

10. Captions. The captions of this Agreement are for convenience and reference only and in no way define, describe, extend, or limit the scope, meaning, or intent of this Agreement.

11. Entire Agreement. This Agreement (including the exhibits attached hereto, which are incorporated herein) constitutes the entire understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all negotiations or previous understandings or agreements between the Parties with respect to all or any part of the subject matter hereof.

12. Governmental Immunity. Nothing in this Agreement shall be construed as a waiver in whole or in part of any governmental immunity granted to the Parties by virtue of Section 24-10-101 *et seq.*, C.R.S., as it currently exists or may hereafter be amended.

13. Modification; Waiver. This Agreement may not be modified or discharged in any respect, except by a further agreement in writing duly executed by SEMSWA and the County or their successors. However, any consent, waiver, approval, or authorization will be effective if signed by the Party granting or making such consent, waiver, approval, or authorization. No

waiver shall be deemed a continuing waiver with respect to any breach or default, whether of similar or different nature, unless expressly stated in writing.

14. Governing Law. This Agreement, including all questions concerning the construction, validity and interpretation of this Agreement, and the exhibits hereto, will be governed and construed under the applicable laws of the State of Colorado.

15. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

16. Recording. This Agreement shall be recorded in the real property records of Arapahoe County, Colorado.

17. Construction. The language used in this Agreement will be deemed to be the language chosen by the Parties hereto to express their mutual intent, and no rule of strict construction will be applied against any Party hereto. This Agreement shall be given a reasonable construction so that the intention of the Parties can be carried out. The Parties hereby acknowledge they have both participated substantially in the negotiation, drafting and revision of this Agreement with representation by counsel and/or such other advisers as they have deemed appropriate. Accordingly, this Agreement shall be deemed to have been prepared jointly by the Parties and shall not be construed against any Party as the drafter hereof.

18. Counterparts. This Agreement may be executed in any number of original counterparts, all of which evidence only one agreement, and only one of which need be produced for any purpose. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings. However, the copy of this Agreement which will be recorded in the real property records of Arapahoe County, Colorado shall contain only original signatures.

Signatures on the following pages

IN WITNESS WHEREOF, SEMSWA and the County have executed this Agreement as of the date first set forth above.

SOUTHEAST METRO STORMWATER AUTHORITY

By _____
Dan Olsen, Executive Director

State of Colorado)
) s.s.
County of Arapahoe)

This instrument was acknowledged before me this _____ day of _____ 2025, by
Dan Olsen as Executive Director of Southeast Metro Stormwater Authority.

Notary Public

My commission expires _____.

Witness my hand and official seal.

ARAPAHOE COUNTY

Margina Pingenot, Open Spaces Director,
on behalf of the Board of County Commissioners
pursuant to Resolution No. _____

State of Colorado)
) s.s.
County of Arapahoe)

This instrument was acknowledged before me this _____ day of _____ 2025, by Margina Pingenot as Open Spaces Director of Arapahoe County.

Notary Public

My commission expires _____.

Witness my hand and official seal.

EXHIBIT "A"

DRAINAGE EASEMENT
BOOK 6216 PAGE 265

SHARED USE EASEMENT
AREA=25,135 S.F.±
OR 0.577 ACRES±

OWNER:
SOUTHEAST METRO
STORMWATER AUTHORITY
POND D-1
RECEPTION NO. D1077983

NE1/4 SECT. 31, T5S, R66W
ARAPAHOE COUNTY

LINE TABLE		
NO.	BEARING	DISTANCE
L1	S58°48'15"W	302.84'
L2	N19°40'44"E	31.69'
L3	N58°48'15"E	251.79'
L4	N37°01'47"E	35.49'
L5	N16°10'35"E	250.12'
L6	N02°53'44"W	39.56'
L7	N24°38'06"E	87.88'
L8	N01°51'14"E	425.48'
L9	N10°34'52"W	68.27'
L10	N79°02'40"E	35.59'
L11	S01°51'15"W	502.55'
L12	S16°10'35"W	404.19'



REFERENCE

S. LINE NE1/4
SEC. 31
S'LY COR.
RECEPTION
NO. D1077983

E'LY SIDE
RECEPTION
NO. D1077983

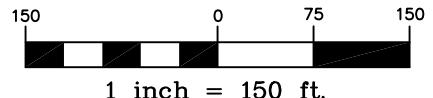
BASIS OF BEARING
SE'LY LINE
RECEPTION NO. D1077983
N58°48'15"E 361.62'

OWNER:
CHERRY CREEK SCHOOL
DISTRICT NO. 5

LOT 1
BLOCK 1
DOVE VALLEY V FILING NO. 7
RECEPTION NO. B6176351

POINT OF
BEGINNING

SE'LY COR.
RECEPTION
NO. D1077983



- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
- 2.) ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS AFTER THE DATE OF THE CERTIFICATION SHOWN HEREON.
- 3.) THE ONLY PURPOSE OF THIS EXHIBIT IS TO SHOW THE LOCATION OF THE EASEMENT(S).
- 4.) THIS DOCUMENT SHALL BE CONSIDERED NULL AND VOID IF IT DOES NOT BEAR THE ORIGINAL SIGNATURE AND SEAL OF THE PROFESSIONAL LAND SURVEYOR OR IF ALTERED IN ANY WAY.

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 31 TOWNSHIP 5 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF ARAPAHOE, STATE OF COLORADO, ALSO BEING A PORTION OF LANDS FILED AT THE ARAPAHOE COUNTY CLERK AND RECORDERS OFFICE AT RECEPTION NO. D1077983, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARING OF THIS DESCRIPTION IS ALONG THE SOUTHEASTERLY LINE OF SAID LANDS, AND ASSUMED TO BEAR N58°48'15"E A DISTANCE OF 361.62 FEET FROM THE SOUTHERLY CORNER OF SAID LANDS TO THE SOUTHEASTERLY CORNER OF SAID LANDS;

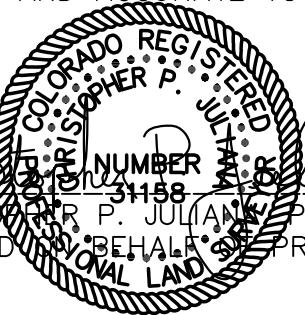
BEGINNING AT SAID SOUTHEASTERLY CORNER;

THENCE S58°48'15"W ALONG SAID SOUTHEASTERLY LINE A DISTANCE OF 302.84 FEET; THENCE N19°40'44"E A DISTANCE OF 31.69 FEET; THENCE N58°48'15"E A DISTANCE OF 251.79 FEET; THENCE N37°01'47"E A DISTANCE OF 35.49 FEET; THENCE N16°10'35"E A DISTANCE OF 250.12 FEET; THENCE N02°53'44"W A DISTANCE OF 39.56 FEET; THENCE N24°38'06"E A DISTANCE OF 87.88 FEET; THENCE N01°51'14"E A DISTANCE OF 425.48 FEET; THENCE N10°34'52"W A DISTANCE OF 68.27 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF BRONCOS PARKWAY; THENCE N79°02'40"E ALONG SAID SOUTHERLY RIGHT-OF-WAY A DISTANCE OF 35.59 FEET; THENCE S01°51'15"W A DISTANCE OF 502.55 FEET TO THE EASTERN SIDE OF SAID LANDS; THENCE S16°10'35"W ALONG SAID EASTERN SIDE A DISTANCE OF 404.19 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 25,135 SQUARE FEET OR 0.577 ACRES, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.

Christopher P. Julian
NUMBER 31158
CHRISTOPHER P. JULIAN, P.L.S. 31158
FOR AND ON BEHALF OF PRECISION SURVEY & MAPPING, INC.



01/30/25