

SF. 22. 35

**PUBLIC RIGHT OF WAY LICENSE AGREEMENT
STERLING RANCH EAST FILING NO. 1**

THIS PUBLIC RIGHT-OF-WAY LICENSE AGREEMENT (“Agreement”), is made this 4th day of December, 2024, between EL PASO COUNTY BY AND THROUGH THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY COLORADO, whose street address is 200 South Cascade Avenue, Colorado Springs, CO 80903 (hereinafter “Licensor”), STERLING RANCH METROPOLITAN DISTRICT NO. 3, a quasi-municipal entity and political subdivision of the State of Colorado (“Licensee”). The Licensor and the Licensee may be singularly referred to herein as the Party or collectively referred to herein as the Parties.

RECITALS

WHEREAS, Licensee plans to develop on the Property legally described in Exhibit A, attached hereto and incorporated herein by reference, a Subdivision to be known as Sterling Ranch East Filing No. 1; and

WHEREAS, the County will own certain rights-of-way described herein to be platted within the Property;

WHEREAS, Licensee desires to install and maintain streetlights and mailbox kiosks (the “Improvements”) within the following rights-of-way within the Subdivision: Pocatello Trail, San Diego Way, Long Beach Terrace, Clearlake Way, Laguna Niguel Way, Santa Clara Place, Palo Alto Trail and Newport Beach Drive; and

WHEREAS, Licensee also desires to install and maintain underdrains (the “Underdrains”) within the following rights-of-way within the Subdivision: Pocatello Trail, San Diego Way, Long Beach Terrace, Clearlake Way, Laguna Niguel Way, Santa Clara Place, Palo Alto Trail and Newport Beach Drive; and

WHEREAS, the Licensor, as a convenience to the Licensee, consents to allow the Licensee to use portions of its rights-of-way for the purposes of constructing, maintaining and repairing the Improvements and Underdrains; and

WHEREAS, Licensee is required to obtain all necessary permits and pay all fees prior to performing any work in the Licensor’s right-of-way.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises contained herein, and other good and valuable consideration, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals: The Parties incorporate the above-stated Recitals into this Agreement as if fully stated herein.

Steve Schleiker
12/12/2024 10:02:08 AM
Doc \$0.00 11
Rec \$0.00 Pages

El Paso County, CO



224098443

2. **Description and Use of the Licensor's Premises:** Licensor hereby grants to Licensee a License upon those portions of the Licensor-owned rights-of-way known as Pocatello Trail, San Diego Way, Long Beach Terrace, Clearlake Way, Laguna Niguel Way, Santa Clara Place, Palo Alto Trail and Newport Beach Drive as depicted and labeled in Exhibit B, attached hereto and incorporated herein by reference (the "Licensed Premises"). The License is granted to Licensee to construct, install, maintain, and repair the Improvements and the Underdrains within the Licensed Premises. If the Improvements include any lighting fixtures or features, other than streetlights, the use of such lighting must immediately cease upon written direction of the County Engineer and may not resume until written permission is granted. As this Agreement only creates a License, each Parties' rights and obligations stated hereunder are exclusively contractual. Thus, each Party agrees and understands that this Agreement does not create any type of real estate interest of any kind or nature or any type of possessory estate or possessory interest in the Licensed Premises. The entire Licensed Premises shall be for the use of Licensee, its employees, agents, servants and invitees for any lawful purposes associated with the construction, use, and maintenance of the Improvements and Underdrains, and related purposes for the benefit of the Licensee and the Property.

3. **Term and Commencement of Use:** The License shall commence on the date first written above, hereinafter referred to as the Commencement Date, and it shall continue until Licensor requires the Licensed Premises for other public purposes, or unless sooner terminated in whole or in part by either Party as more fully set forth in Paragraph 5 below.

4. **Additional License Terms:**

a. **Utilities.** Licensee is responsible to ensure no damage occurs to existing utility and other installations that may be present on the right of way during installation, construction, maintenance, or repair of the Improvements or Underdrains. Licensor reserves the right to issue work in the right of way permits allowing installation of utilities in the Licensor's public right of way. Licensee shall not interfere with these installations, which will take precedence over any Improvements now in place or installed in the future. If any utility installation damages all or any portion of the permitted Improvements or Underdrains within the Licensed Premises, Licensor shall have no liability to Licensee for such damages.

b. **Damage.** Licensee is responsible for reimbursing Licensor for the repair of any damage to fences, signs, delineators, guardrails, landscape plantings of Licensor, or any other right of way improvements resulting from Licensee's operations. Licensee shall hold Licensor, its elected officials, appointees, officers, and employees free and harmless from all risk of injury or damage to Licensee, property of Licensee, and Licensee's agents, employees, assigns and successors or others which may result from debris, foreign objects, or chemical contamination resulting from normal maintenance activities performed by Licensor. Licensee is responsible for reimbursing Licensor for the repair and re-survey of any damage and disturbance to any survey monuments resulting from activities within the Licensed Premises by Licensee.

c. **Licensor's Need for Right of Way.** Licensor will not replace or relocate any Improvements or Underdrains placed within the public right of way or the Licensed Premises if Licensor has to remove Improvements or Underdrains, in whole or in part, for any reason

including but not limited to safety, maintenance, or construction. At the time Licensor's construction or maintenance operations begin, this License will be suspended. The License may be reinstated for the remaining term upon completion of the construction.

d. Work in the Right of Way Permit. Prior to any major construction, operation, and/or landscaping activities within the Licensed Premises, Licensee shall obtain a Work in the Right of Way Permit from the El Paso County Department of Public Works in accordance with the El Paso County Engineering Criteria Manual. A new Work in the Right-of-Way Permit will be required whenever the previous Work in the Right-of-Way Permit has expired or for each new activity in the then current Work in the Right-of-Way Permit.

e. Provision of Utilities. If the Improvements are connected to any utilities, e.g. water or electricity, Licensee shall be responsible for complying with all rules and paying all rates and costs established by the utility providers.

f. Maintenance of Improvements. As the Improvements and Underdrains will be a part of Licensor's public right of way, Licensee is expected to maintain them in an acceptable manner. Upon notice of any deficiency in the Improvements or Underdrains, either: a) by Licensor; or b) by its own observation; or c) by any other means, Licensee shall take action as soon as possible, but not later than fifteen (15) working days after the mailing date of written notice from Licensor to correct the deficiency and to protect the safety of the traveling public. In the event Licensee, for any reason, does not or cannot correct the deficiency within fifteen (15) working days of written notice as contemplated above, or demonstrate that action satisfactory to cure such default has been commenced and will be completed in a timely manner, or otherwise demonstrated that no deficiency exists, Licensor reserves the right to correct the deficiency and to bill Licensee for such work. Licensee shall pay any such bill within thirty (30) days after receipt. Under these circumstances, Licensor shall only correct the deficiency to the extent it affects use of the right of way and/or the public's health, safety, and welfare.

g. Maintenance of Right of Way. As part of its normal maintenance, repair and snow removal operations, Licensor may drive across or work adjacent to the Licensed Premises. Though Licensor shall take reasonable care when doing so, Licensor shall not be responsible to Licensee for any damage to the Improvements or Underdrains that may occur in the course of maintenance, repair or snow removal operations. Licensor will not provide snow removal within the Licensed Premises used for streetlights and mail kiosks. Some snow may be left in front of the Licensed Premises during normal snow removal activities.

h. Natural Disasters. Licensor shall not be liable to Licensee in the event of an emergency, such as a fire, flood, or other natural cause which damages the Licensed Premises or the Improvements or Underdrains. In the event the Licensed Premises are damaged due to a natural disaster, it shall be the sole responsibility and cost of Licensee to return the Licensed Premises and, if it so elects, the Improvements and Underdrains, to their original condition. If Licensee chooses not to replace or repair the Improvements or Underdrains and instead wishes to terminate the License Agreement, the provisions of paragraph 5.b. below apply.

5. Termination:

a. Termination by Licensor. Licensor at any time and 1) for any valid public purpose, as determined at Licensor's sole discretion, or 2) upon violation of any term of the License by Licensee, shall be entitled to terminate the License on all or part of the Licensed Premises by giving at least 30 days' prior written notice to Licensee. In addition, the El Paso County Engineer shall have the authority to immediately terminate the License on all or part of the Licensed Premises if he or she determines that the public health, safety or welfare is adversely affected by the License. Upon such termination, Licensor may direct Licensee to remove all or a portion of the Improvements or Underdrains from the Licensed Premises at Licensee's sole expense, and Licensee shall restore the Licensed Premises to its original condition to the extent reasonably practicable, ordinary wear and tear excepted.

b. Termination by Licensee. Licensee at any time shall be entitled to terminate the License on all or part of the Licensed Premises by giving at least 30 days' prior written notice to Licensor. Upon termination by Licensee of the License on all or part of the Licensed Premises, and if requested by Licensor, Licensee shall remove the Improvements and Underdrains within the 30-day notice period at its own expense and restore the Licensed Premises to its original condition to the extent reasonably practicable, ordinary wear and tear excepted.

c. Effect of Termination. Upon termination of the License on all or part of the Licensed Premises by either Party, Licensee shall not be entitled to the payment of any compensation or just compensation under any cause of action at law or in equity for the retaking of the Licensed Premises or removal or relocation of the Improvements or Underdrains. If the License is terminated on only a portion of the Licensed Premises, Licensor and Licensee shall retain their respective rights and obligations under this Agreement with respect to the remaining portions of the Licensed Premises, and Licensee shall not have any further rights or obligations with respect to any part of the Licensed Premises for which the License has been terminated.

6. Condition of the Licensed Premises, Obligation to Make Repairs, Obligation to Remain in Compliance with Laws: Licensee agrees and understands that it commences its use of the Licensed Premises "AS IS" and without any warranties of any kind or nature, including without any warranties as to the state of Licensor's title to the Licensed Premises. It shall be Licensee's sole obligation to maintain and make any necessary repairs to the Improvements and Underdrains and the Licensed Premises, and to do so in full compliance with the requirements of the El Paso County Department of Public Works and any and all other applicable state, federal, or local laws, regulations, and ordinances. Licensee's obligations under this paragraph include, but are not limited to, obtaining any necessary permits or approvals for operation and discharge of the Underdrains from the Colorado Division of Water Resources or other applicable agency or court.

7. Indemnification/Hold Harmless: Licensee shall indemnify and hold Licensor and its heirs, successors and/or assigns harmless from and against any and all damages, loss, cost, expense, liabilities of any kind or nature as a result of, or in connection with, Licensee's, its contractors', agents', or employees' activities on the Licensed Premises, failure to comply with the terms of this Agreement, or failure to maintain the Licensed Premises, Improvements, and Underdrains in a safe and operable condition. Nothing in this section shall be deemed to waive or

otherwise limit the defenses available to Licensor or Licensee pursuant to the Colorado Governmental Immunity Act, §§24-10-101, C.R.S., *et seq.* or as otherwise provided by law.

8. **Assignment:** Licensee shall not assign or otherwise transfer this License or Agreement or any right or obligation hereunder without the prior written consent of Licensor, which consent shall not be unreasonably withheld, conditioned, or delayed. Should Licensor agree to such assignment, Licensor and Licensee hereby expressly agree that the intent of such benefit to said successors in title is not to create an easement in the Licensed Premises, but rather, a License. Licensor and Licensee, both for themselves and for their successors in title, agree that this License is terminable at the will of Licensor as set forth in Paragraph 5 above. Evidence of any such assignment or termination shall be recorded by the County in the records of the El Paso County Clerk and Recorder's Office.

9. **Construction:** The rule of strict construction does not apply to this instrument. This License shall be given a reasonable construction in light of the intention of Licensor to confer on Licensee a usable right to construct, maintain, repair, and replace the Improvements and Underdrains described herein.

10. **Right to Inspect:** Licensor may enter upon the Licensed Premises at any time and without notice to inspect the condition of the Licensed Premises.

11. **Remedies:** The Parties hereby agree that if any dispute cannot be resolved by mutual agreement of the Parties, such dispute may be resolved at law or in equity.

12. **No Third-Party Beneficiaries.** This Agreement does not and shall not be deemed to confer on any third party the right to the performance of or proceeds under this Agreement, to claim any damages or to bring any legal action or other proceeding against any Party hereto for any breach or other failure to perform this Agreement.

13. **Entire Agreement:** This Agreement, together with all exhibits attached hereto, constitutes the entire agreement between the Parties hereto, and all other representations or statements heretofore made, verbal or written, are merged herein, and this Agreement may be amended only in writing and executed by duly authorized representatives of the Parties hereto.

14. **Binding:** Licensee and Licensor hereby agree that the covenants, stipulations, and conditions as stated in this Agreement shall inure to the benefit of and shall be binding upon the heirs, personal representatives, successors and assigns of Licensor and Licensee in the event the Licensor agrees to an assignment of the Agreement.

15. **Authority:** The undersigned hereby acknowledge and represent that they have legal authority to bind the Party for whom they are executing this Agreement.

16. **Applicable Law:** The laws, rules, and regulations of the State of Colorado and El Paso County shall be applicable in the enforcement, interpretation, and execution of this Agreement. The Parties understand and agree that, in the event of any litigation that may arise

under this Agreement, jurisdiction and venue shall lie in the District Court of El Paso County, Colorado.

17. Execution: This Agreement, including facsimile copies of this Agreement, may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. In the event facsimile copies of this Agreement are executed, the original signatures shall be compiled and attached to form the original Agreement.

18. Recording: This Agreement shall be recorded by the County in the records of the El Paso County Clerk and Recorder's Office.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Agreement as of the day and year first above written.

LICENSOR:

BOARD OF COUNTY COMMISSIONERS OF
EL PASO COUNTY, COLORADO

12/12/24
(Date)

By: MS on behalf of _____
_____, Executive Director
Planning and Community Development Department
Authorized signatory pursuant to LDC

The foregoing instrument was acknowledged before me this 12th day of December, 2024, by Mindy Schulz, Executive Director of El Paso County Planning and Community Development Department.

Witness my hand and official seal.

My commission expires: 1/13/2026

Kelly M. Hills
Notary Public

Approved as to form:
Lori L Seago
County Attorney's Office

KELLY M. HILLS
Notary Public
State of Colorado
Notary ID # 20014033687
My Commission Expires 01-13-2026

LICENSEE:
STERLING RANCH METROPOLITAN DISTRICT NO. 3

By: 

Name: Doug Stimple

Title: President

STATE OF COLORADO)
) S.S.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 4th day of December, 2024, by Doug Stimple, as President of the Sterling Ranch Metropolitan District No. 3 a quasi-municipal entity and political subdivision of the State of Colorado.

WITNESS my hand and official seal.

My Commission Expires: 12-02-2025.

CHRISTINE L WISE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19974021715
MY COMMISSION EXPIRES DECEMBER 02, 2025


Notary Public



EXHIBIT A

JOB NO. 1183.30-01R2
AUGUST 9, 2022
REV. AUGUST 26, 2022
REV. FEB. 27, 2023
PAGE 1 OF 3

619 N. Cascade Avenue, Suite 200 (719) 785-0790
Colorado Springs, Colorado 80903

LEGAL DESCRIPTION: STERLING RANCH EAST FILING NO. 1

A PARCEL OF LAND BEING A PORTION OF SECTION 33, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BEING MONUMENTED AT THE WEST END WHICH IS THE CENTER-EAST ONE-SIXTEENTH CORNER OF SAID SECTION 28, BY A 3-1/4" ALUMINUM SURVEYORS CAP STAMPED "ESI PLS 10376, 2006" AND AT THE EAST END, WHICH IS A 30' WITNESS CORNER TO THE EAST OF THE EAST QUARTER CORNER OF SAID SECTION 28, BY A 3-1/4" ALUMINUM SURVEYORS CAP STAMPED "ESI 10376, 2006", IS ASSUMED TO BEAR N89°08'28"E, A DISTANCE OF 1356.68 FEET.

COMMENCING AT THE CENTER-EAST ONE-SIXTEENTH CORNER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN EL PASO COUNTY, COLORADO, SAID POINT BEING THE SOUTHWESTERLY CORNER OF RETREAT AT TIMBERRIDGE FILING NO. 1 RECORDED UNDER RECEPTION NO. 220714653 RECORDS OF EL PASO COUNTY, COLORADO;

THENCE S02°29'39"E, TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF BRIARGATE PARKWAY AS PLATTED IN HOMESTEAD NORTH AT STERLING RANCH FILING NO. 1 RECORDED UNDER RECEPTION NO. _____, RECORDS OF EL PASO COUNTY, COLORADO, A DISTANCE OF 3615.96 FEET SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE SOUTHERLY RIGHT OF WAY LINE OF SAID BRIARGATE PARKWAY AND THE WESTERLY RIGHT OF WAY LINE OF STERLING RANCH ROAD AS PLATTED IN SAID HOMESTEAD NORTH AT STERLING RANCH FILING NO. 1 THE FOLLOWING ELEVEN (11) COURSES:

1. S50°26'12"E, A DISTANCE OF 400.79 FEET TO A POINT OF CURVE;
2. ON THE ARC OF A CURVE TO THE LEFT, HAVING A DELTA OF 26°05'19", A RADIUS OF 2,065.00 FEET, AND A DISTANCE OF 940.26 FEET TO A POINT OF TANGENT;
3. S76°31'31"E, A DISTANCE OF 232.57 FEET;
4. S31°31'31"E, A DISTANCE OF 49.50 FEET;
5. S13°28'29"W, A DISTANCE OF 1,168.84 FEET TO A POINT OF CURVE;
6. ON THE ARC OF A CURVE TO THE RIGHT, HAVING A DELTA OF 62°50'51", A RADIUS OF 1,460.00 FEET, AND A DISTANCE OF 1,601.47 FEET TO A POINT OF TANGENT;
7. S76°19'20"W, A DISTANCE OF 1,779.02 FEET;
8. N13°40'40"W, A DISTANCE OF 44.22 FEET;
9. N58°40'40"W, A DISTANCE OF 19.87 FEET;
10. S70°06'35"W, A DISTANCE OF 170.61 FEET;
11. S01°19'20"W, A DISTANCE OF 7.43 FEET TO A POINT ON THE EASTERLY BOUNDARY OF TRACT D AS PLATTED IN STERLING RANCH FILING NO. 1 RECORDED UNDER RECEPTION NO. 218714161;

THENCE ON THE EASTERLY BOUNDARY OF SAID TRACT D THE FOLLOWING TWENTY-FIVE (25) COURSES:

1. N76°13'42"W, A DISTANCE OF 207.54 FEET;
2. N17°53'47"W, A DISTANCE OF 105.91 FEET;
3. N46°52'24"E, A DISTANCE OF 128.28 FEET;
4. N15°27'56"W, A DISTANCE OF 241.77 FEET;
5. N00°53'19"W, A DISTANCE OF 131.63 FEET;
6. N35°47'33"E, A DISTANCE OF 139.61 FEET;
7. N46°04'45"E, A DISTANCE OF 252.38 FEET;
8. N60°18'33"E, A DISTANCE OF 166.84 FEET;

9. N65°39'18"E, A DISTANCE OF 252.42 FEET;
10. N02°44'27"E, A DISTANCE OF 452.46 FEET;
11. N26°06'12"W, A DISTANCE OF 393.42 FEET;
12. N04°22'24"W, A DISTANCE OF 296.69 FEET;
13. N13°28'59"E, A DISTANCE OF 371.46 FEET;
14. S88°53'18"E, A DISTANCE OF 56.14 FEET;
15. S19°39'33"E, A DISTANCE OF 163.51 FEET;
16. S50°40'25"E, A DISTANCE OF 72.52 FEET;
17. N50°58'40"E, A DISTANCE OF 94.24 FEET;
18. N40°27'16"E, A DISTANCE OF 150.60 FEET;
19. N65°02'48"E, A DISTANCE OF 632.56 FEET;
20. N87°30'37"E, A DISTANCE OF 117.08 FEET;
21. N59°31'52"E, A DISTANCE OF 178.71 FEET;
22. N00°14'13"E, A DISTANCE OF 243.48 FEET;
23. N31°50'18"E, A DISTANCE OF 229.19 FEET;
24. N42°37'17"E, A DISTANCE OF 138.57 FEET;
25. N14°40'14"W, A DISTANCE OF 12.64 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF SAID BRIARGATE PARKWAY;

THENCE ON THE SOUTHERLY RIGHT OF WAY LINE OF SAID BRIARGATE PARKWAY THE FOLLOWING TWO (2) COURSES:

1. S79°16'20"E, A DISTANCE OF 122.46 FEET;
2. N39°33'48"E, A DISTANCE OF 14.16 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 161.524 ACRES (7,035,999 SQUARE FEET).

LEGAL DESCRIPTION STATEMENT:

I, ROBERT L. MEADOWS, JR., A LICENSED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.



ROBERT L. MEADOWS, JR., PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. NO. 34977
FOR AND ON BEHALF OF CLASSIC CONSULTING
ENGINEERS AND SURVEYORS, LLC

2-27-23

DATE

