

After Recording  
Return to:  
Denver City Attorney's Office  
201 W. Colfax Avenue, Dept. 1207  
Denver, CO 80202  
Project: 1498 Irving Utility Esmt  
Asset Mgt No: \_\_\_\_\_

PERMANENT EASEMENT  
[1498 Irving Street]

THIS PERMANENT EASEMENT (the "Easement"), is entered into this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado ("City") and AVONDALE COMMONS, LLC, a Colorado limited liability company, whose address is 1600 North Downing Street, Suite 300, Denver, Colorado ("Grantee").

WHEREAS, the City is the owner of a parcel of land located at 1498 Irving Street (the "Property"); and

WHEREAS, the Grantee desires an easement over, under and across the Property in order for utility lines to be installed and located underground in the Easement Area described and depicted in Exhibit A ("Easement Area"); and

WHEREAS, the City agrees to grant such easement, subject to the terms and conditions of this Agreement.]

NOW THEREFORE, for Eighteen Thousand Six Hundred Thirty-Seven Dollars and Fifty Cents (\$18,637.50) and after good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged:

1. Grant of Easement. The City grants and conveys a non-exclusive easement to the Grantee, together with a right of ingress, egress and access necessary or convenient to the Grantee to accomplish installation, repair, replacement, and maintenance of the underground utilities. The Grantee may, subject to the terms and conditions of this Easement, use the Easement Area in any lawful manner consistent with the rights granted herein.

2. No Representations. The City makes no representation or warranty of any kind with respect to the condition of the Easement Area. The Grantee accepts the Easement Area in its "AS-IS" condition, WITH ALL FAULTS AND AT THE GRANTEE'S OWN RISK, without any warranty, express or implied, including without limitation, any warranty of merchantability, liability, fitness or fitness for a particular purpose, all such warranties being hereby expressly disclaimed by the City.

3. Covenants of the City. The City shall allow the Grantee reasonable and sufficient access, ingress, and egress within the Easement Area. The City shall not construct or place any structure within the Easement Area that would obscure such access, ingress, and egress without prior written consent of the Grantee, which approval shall not be unreasonably delayed, withheld, or conditioned. The City shall take no action that would substantially impair the earth cover over, or the lateral or subjacent support for, the Easement Area.

4. Covenants of the Grantee. The Grantee shall use its best efforts not to disturb or alter the Easement Area or any portion of the Property (without implying a right to use the Property other than the Easement Area), including, but not limited to construction and staging areas, buildings, trees, shrubs, other landscaping, drainage and irrigation systems and shall, at the Grantee's sole cost and expense, in accordance with commercially reasonable standards, restore the Property, utilities, and improvements to substantially the same condition and grade as the same were in prior to any activity of the Grantee. The Grantee's use of the Easement Area shall not interfere with the City's ability to use its Property. All work done by the Grantee within the Easement Area shall be done at the Grantee's sole cost and expense, in a good and workmanlike manner, in compliance with all laws and regulations and free of mechanics' or materialmen's liens.

5. Reservations by the City. The City retains the right to the undisturbed use and occupancy of the Property and the Easement Area insofar as the use and occupancy is consistent with and does not impair any grant in this Easement and except as otherwise provided in this Easement. The City reserves the full use of the Easement Area that is not inconsistent with the Easement, including the right to grant additional easements for utilities or otherwise within the Easement Area.

6. Indemnity. The Grantee expressly agrees to defend, indemnify, and hold harmless the City, its officers, agent, and employees, against any liability, loss, damage, demand, action, cause of action, or expense of whatever nature (including court costs and attorneys' fees) that may result from any loss, injury, death or damage incurred by the City or a third party, caused by the Grantee's negligence or wrongful act, or which arises out of or is caused by any act or omission of the Grantee, its officers, agents, or employees in connection with or by reason of any work done or omission made by the Grantee, its agents, or employees in the use of the Easement or within the Easement Area.

7. Storage of Materials; Hazardous Materials. The Grantee shall not use the Easement Area for the storage of materials or equipment of any kind. The Grantee shall not cause or permit, any hazardous materials or substances to be transported to, or used, dumped, spilled, released, stored, or deposited on, over or beneath the Easement Area or on the Property.

8. Asbestos. Grantee agrees that should it or its contractors or subcontractors uncover asbestos fibers or materials containing asbestos in the Easement Area, that it will cease operations immediately and contact the Grantor immediately.

9. No Third-Party Beneficiaries. The Parties expressly agree that enforcement of the terms and conditions of this Easement, and all rights of action relating to enforcement, shall be strictly reserved to the City and the Grantee, and nothing contained in this Easement shall give or allow any such claim or right of action by any other person on the Easement.

10. Governing Law; Venue. Each and every term, condition, or covenant of this Easement is subject to and shall be construed in accordance with the provisions of Colorado law,

any applicable federal law, the Charter of the City and County of Denver, and the ordinances, regulations, and Executive Orders enacted and/or promulgated pursuant to the Charter. The applicable law, together with the Charter, Revised Municipal Code and regulations of the City and County of Denver, as the same may be amended from time to time, are expressly incorporated into this Easement as if fully set out by this reference. Venue for any action relating to this Easement shall be in the State District Court in the City and County of Denver, Colorado.

11. Successors and Assigns. The provisions of this Easement shall inure to the benefit of and bind the successors and assigns of the parties and all covenants herein shall apply to and run with the land.

12. Authorization. Grantee represents and warrants that the person signing this Easement has hereto have authority to execute and deliver this Easement on behalf of Grantee.

13. Severability. The promises and covenants in this Easement are several in nature. Should any one or more of the provisions of this Easement be judicially adjudged invalid or unenforceable, the judgment shall not affect, impair, or invalidate the remaining provisions of this Easement.

14. No Discrimination in Employment. In connection with the performance of work under this Easement, Grantee agrees not to refuse to hire, discharge, promote or demote, or to discriminate against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert this provision in all subcontracts hereunder.

15. Notices. All notices under this Easement shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph:

If to Denver: Mayor  
1437 Bannock Street, Room 350  
Denver, Colorado 80202

With copies to: Denver City Attorney  
1437 Bannock Street, Room 353  
Denver, Colorado 80202

Director of Real Estate  
201 W Colfax Ave, Dept 1010  
Denver, Colorado 80202

If to Grantee: Avondale Commons c/o ULC  
Attn: Sarah Harman

1600 N. Downing St Ste 300, Denver, CO 80218

With a copy to: Kutak Rock LLP  
Attn: Kristine Poston  
2001 16<sup>th</sup> Street Mall, Suite 1800  
Denver, CO 80202

16. Agreement as Complete Integration; Amendment. This Easement is intended as the complete integration of all understandings between the parties. No subsequent notation, renewal, addition, deletion, or other amendment shall have any force or effect unless embodied in a written amendatory or other easement executed by the parties in the same formality as this Easement.

17. Appropriation by City Council. All obligations of the City under and pursuant to this Easement, if any, are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Easement and paid into the Treasury of the City.

18. No Personal Liability. No elected official, director, officer, agent or employee of the City nor any director, officer, employee, or personal representative of Grantee shall be charged personally or held contractually liable by or to the other party under any term or provision of this Easement or because of any breach or because of their execution, approval, or attempted execution of this Easement.

19. Conflict of Interest by City Officers. Grantee represents that to the best of its information and belief no officer or employee of the City is either directly or indirectly a party to or in any manner interested in this Easement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected officials or employees.

**Contract Control Number:**  
**Contractor Name:**

FINAN-202577719-00  
Urban Land Conservancy d/b/a Avondale Commons, LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at  
Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

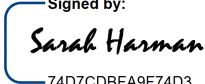
\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

FINAN-202577719-00  
Urban Land Conservancy d/b/a Avondale Commons, LLC

By:  Signed by:  
*Sarah Harman*  
74D7CDBFA9E74D3

Name: Sarah Harman  
(please print)

Title: Senior Vice President of Real Estate  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)



SURVAPP

**EXHIBIT A**  
**1498 N. Irving Street**

**LEGAL DESCRIPTION**

**Sheet 1 of 2**

A parcel of land being a portion of that parcel of land recorded at Reception Number 2012068986, recorded May 29, 2012, City & County of Denver Records, lying in the Northwest one-quarter (NW1/4) of Section 5, Township 4 South, Range 68 West of the 6<sup>th</sup> Principal Meridian, City & County of Denver, State of Colorado, described as follows:

Commencing at the southeast corner of the LIBRARY PARCEL<sup>1</sup>, said Reception No. 2012068986; thence north, 9.5 feet, along the east line of said LIBRARY PARCEL, to the TRUE POINT OF BEGINNING:

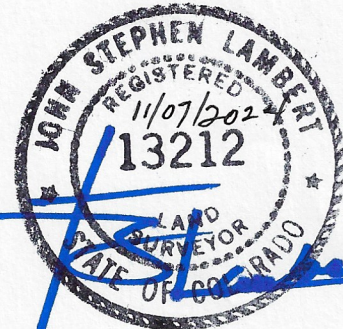
thence west, 120 feet, on an angle to the right of 90<sup>0</sup>;  
 thence north, 3 feet, on an angle to the left of 90<sup>0</sup>;  
 thence west, 51 feet, on an angle to the right of 90<sup>0</sup>;  
 thence north, 11 feet, on an angle to the left of 90<sup>0</sup>;  
 thence west, 3 feet, on an angle to the right of 90<sup>0</sup>;  
 thence north, 12 feet, on an angle to the left of 90<sup>0</sup>;  
 thence east, 12 feet, on an angle to the left of 90<sup>0</sup>;  
 thence south, 12 feet, on an angle to the left of 90<sup>0</sup>;  
 thence west, 3 feet, on an angle to the left of 90<sup>0</sup>;  
 thence south, 8 feet, on an angle to the right of 90<sup>0</sup>;  
 thence east, 165 feet, on an angle to the right of 90<sup>0</sup>, to said east line;  
 thence south, 6 feet, along said east line to the TRUE POINT OF BEGINNING.

<sup>1</sup> LIBRARY PARCEL is as shown by description and illustratively on Pages 5 & 6, respectively, of said Reception No. 2012068986.

Said parcel contains 1,065 square feet, (0.024 acres) more or less.

An illustration for this description is attached hereto and made a part hereof on Sheet 2 of 2.

The author of this description is Mr. John S. Lambert, PLS 13212, a registered professional land surveyor licensed to practice in the State of Colorado. The description was written for Public Service Company of Colorado, and on behalf of Lambert Land Consulting, LLC, on April 23, 2024, (September 16, 2024 – revised certain wording and phrases to satisfy C& C of D “Legal Description Guidelines, revised 2-28-2024), (October 17, 2024 – revised size and location), (Revised closing distance – November 7, 2024) under Job Number L24-028, and is NOT to be construed as representing a monumented land survey.



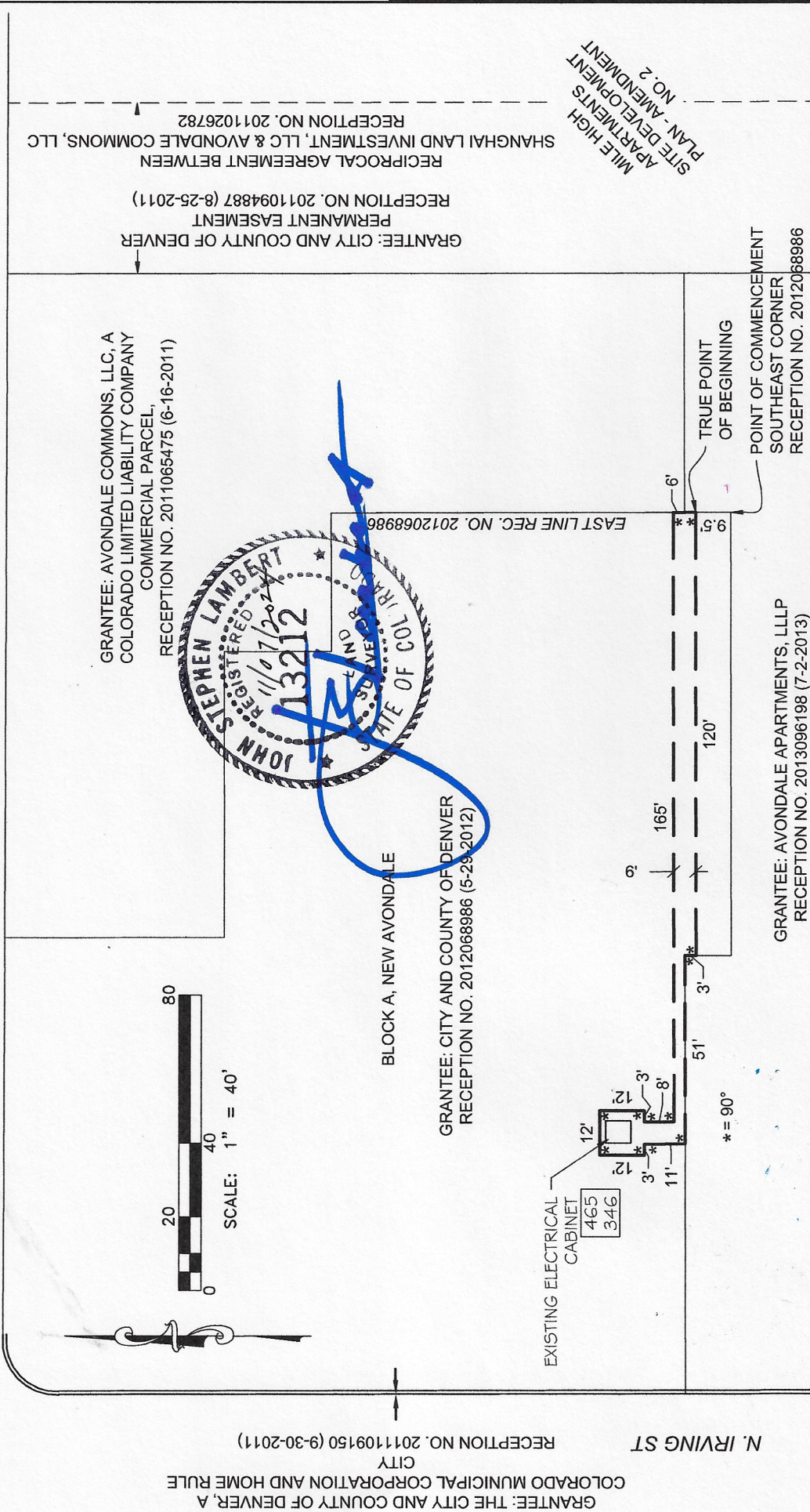
**L A M B E R T**  
**LAND CONSULTING**

SURVAPP

# EXHIBIT A - ILLUSTRATION SHEET 2 OF 2

NORTHWEST ONE-QUARTER OF SECTION 5, TOWNSHIP 4 SOUTH, RANGE 68 WEST OF THE 6th P.M.  
CITY AND COUNTY OF DENVER, STATE OF COLORADO

WEST COLFAX AVE



Prepared for:

Revisions

Date

#	Date	Revisions
0	4-22-2024	ORIGINAL DOCUMENT - MTS
1	9-23-2024	ADDRESS CCD COMMENTS - MTS
2	10-18-2024	ADDRESS CCD COMMENTS - MTS
3	10-30-2024	REV. APT. OWNERSHIP - MTS

Project#: L24-028

## Public Service Company of Colorado



Lambert Land Consulting, LLC  
417 S. Whitcomb Street · Fort Collins · Colorado 80521  
Phone 970.217.2190 - 970.232.9830 Fax

NOTICE: 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 FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.