

CITY OF WESTMINSTER
PERMANENT UTILITY
EASEMENT AND AGREEMENT

THIS EASEMENT AND AGREEMENT ("Agreement") is made and entered into this ____ day of _____, 2017, by and between County of Adams, State of Colorado, ("Grantor"), whose legal address is 4430 South Adams County Parkway, Brighton, CO 80601, and the City of Westminster, Colorado ("City"), whose legal address is 4800 West 92nd Avenue, Westminster, CO 80031.

I. CONVEYANCES OF REAL PROPERTY

For and in consideration of the sum of Two Thousand Eighty-Four Dollars (\$2,084.00), the receipt and adequacy of which is hereby acknowledged, Grantor, subject to the Terms and Conditions set forth below, hereby grants and conveys to the City, its successors and assigns, the following real property interests:

A. Permanent Easement.

A permanent utility easement for the installation, operation, maintenance, repair, replacement and removal of sanitary sewer lines, and mechanical equipment associated therewith, including all underground and surface appurtenances thereto (hereinafter called "City Improvements"), and to improve and maintain a suitable slope or grade, if necessary, together with a right-of-way for access on, along, and in all of the hereinafter described easement across those certain lands which are situated in the County of Adams, State of Colorado, being described more fully on Exhibit A, attached hereto and by this reference made a part hereof (the "Permanent Easement"). The Grantor further grants to the City:

1. The right of ingress to and egress from said Permanent Easement over and across adjacent lands of the Grantor by means of roads and lanes existing thereon; provided, that if any portion of said lands is or shall hereafter be subdivided, and dedicated roads or highways on such portion shall extend to said Permanent Easement, this right of ingress and egress on said portion shall be confined to such dedicated roads and highways, or other comparable access;
2. The right from time to time to enlarge, improve, reconstruct, relocate and replace any City Improvements and any attendant slopes and grades constructed hereunder with any other number or type of such Improvements, slopes and grades, either in their original location or at any alternate location within said Permanent Easement.
3. The right to install, maintain and use gates in all fences that now cross or may hereafter cross said Permanent Easement. However, City shall not fence, obstruct, or impede access to or use of the Little Dry Creek Trail.
4. The right to mark the location of said easements by suitable markers set in the ground; provided that permanent markers shall be placed in locations which will not interfere with any reasonable use Grantor may make of said Permanent Easement.
5. The right to cut and clear trees, brush, debris and other obstructions on the Permanent Easement that might interfere with the construction, operation and maintenance of the City Improvements on and in said Permanent Easement.

II. TERMS AND CONDITIONS

Grantor and the City agree that the Easements granted to the City above are made and shall remain subject to the following Terms and Conditions for so long as such interests may exist:

A. Improvements within Easements.

1. Grantor shall not construct or place any structure or building, structural fence, street light, power pole, yard light, mail box or sign, temporary or permanent, or plant a tree, ("Obstructions") on any part of the Permanent Easement, if the same in any way impairs the City's rights of access, without the City's express written approval.

2. Any Obstructions situated on the easement without City approval shall be removed by the Grantor or Grantor's successor upon written demand by the City or may be removed by the City without liability for damages arising therefrom.

B. Subjacent and Lateral Support; Earth Cover.

Grantor shall take no action which would in any way modify the earth cover by a twelve (12) inch vertical differential over the aforementioned City Improvements within the Permanent Easement or impair the lateral or subjacent support for the aforementioned City Improvements utilizing greater than an angle of repose of the native material, without obtaining the specific written permission of the City.

C. Rights Reserved By Grantor; Exclusivity of Permanent Easement.

1. City understands and agrees that the Permanent Easement crosses Little Dry Creek Trail. This Permanent Easement shall be subordinate to Grantor's rights to maintain, relocate, replace, improve, and otherwise perform work on the Little Dry Creek Trail. Subject to paragraphs II.A. and II.B. above, Grantor hereby retains the right to the undisturbed use and occupancy of so much of the property that has been made subject to the Permanent Easement, insofar as such use and occupancy is consistent with and does not impair any rights granted to the City respecting the use of said easements; **provided, however, the City's right to use and occupy the sub-surface of the property subject to the Permanent Easement is hereby declared and agreed to be exclusive and Grantor shall not grant a right to or otherwise permit anyone to place any facilities of whatsoever nature below the surface of the Permanent Easement without the express written approval of the City.**

2. Grantor reserves the right to continue to maintain and operate the Little Dry Creek Trail in perpetuity, which shall include all existing facilities and structures, as well as any successor or replacement facilities and structures. Grantor shall be allowed to maintain the trail and construct improvements to the trail and associated trail structures, including but not limited to fencing, drainage structures, and replacement of concrete trail sections.

3. City acknowledges that the Grantor has the right to maintain and operate the Little Dry Creek Trail over Grantor's property and City's Permanent Easement. City agrees to take reasonable precautions to keep the trail open and safe and to provide adequate trail detours if the trail must be closed temporarily, whenever City accesses the property for the purposes of this Permanent Easement. All closings and detours shall be coordinated with Grantor.

D. Grantor's and Signatory's Warranty of Title and Authority.

1. Grantor makes no warranties or representations regarding the title of the property.
2. Covenant of Authority. The person or persons signing and executing this easement and agreement on behalf of each Party, do hereby warrant and guarantee that he/she or they have been fully authorized to execute this Agreement on behalf of the Party they purport to represent and to validly and legally bind such Party to all the terms, performances, guarantees and provisions herein set forth.

E. Agreements Binding; Run with Grantor's Property.

1. Each and every one of the benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto.
2. The easement herein granted touches and concerns the real property of the Grantor and shall be deemed a covenant running with said property.

F. Restoration.

1. City shall restore the surface of any ground it may disturb in the course of exercising any of its rights under the Permanent Easement and Temporary Easement, to substantially the same condition that existed prior to such use by the City, subject only to the limitations set forth in this Agreement.
2. The City shall promptly repair or replace any damage it shall do to Grantor's property caused by its use or ingress to and egress from said Permanent Easement and shall restore said damaged land and/or property to its original condition. City shall not interfere with or damage the Little Dry Creek Trail.

G. Miscellaneous.

1. The parties hereto agree that neither has made or authorized any agreement with respect to the subject matter of this instrument other than expressly set forth herein and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either party, or its agents or employees.
2. The City shall have the right to assign this easement to other governmental entities with the written consent of the Grantor.
3. Whenever used herein, the singular number shall include the plural, the plural the singular; and the use of any gender shall be applicable to all genders.

Executed and delivered this _____ day of _____ 2017.

ATTEST:
STAN MARTIN,
CLERK AND RECORDER

BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, COLORADO

BY:

Chair

APPROVED AS TO FORM:

Adams County Attorney's Office

Accepted by the

CITY OF WESTMINSTER

By

Donald M. Tripp
City Manager

STATE OF COLORADO

)

) ss.

COUNTY OF ADAMS

)

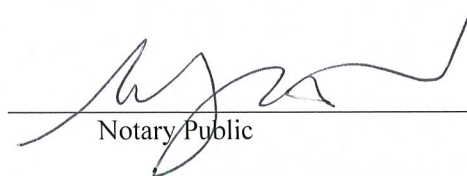
The foregoing instrument was acknowledged before me this 19 day of
July, 2017, by Donald M. Tripp the City Manager of City of Westminster.

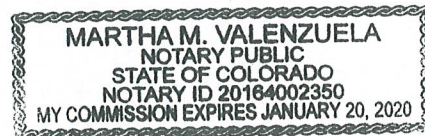
Witness my hand and official seal.

My commission expires: 1/20/2020

(S E A L)

State of _____, County of _____
Signed before me on this _____ day
of _____, by _____
Notary Public _____


Notary Public



APPROVED AS TO LEGAL FORM:


City Attorney's Office



Merrick & Company
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111
303-751-0741 / Fax 303-751-2581

Job No.: 68318490

File: Y:\Survey\65318490-HDR-Westminster Sewer Survey\Property Descriptions
PATTERSON CENTRE TRACT A PERM EASEMENT 1.docx

Date: October 6, 2015

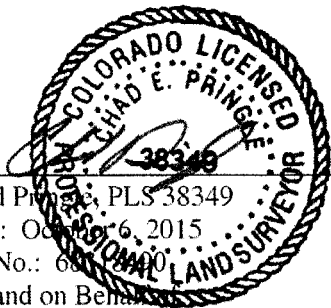
PROPERTY DESCRIPTION

ADAMS COUNTY

A parcel of land being a portion of Tract A, Patterson Centre as recorded May 25, 1999 as File 18 Page 56, and Reception No. C0546835 in the records of the Adams County Clerk and Recorder and being in a portion of the Southwest Quarter of Section 4, Township 3 South, Range 68 West of the 6th Principal Meridian, City of Westminster, Adams County, State of Colorado and being more particularly described as follows:

BEGINNING at the Northwest Corner of said Tract A being the northwest corner of the southwest quarter of the southwest quarter of said Section 4 whence the Southwest corner of said Section 4 bears S00°26'16"W a distance of 1,334.07 feet;
THENCE S89°55'25"E along the northerly line of said Tract A, a distance of 219.13 feet;
THENCE S41°28'52"E a distance of 207.52 feet;
THENCE S09°41'14"E a distance of 203.70 feet;
THENCE S28°29'00"E a distance of 117.87 feet;
THENCE N86°46'51"W along the southerly line of said Tract A, a distance of 23.51 feet;
THENCE N28°29'00"W a distance of 108.83 feet;
THENCE N09°41'14"W a distance of 182.33 feet;
THENCE N41°28'52"W a distance of 217.82 feet;
THENCE N89°55'25"W 20.00 feet southerly and parallel with the northerly line of said Tract A, a distance of 196.90 feet;
THENCE N00°26'16"E along the westerly line of said Tract A, also being the westerly line of said South Half of the Southwest Quarter of Section 4 a distance of 20.00 feet; to the **POINT OF BEGINNING**.

Containing 16,668 square feet (0.383 Acres), more or less.



Chad Prince, PLS 38349

Date: October 6, 2015

Job No.: 68318490

For and on Behalf of

Merrick & Company

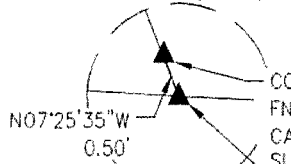
40' STREET DEDICATION
PER SUNSTRAND SUBDIVISION

POINT OF COMMENCEMENT

NW COR. OF THE SW 1/4
OF THE SW 1/4 SEC 4 AND 5
FND. 3-1/4" ALUM. CAP ON
#6 REBAR DOWN 0.3'
BELOW THE SURFACE
"LAND SURVEY CORNER
1992 CHICHESTER PLS 7735"

20' WIDE WATER MAIN
EASEMENT PER BOOK 4013
AT PAGE 291
RECORDED JANUARY 7, 1993

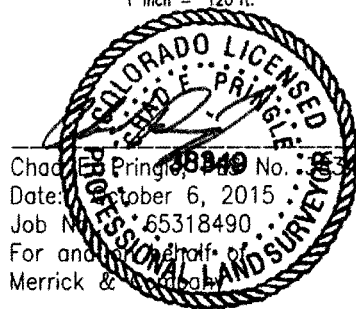
DETAIL A (N.T.S.)



FND. 1-1/2" PLASTIC CAP
1.0' BELOW THE SURFACE
"HIS CONSULT. PLS 20140"



0 60 120 240
1 inch = 120 ft.



Chad E. Pringle, No. 653149
Date: October 6, 2015
Job No. 65318490
For and on behalf of
Merrick & Company

Note: The Flood Zones shown hereon are as shown on the Federal Emergency management Agency, National Flood Insurance Program, Flood Insurance Rate Map for Adams County, Colorado Community-Panel Number 584, Map dated March 5, 2007. Zone AE is described as base flood elevations determined. Zone X in the legend of above mentioned map is described as areas outside the 0.2% annual chance of flood. Zone A is described as no base flood elevations determined.

CLEAR CREEK STATION
METROPOLITAN DISTRICT NO. 1
(TRACT O, MIDTOWN AT
CLEAR CREEK FILING NO. 4
RECEPTION #2014000076746)

POINT OF BEGINNING

S89°55'25"E 219.13'
N89°55'25"W 196.90'

FND. 1-1/2" PLASTIC CAP
1.0' BELOW THE SURFACE
"HIS CONSULT. PLS 20140"

VAGHER INVESTMENTS LLC
LOT 1
PATTERSON CENTRE
SWD REC# 2009000025458
04/08/2009
FILE 18 MAP 56

**AREA=16,668 SQ FT
(0.383 ACRES) ±**

ZONE X

ADAMS COUNTY
PATTERSON CENTRE
FILE 18 MAP 56

RIGHT OF WAY
GRANTED TO
MOUNTAIN STATES
TELEPHONE &
TELEGRAPH CO. PER
BOOK 194 PAGE 438
(SPECIFIC LOCATION
NOT DEFINED)

FND. 1-1/2" PLASTIC CAP
0.3' BELOW THE SURFACE
STAMPED "AMERICAN
WEST PLS 38046"

N28°29'00"W 108.83'
S28°29'00"E 117.87'
N21°41'45"W 139.88'

N86°46'51"W 23.51'

BALL-FOUR INC. DBA
SOFTBALL COUNTRY
BOOK 3543 PAGE 659
03-13-89

SW COR SEC 4, T3S, R68W, 6TH PM
FND. 2-1/2" ALUM. CAP ON
#6 REBAR 0.6' BELOW THE SURFACE
IN A RANGE BOX
"ROBERT M. SAYER RLS 11372"

BASIS OF BEARING: S00°26'16"W 1334.07'

65TH PLACE

FLOODWAY
AREAS
IN ZONE AE

NOTE: This exhibit does not represent a monumented survey. It is intended only to depict the attached description.

MERRICK PROJECT NO.		65318490	
CLIENT PROJECT NO.			
REVISION DESCRIPTION			
DRAWN	GPM	DATE	10/05/15
SCALE		1" = 120'	
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111			

LITTLE DRY CREEK INTERCEPTOR SEWER Owner: ADAMS COUNTY		
TITLE: Part of TRACT A PATTERSON CENTRE SUBDIVISION Part of SW 1/4 Sec. 4, T3S, R68W		
REVISION:	DRAWING NO.	SHEET NO.
		Exhibit 1