

CITY OF WHEAT RIDGE, COLORADO  
RESOLUTION NO. 21  
Series of 2011

**TITLE: A RESOLUTION APPROVING A CONTRACT WITH THE CITY AND COUNTY OF DENVER FOR A WATER LINE EASEMENT AT WEST 37<sup>th</sup> PLACE AND MILLER COURT**

**WHEREAS**, the City and County of Denver, acting by and through its Board of Water Commissioners, constructed a water line across property owned by the City; and

**WHEREAS**, the City and County of Denver has requested an easement across said property which will allow maintenance and replacement of the water line.

**NOW, THEREFORE, BE IT RESOLVED** by the Wheat Ridge City Council, that:

1. Contract Approved.


The contract between the City of Wheat Ridge and the City and County of Denver is hereby approved and the Mayor and City Clerk are authorized and directed to execute the same.

This Resolution shall be effective immediately upon adoption.

DONE AND RESOLVED this 11<sup>th</sup> day of July, 2011.

  
\_\_\_\_\_  
Jerry DiTullo, Mayor

ATTEST

  
\_\_\_\_\_  
Michael Snow, City Clerk



## NONEXCLUSIVE EASEMENT AGREEMENT

Contract # 13689A

THIS NONEXCLUSIVE EASEMENT AGREEMENT (this "Agreement") is made this \_\_\_ day of \_\_\_\_\_, 2011, by and between THE CITY OF WHEAT RIDGE, a Colorado municipality (the "City"), and THE CITY & COUNTY OF DENVER, ACTING BY AND THROUGH ITS BOARD OF WATER COMMISSIONERS, a Colorado municipal corporation ("Denver Water"), together referred to as the "Parties."

### RECITALS

A. The City is the owner of certain real property located within Jefferson County, Colorado, and described as follows:

Lot 12, Horace Heights Subdivision, City of Wheat Ridge

(hereinafter the "Subject Property").

B. Denver Water desires to operate and maintain a public water line upon and through the Subject Property.

C. The City desires to grant a nonexclusive easement to Denver Water for water line purposes, subject to the terms and conditions set forth in this Agreement.

NOW THEREFORE, the City and Denver Water agree as follows:

1. Conveyance of Water Line Easement and Consideration. In consideration of Twenty-two Thousand Eight Hundred Dollars (\$22,800.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City has this day bargained and sold and by these presents does grant unto Denver Water, the following easement, subject to the terms and conditions herein set forth:

A nonexclusive perpetual easement, for the purposes described in paragraph 2 below, over, upon, across and through all of that portion of the Subject Property that is depicted and described on the attached **Exhibit A** as the "Water Line Easement."

2. Denver Water's Use of Easement. The Water Line Easement shall be used by Denver Water only for the installation, maintenance, replacement, operation, and repair from time to time of an underground public water line, along with such other subsurface improvements, permanent or temporary, as Denver Water shall determine to be reasonably required in connection therewith. The easement area shall be free of obstacles throughout the length of the easement. Due to variations in topography, the easement and the pipe may take on an uphill or downhill direction having a slope of greater than 4%; however, the City shall not create an increase in the degree of sloping within the easement in any direction to ensure stability of maintenance equipment.

3. City's Use of Easement. The City shall have the right to use and occupy the Water Line Easement for any purpose that does not unreasonably interfere with Denver Water's full and complete enjoyment of the rights hereby granted.

4. Access to Easement. With the advance permission of the City's Public Works Director, Denver Water may cross such additional areas of the Subject Property as may be reasonably necessary to provide ingress and egress to the Water Line Easement for purposes of maintenance and repair from time to time. In cases of emergency, Denver Water may cross additional areas of the Subject Property without advance permission of the City's Public Works Director and shall notify the City's Public Works Director as soon as reasonably possible thereafter.

5. Obstruction of Easement. The City shall not construct or place any building, fence, street light, power pole, yard light, mail box, sign or trash receptacle, temporary or permanent, or plant any shrub, tree, woody plant or nursery stock, on any part of the Water Line Easement.

6. Improvements and Maintenance. Denver Water shall be responsible for all costs of improvement and maintenance of all of its facilities in the Water Line Easement and to maintain the surface thereof in a level and safe condition.

7. Other Utilities. Denver Water agrees that other public utilities such as sanitary sewer, storm sewer, gas, and electric lines, may be installed in the Water Line Easement as long as they do not interfere with Denver Water's rights and as long as piping crossing the water line(s) at right angles, or a substantially right angles, is metallic or concrete. Any piping or cable that crosses the water line(s) and is not metallic or concrete, **must** be encased within steel conduit and/or concrete ducts. Any and all utilities which parallel Denver Water's facilities will not be permitted within ten (10) feet of Denver Water facilities without prior express permission of Denver Water. The intent is to reserve for Denver Water's water lines at least twenty (20) feet of the easement width.

8. Liability. Within the limitations of the Colorado Constitution and statutes, each Party agrees to be responsible for its own negligent acts and omissions. However, neither party waives the monetary limitations of \$150,000 per person, \$600,000 per occurrence, and all other rights, immunities and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., as it may be amended from time to time.

9. Benefits and Burdens to Run With the Land. The provisions of this Agreement, including all benefits and burdens, are intended to be real covenants running with the land to which they pertain, and each of the benefits and burdens of this Agreement shall inure to and be binding upon the Parties, their successors and assigns.

10. Sole Beneficiaries. It is the intent of the Parties that they, their successors and assigns, be and remain the sole beneficiaries of this Agreement and that no third party shall be entitled to claim the benefits hereof.

11. Termination. If Denver Water abandons use and operation of its facilities laid pursuant to this Agreement, such abandonment shall not constitute abandonment of Denver Water's rights under this Agreement.

12. Enforcement. The Parties agree that each of the provisions of this Agreement shall be subject to specific enforcement. Jurisdiction and venue for all actions concerning this Agreement shall be proper and exclusive in the District Court for Jefferson County, Colorado.

13. Recording. This Agreement shall be filed for record with the Jefferson County Clerk and Recorder by Denver Water.

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.

CITY OF WHEAT RIDGE, COLORADO

By: Jerry DiTullio  
Jerry DiTullio, Mayor

ATTEST:

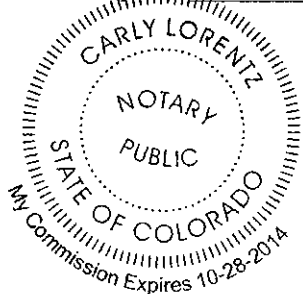
Michael Snow  
Michael Snow, City Clerk

State of Colorado )  
  ) ss.  
County of Jefferson )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of July, 2011, by Jerry DiTullio, as Mayor of the City of Wheat Ridge, Colorado, and Michael Snow as City Clerk of the City of Wheat Ridge, Colorado.

My commission expires: \_\_\_\_\_

seal



Carly Lorentz  
Notary Public

CITY AND COUNTY OF DENVER,  
acting by and through its  
BOARD OF WATER COMMISSIONERS

By: \_\_\_\_\_  
James S. Lochhead, CEO/Manager

Date: \_\_\_\_\_

APPROVED:

Robert J. Mahoney  
Robert J. Mahoney, Director of Engineering

APPROVED AS TO FORM:

Legal Division  
Legal Division

REGISTERED AND COUNTERSIGNED:  
Dennis J. Gallagher, Auditor  
CITY AND COUNTY OF DENVER

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

Contract # 13689A

**Exhibit A  
Water Line Easement**

**[Attached]**

## PROPERTY DESCRIPTION

A parcel of land over and across Lot 12 in Horace Heights Subdivision, recorded as Book 14 at Page 23 at the Jefferson County Clerk and Recorder's Office, said parcel situated in the he northwest quarter of the northeast quarter (NW¼ NE¼) of Section 28, Township 3 South, Range 69 West of the 6<sup>th</sup> Principle Meridian;

Commencing at the East sixteenth corner of Sections 21/28, and considering the North line of the Northwest one-quarter of the Northeast quarter of said Section 28 to bear North 89°12'42" East, said line forming the Basis of Bearing for this legal description; Thence South 29°19'58" West a distance of 340.16 feet to the southeasterly boundary of said Lot 12, which is also west boundary of Miller Court, also being the Point of Beginning;

Thence North 56°45'18" West a distance of 199.07 feet to a point on the west boundary of said Lot 12;

Thence along said west boundary North 00°15'48" West a distance of 11.24 feet to the point of intersection of Moore Street and Miller Court, this point being the northwest corner of said Lot 12;

Thence along the north boundary of said Lot 12 North 89°44'12" East a distance of 43.00 feet;

Thence continuing along said northerly boundary along the arc of a tangent curve to the right having a central angle of 19°42'02" and a radius of 123.00 feet, an arc distance of 42.29 feet (the chord of which bears South 80°24'47" East a distance of 42.08 feet);

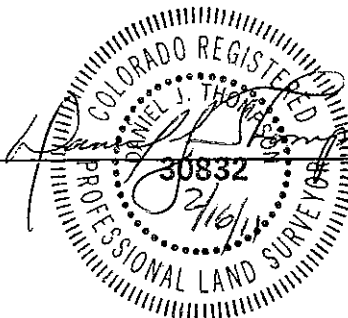
Thence leaving said northeasterly boundary of said Lot 12 South 56°45'18" East a distance of 58.71 to a point on the northeasterly boundary of said Lot 12;

Thence along said northeasterly boundary of said Lot 12 along the arc of a non-tangent curve to the right having a central angle of 41°49'04" and a radius of 123.00 feet, an arc distance of 89.77 feet, the chord bears South 22°02'18" East a distance of 87.79 feet, to the Point of Beginning.

Said Parcel contains 7602 square feet more or less.

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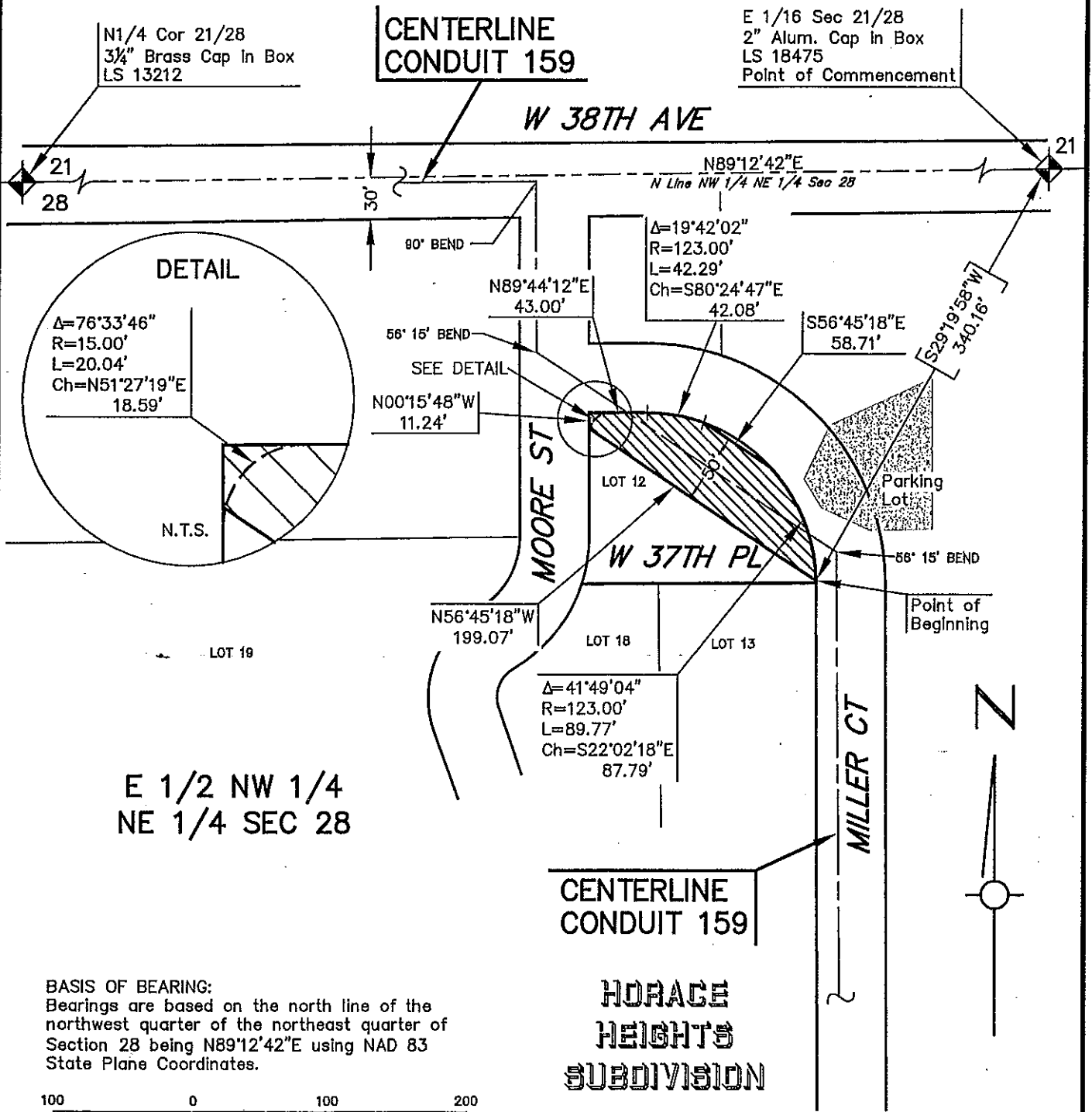
Name and Address of Person Creating  
Newly Created Legal Description  
(§ 38-35-106.5, C.R.S.)



Denver Water  
1600 West 12th Avenue  
Denver, Colorado 80204

NE 1/4 SECTION 28, TOWNSHIP 3 SOUTH, RANGE 69 WEST 6th P M

----- JEFFERSON COUNTY -----



PARCEL CONTAINS 7602 SQ FT ±

<p><b>LEGEND</b></p> <p> EASEMENT ACQUIRED</p>	<p>DOCUMENT DATED</p> <p>SEC'Y FILE DOC.</p> <p>RIMS ITEM NO.</p> <p>CARD NO.</p>	<p><b>CONDUIT NO 159</b></p> <p>EASEMENT ACQUIRED FROM                  THE CITY OF WHEATRIDGE                  FOR A 30" STEEL CONDUIT</p>	<p><b>DENVER WATER</b></p> <p>1800 West 12th Avenue                  Denver, Colorado 80204                  Phone (303)828-6000                  Fax (303)828-6224                  www.denverwater.org</p>
	<p>DRN. AEM/PM. <i>J.S. &amp; C.</i></p> <p>APPD <i>Janiffa Thompson</i></p> <p>SHEET 1 OF 1 SHEET</p>		
<p>DATE: FEBRUARY 15, 2011</p>		<p>DATE: FEBRUARY 15, 2011</p>	