

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION NO. 12
Series of 2019

TITLE: A RESOLUTION GRANTING AN EASEMENT TO METRO WASTEWATER RECLAMATION DISTRICT FOR THE PURPOSE OF PROVIDING A SEWER LINE METERING STATION IN CITY OWNED OPEN SPACE

WHEREAS, the Metro Wastewater Reclamation District provides services to Wheat Ridge residents; and

WHEREAS, the District requires a metering station within a certain distance of wastewater lines; and

WHEREAS, the required location is within the boundaries of the City's ownership of the Wheat Ridge Greenbelt/Open Space; and

WHEREAS, the District has requested, and the City Council is willing to approve, an easement across the City's property for that purpose.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Wheat Ridge, Colorado, as follows:

Section 1. The City Council hereby approves the conveyance of an easement across greenbelt lands owned by the City, to Metro Wastewater Reclamation District substantially in the form attached as **Exhibit A**, subject to approval as to final form by the City Attorney, for the purpose of installing a sewer line metering station, and authorizes and directs the Mayor and City Clerk to execute the same.

Section 2. This Resolution shall be effective upon approval.

DONE AND RESOLVED this 11th day of February, 2019.



Bud Starker, Mayor

ATTEST:



Janelle Shaver, City Clerk



Exhibit A

Form of Non Exclusive Easement Agreement
[Attached]

**NON-EXCLUSIVE
EASEMENT AGREEMENT**

THIS AGREEMENT, made effective as of February 11, 2019, between the **CITY OF WHEAT RIDGE, COLORADO** a home rule municipal corporation, (the "Grantor"), and **METRO WASTEWATER RECLAMATION DISTRICT**, a public body politic and corporate and a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"), whose legal address is 6450 York Street, Denver, Colorado 80229.

WITNESSETH:

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are acknowledged, Grantor hereby grants to the District, its successors and assigns, the permanent right to enter, reenter, occupy and use the property situate in the County of Jefferson, State of Colorado, and more fully described on **Exhibit A** attached hereto and incorporated herein by reference (the "Property"), to construct, lay, install, inspect, monitor, maintain, repair, renew, substitute, change the size of, replace, remove, operate and use a single underground sanitary sewer pipeline, and an associated metering station,, as described on **Exhibit A**, of such size and capacity as necessary or required by the District and other reasonably necessary or desirable facilities or equipment, in, through, over and across the Property.

The land parcels owned by Grantor that are affected by this grant of easement are located in the City of Wheat Ridge, County of Jefferson, State of Colorado, and are more particularly described in the two (2) deeds contained in **Exhibit B** also attached hereto and incorporated herein by reference.

THE PARTIES MUTUALLY COVENANT AND AGREE as follows:

1. The District shall have and may exercise the right of ingress and egress in, to, over, above, through and across the Property for any purpose needful for the full enjoyment of any right of occupancy or use provided for herein. Grantor further grants to the District the right of ingress to and egress from the Property over and across adjacent lands of Grantor by means of roads and lanes thereon if such there be; otherwise only by such route or routes as Grantor shall approve in writing following the District's request for the same
2. Grantor shall neither cause nor permit the construction or placement of any structure or building, street light, power pole, yard light, mailbox, well, reservoir, or any other improvement, or the planting of any tree of any kind, on any part of the Property without prior written approval from the District, which approval shall not be unreasonably withheld, conditioned or delayed. Fences existing as of the date hereof which do not impair access for vehicles, personnel and equipment through the length of the Property which are disturbed or destroyed by the District in the exercise of its rights hereunder shall be replaced by the District to their original condition as nearly as may reasonably be done. Grantor shall not, however, construct or install new fencing that would impair access for vehicles, personnel and equipment through the length of the Property without the written approval of the District. Grantor will, at Grantor's expense, move any vehicles, equipment or other personal property stored on the Property as reasonably directed by the District. Any prohibited use or installation located on the

Property as of, or after the date of this Agreement, including new utility installations not conforming to Paragraph 7 hereof, may be removed by the District without liability to the District for damages arising therefrom.

3. The Grantor shall provide to the District all information within its possession about past and currently existing environmental contamination on the Property. Such information shall include but not be limited to environmental studies, reports, samples, agreements, liens, citations, notices, letters as well as information related to remediation work that has been done, is ongoing, or is planned to occur for the Property. Grantor does not warrant the environmental condition of the Property, and District assumes all risk of the presence of any hazardous materials or environmental contamination on the Property.

4. After any construction or other operations by the District which disturb the surface of the Property, the District will restore the general surface of the ground as nearly as may reasonably be done to the grade and condition it was in immediately prior to construction, except as necessarily modified to accommodate District facilities and use permitted hereby. Topsoil shall be replaced and all disturbed areas reseeded with plants approved in advance by Grantor, and any excess earth resulting from installations by the District shall be removed from the Property at the sole expense of the District. For a period of one year following disturbance of the surface of the Property by the District, the District will maintain the surface elevation and quality of the soil by correcting any settling or subsidence that may occur as a result of the work done by the District.

5. The District shall have the right of subjacent and lateral support to whatever extent is necessary or desirable for the full, complete and unmolested enjoyment of the rights herein granted. Grantor shall neither take nor permit any action which would impair the lateral or subjacent support for the facilities permitted by this Agreement. Grantor shall not materially modify the earth cover over District facilities without advance written authorization from the District, which shall provide for full payment or reimbursement to the District of all costs of adjusting District facilities made necessary by such modification.

6. Grantor retains the right to the undisturbed use and occupancy of the Property insofar as such use and occupancy are subject to the restrictions of paragraph 2 and are consistent with and do not impair the grant herein contained.

7. Grantor may authorize other public utilities such as water, storm sewer, gas, electric, and telephone, to be installed in the Property, provided that they do not interfere with the District's rights herein granted, that public utilities crossing the Property cross at approximately right angles, and that no utilities be permitted to parallel the District's facilities within ten feet thereof. Except for surface facilities consistent with Grantor's use of the Property as an open space and greenbelt park (by way of example and not limitation: soft and hard surface trails, signage and park markers), utilities as herein authorized, and roadways, all other surface and subsurface uses of the Property must be approved in writing by the District before installation. Unauthorized or non-conforming utility installations may be removed by the District without liability for damages arising therefrom.

8. If the District by written instrument abandons or releases its rights herein granted

and ceases to use the same, all right, title and interest of the District hereunder shall cease and terminate, and the Grantor shall hold the Property, as the same may then be, free from the rights so abandoned or released and shall own all material and structures of the District so abandoned or released, but nothing herein shall be construed as working a forfeiture or abandonment of any interest derived hereunder and not owned by the District at the time of the abandonment or release of the District's rights. In the absence of such express written abandonment as provided for herein, abandonment or cessation of the use of its facilities located on or under the Property by the District shall not constitute an abandonment of its rights under this Agreement.

9. Grantor warrants that it has full right and lawful authority to make the grant herein contained.

10. The benefits and burdens of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto. Jurisdiction and venue for any action concerning this Agreement is proper and exclusive in the District Court for Jefferson County, Colorado.

11. Should any one or more provisions of this Agreement be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Agreement, the intent being that the various sections and provisions hereof are severable.

12. The District, for its officers and employees, and within the limitations of the Colorado Constitution and statutes, hereby indemnifies and covenants to hold harmless the Grantor and its officers and employees from and against all claims and causes of action, including damages of any kind, attorney fees and court costs, arising in any way from the District's use and occupation of the easement hereby granted. Neither party hereto waives any of the immunities, limitations of liability and defenses of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq, or the common law.

13. The above and foregoing constitutes the whole agreement between the parties and no additional or different oral representation, promise or agreement shall be binding on any of the parties hereto with respect to the subject matter of this instrument.

IN WITNESS WHEREOF the parties have executed this instrument as of the day and year first above written.

Exhibit A
(2 Pages)

Exhibit B
(2 Pages)

- 1) Quit Claim Deed recorded August 30, 1972 in Book 2416 at Page 375, Reception No. 514340.
- 2) Warranty Deed recorded November 20, 1972 in Book 2447 at Page 796, Reception No. 532582.