

Please return to:



AGREEMENT DATE: 11-1-2016
(To be completed by Denver Water – Property Management)

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (“Agreement”) is made between **SOUTHBRIDGE TERRACES HOMEOWNERS ASSOCIATION, INC., A COLORADO NON-PROFIT CORPORATION**, hereinafter called “Grantor”, (whether grammatically singular or plural) and the **CITY AND COUNTY OF DENVER, acting by and through its BOARD OF WATER COMMISSIONERS**, hereinafter called “Board”.

WITNESSETH:

For and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable consideration to the Grantor in hand paid by the Board, the receipt whereof is hereby acknowledged, the Grantor hereby grants to the Board, its successors and assigns, the permanent right to enter, re-enter, occupy and use the described property to construct, maintain, repair, replace, remove, enlarge and operate one or more water pipelines and all underground and surface appurtenances thereto, including electric or other related control systems, underground cables, wires and connections and surface appurtenances. By way of example and not by way of limitation, the parties intend to include within the terms “pipelines” and “appurtenances” the following: mains and conduits, valves, vaults, manholes, control systems, ventilators, and the like, in, through, over and across the following described parcel of land situate, lying and being in the County of Arapahoe and State of Colorado, to-wit:

(For Legal Description, please see Exhibit “A”, attached hereto and made a part hereof)

IT IS HEREBY MUTUALLY covenanted and agreed by and between the parties hereto as follows:

1. The Board shall have and exercise the right of ingress and egress in, to, over, through and across the above described property for any purpose needful for the full enjoyment of any other right of occupancy or use provided for herein. 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, sloping within the easement across its width may not exceed 4% in any direction to insure stability of maintenance equipment and vehicles.

2. The Grantor shall not construct or place any structure or building, fence, retaining wall, 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 above described easement. Any structure or building, fence, street light, power pole, yard light, mail box or sign, temporary or permanent, or shrub, tree, woody plant or nursery stock, of any kind situated on the above described easement as of the date of this Agreement, may be removed by the Board without liability for damages arising therefrom.

3. The Grantor, for itself, its successors and assigns, shall provide to the Board any information within its possession about past and currently existing Environmental Contamination in the easement area. Such information shall include but not be limited to environmental studies, reports, samples, agreements, liens, letters and any remediation work that has been done or is ongoing to clean the area or is planned to occur. If contaminated soils exist in the easement area upon the effective date of this Agreement, for which the Grantor or its successors or assigns are responsible under applicable state or federal laws, the Grantor, at Grantor's sole expense, shall take Corrective Action to clean the contamination to the full width of the easement area and a depth of at least twelve (12) feet from finished grade or to two (2) feet below the bottom of the water line as determined by the Board. Contamination shall be cleaned to the appropriate state and federal standards set forth by the U.S. Environmental Protection Agency and Colorado Department of Public Health and Environment or to the standards of Corrective Action plans for the property currently approved by the U.S. Environmental Protection Agency and Colorado Department of Public Health and Environment. Grantor shall provide documents verifying Corrective Action to the Board prior to the installation of pipeline facilities.

4. To the extent it legally may, and as long as the Board did not cause Environmental Contamination, the Grantor, for itself, its successors and assigns, shall indemnify the Board against any liability, damages, costs, expenses, causes of action, claims, losses, settlements, fines and penalties, and reasonable attorneys' fees claimed against the Board relating to (1) the existence, mitigation, or remediation of Environmental Contamination in the easement area; (2) any Corrective Action in the easement area; (3) any Environmental Contamination in the easement area that occurs or is discovered after conveyance of the easement; or (4) the occurrence, disturbance, or movement of existing contaminated soils resulting directly or indirectly from any work conducted by the Board in exercise of the Board's functions.

5. As used in this Agreement, "Corrective Action" shall refer to risk assessment, active remediation, passive remediation, voluntary cleanup, investigation and/or monitoring of Environmental Contamination.

6. As used in this Agreement, "Environmental Contamination" means the presence within the easement area of any hazardous material, including but not limited to any substances defined as or included in the definition of "hazardous substance," "hazardous material" or "toxic substances" in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 5101, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq., or any other federal, state or local statute, law, ordinance, code, rule, regulation, order, decree or other requirement of governmental authority regulating, relating to or imposing liability or standard of conduct

concerning any hazardous, toxic or dangerous substance or material, as now or at any time hereafter in effect, and in the regulations adopted, published and/or promulgated pursuant to said laws.

7. Fencing existing at the time of this Agreement which is disturbed or destroyed by the Board or the Board's agents in constructing the Board's facilities shall be replaced by the Board to its original condition as nearly as reasonable; however, the Grantor shall not construct new fencing across or within the easement.

8. The Board shall have and exercise the right of subjacent and lateral support to whatever extent is necessary or desirable for the full, complete and unmolested enjoyment of the rights described herein. It is specifically agreed between the parties that the Grantor shall take no action which would impair the earth cover over, or the lateral or subjacent support for any water pipeline or lines and appurtenances within the easement. The Board's Engineering Standards require no less than four and one-half (4½) feet and no more than ten (10) feet of earth cover, measured vertically from the top of any pipeline or lines. Deviation from this requirement will be permitted only upon specific prior, written permission from the Board. If such modification undertaken by the Grantor requires alterations to any pipeline facility, such alteration shall be at the Grantor's expense.

9. After construction of any water pipeline or lines, the general surface of the ground, except as necessarily modified to accommodate appurtenances, shall be restored, as nearly as reasonable, to the grade and condition immediately prior to construction. Topsoil shall be replaced in cultivated and agricultural areas, and any excess earth resulting from installations by the Board shall be removed from the easement at the sole expense of the Board. The Board agrees that for a period of one-year following construction which involves disturbance of the surface of the ground, the Board will maintain the surface elevation and quality of the soil by correcting any settling or subsiding that may occur as a result of the work done by the Board.

10. The Board agrees that other public utilities such as sanitary sewer, storm sewer, gas, and electric lines, may be installed in the above described easement as long as they do not interfere with the Board'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 the Board's facilities will not be permitted within ten (10) feet of Board facilities without prior express permission of the Board. The intent is to reserve for the Board's water lines at least twenty (20) feet of the easement width.

11. The Grantor has retained the right to the undisturbed use and occupancy of the subject property insofar as such use and occupancy is consistent with and does not impair any grant herein contained and except as herein otherwise provided.

12. The Board is acquiring the rights in the subject property in order to insure to the Board a dominant easement for the exercise of the Board's functions, and that the exercise of any rights in the subject property other than those retained by the Grantor should be within the discretion of the Board. The Board agrees to permit and authorize such other uses of the subject

property, not reserved in the Grantor, as will not impair the Board's dominant rights, upon the payment of reasonable compensation to the Board and upon such terms, limitations, and conditions as the Board shall find reasonably necessary to protect its dominant right of occupancy of the subject property for the purpose of the Board without undue or unnecessary injury to or impairment of the estate retained by the Grantor.

13. In the event a question arises regarding the legal description in Exhibit A, then the Grantor and the Board shall amend Exhibit A, as reasonably necessary to fulfill the purposes of this grant.

14. If the Board abandons use and operation of the pipeline facilities laid pursuant to this easement, such abandonment shall not constitute abandonment of the Board's rights under this easement.

15. The Grantor warrants that Grantor has full right and lawful authority to make the grant contained herein, and promises and agrees to defend the Board in the exercise of the Board's rights hereunder against any defect in Grantor's title to the land involved or Grantor's right to make the grant contained herein.

16. Each and every one of 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.

17. For the resolution of any dispute arising from this Agreement, venue shall be in the courts of the City and County of Denver, State of Colorado.

18. Unless special provisions are listed below and/or attached, the above 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 with respect to the subject matter of this instrument. To the extent that any special provisions are in conflict with any other provisions, the special provisions shall control and supersede any other terms or provisions.

SPECIAL PROVISIONS:

19. The Board will not require that the existing retaining walls, sprinkler system, tree, (outside the easement) sod or light pole, some of which improvements are shown on attached Exhibit B, be removed from the easement area, nor between the easement area and South Jamison Circle, as a precondition to acceptance of the easement. South Suburban Park and Recreation District and its successors or assigns, will be required to install a casing for that portion of the waterline that lies underneath this retaining wall. The exact length of casing and location of retaining wall is shown on the approved water plans for project ID #18671. If at any time it is necessary to remove, in whole or in part, the retaining wall, sprinkler system, tree, (outside the easement) sod or light pole from the easement property, the same will be replaced or repaired to their present condition at no cost to Denver Water, but at the sole expense of South Suburban Park and Recreation District or its successors and assigns ("the District and its successors") as provided in that certain Utility Easement Agreement recorded at Reception #D5142379 in the records of the Arapahoe County Clerk and Recorder's office.

20. The Board will not require that any change be made to the topography or slope of the property subject to the easement area, nor between the easement area and South Jamison Circle. The Board agrees to permit the existing slope across the width of the easement. Notwithstanding provision 1, the Board agrees to allow the existing slope as of the date of this agreement.

21. The obligations of the District and its successors to the Grantor concerning this Agreement are described in Utility Easement Agreement recorded at Reception #D5142379 in the records of the Arapahoe County Clerk and Recorder's office.

22. The Board acknowledges that Grantor has provided information in its possession about past and currently existing environmental contamination in the form of a Limited Phase II Environmental Site Assessment dated May 12, 2014 prepared by ERO Resource Corporation, together with a June 9, 2016 memo, which transmits the results of decommissioning activities at the property at 101 West Jamison that have been performed. The Board expects no further information from Grantor unless work by Grantor results in the cause or discovery of contamination.

EXHIBIT A

LEGAL DESCRIPTION

A parcel of land in the Northwest One-Quarter of Section 34, Township 5 South, Range 68 West of the 6th Principal Meridian, City of Littleton, County of Arapahoe, State of Colorado, being a part of Block 2 Common Area, First Replat of Southbridge Filing No. 8 (recorded under Reception No. 94-068994), said parcel being more particularly described as follows:

Basis of Bearings: Bearings are based upon the East Line of the Northwest One-Quarter of Section 34, said to bear North 00°00'27" East, a distance of 2645.23 Feet between the monuments listed below:

Center Corner of Section 34 - monumented by a 0.75-Inch diameter metal axle, 0.5 Foot down in a range box with an asphalt covered lid at the intersection of South Broadway and Mineral Avenue;

North One-Quarter Corner of Section 34 - monumented by a 3.25-Inch aluminum cap, 0.7 Foot down in a range box with "WATER" on the lid at the intersection of South Broadway and Dry Creek Road, stamped "JF SATO ASSOC. __ R68W, 1/4. S27, -*-, S34, 200 __, __ 35585";

Commencing at said Center Corner of Section 34;

Thence North 21°55'16" West, a distance of 1499.91 Feet to a corner of said First Replat of Southbridge Filing No. 8, also being the Northeast Corner of a parcel of land described by Deed recorded in Book 4273 at Page 272, also being the **Point of Beginning**;

Thence South 89°50'03" West along the South line of said First Replat of Southbridge Filing No. 8, also being the North line of said parcel of land recorded in Book 4273 at Page 272, a distance of 53.21 Feet;

Thence North 19°50'15" East, a distance of 31.50 Feet to the Southerly Right-of-Way line of West Jamison Circle;

Thence South 70°09'45" East along said Southerly Right-of-Way line of West Jamison Circle, a distance of 50.00 Feet;

Thence South 19°50'15" West, a distance of 13.30 Feet to the **Point of Beginning**;

The above described parcel description contains 1,120 Square Feet or 0.026 Acre, more or less.

I hereby certify that the above parcel description was prepared under my direct supervision.



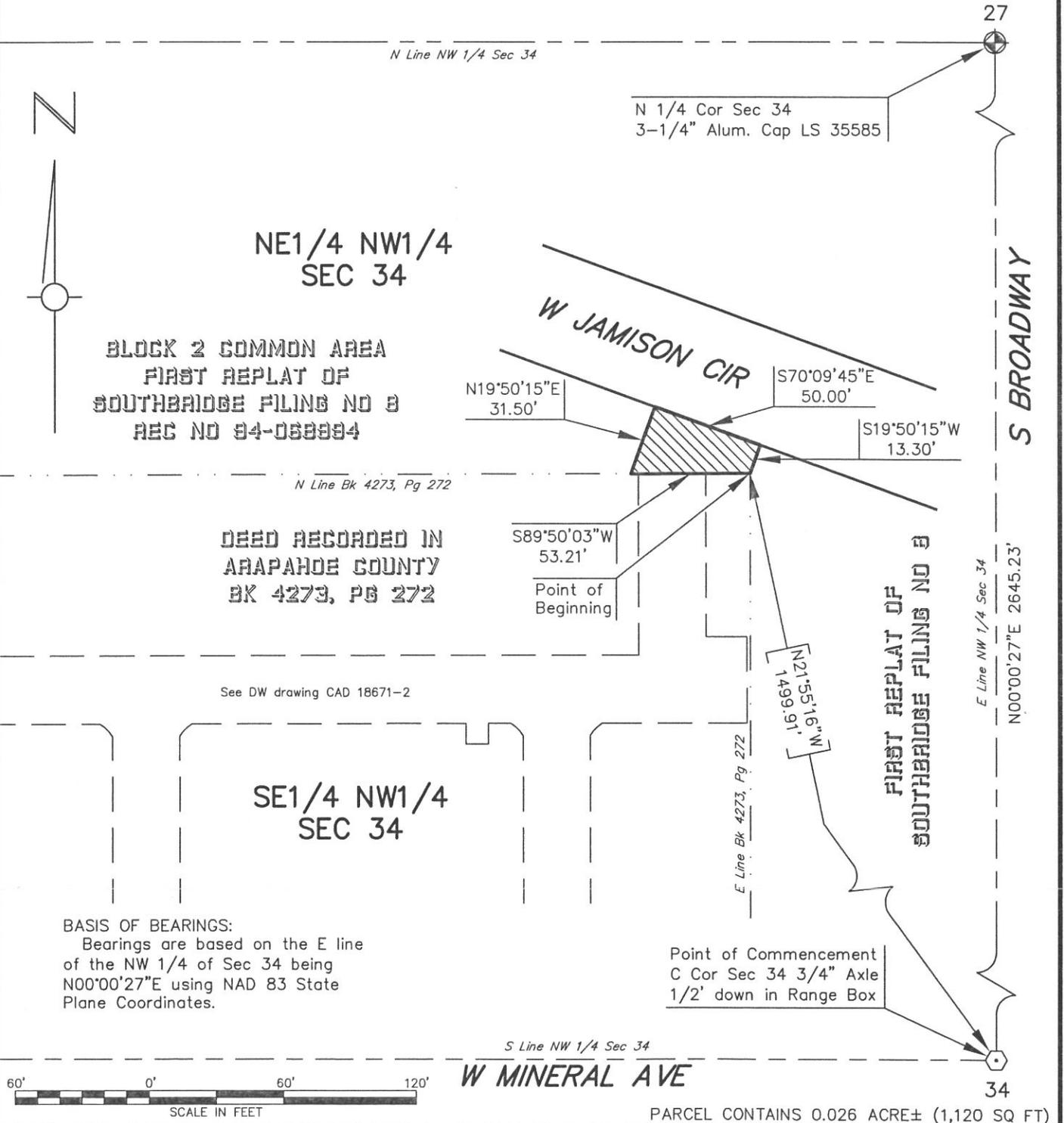
Eric D. Carson, PLS

Prepared For and on Behalf of
CWC Consulting Group Inc.
210 Front Street
Castle Rock, Colorado 80104
Phone: (303) 980-9104

Reviewed by DWD Property	Initials	Date
	<i>[Signature]</i>	10/19/2016

Exhibit A

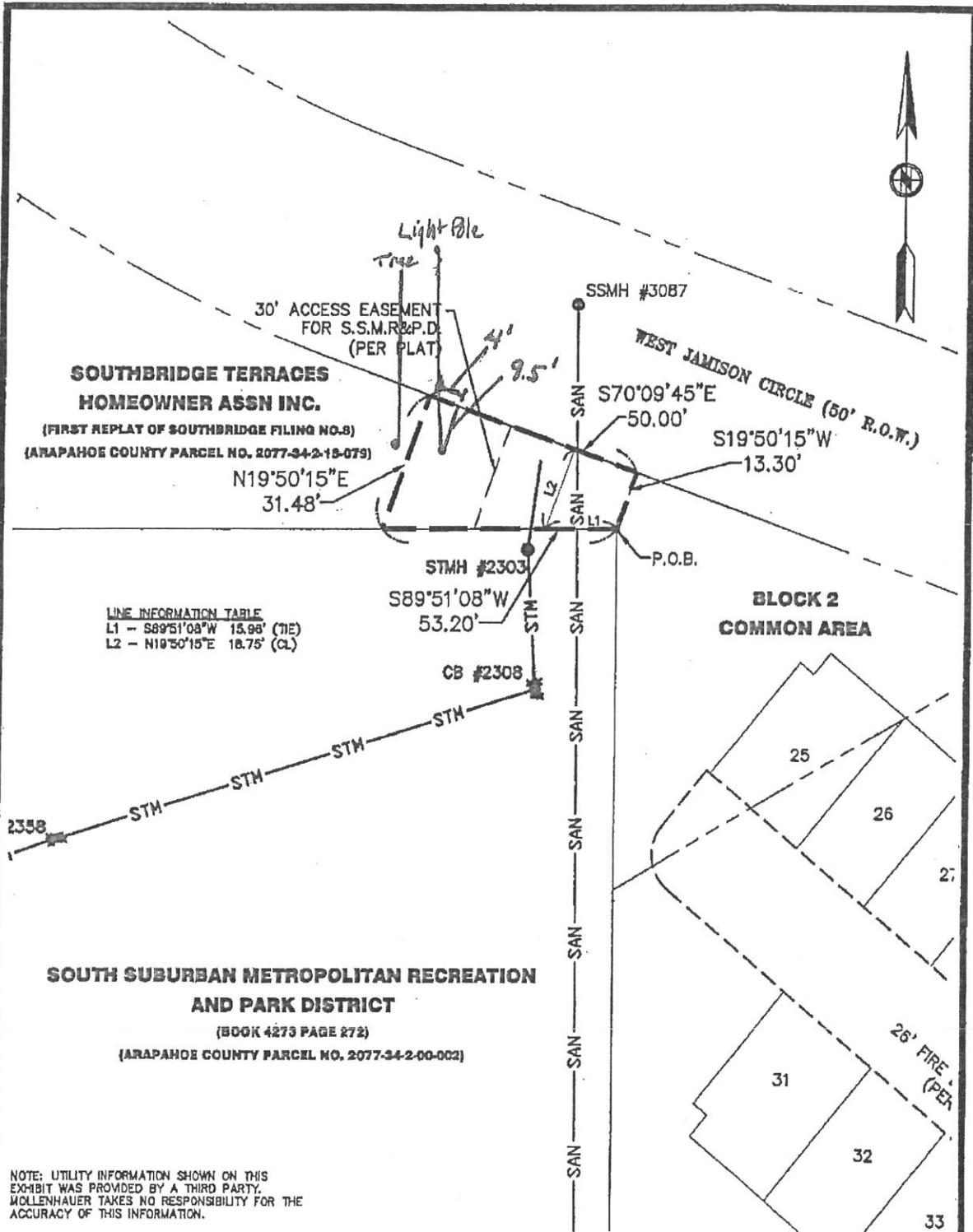
NW 1/4 SECTION 34, TOWNSHIP 5 SOUTH, RANGE 68 WEST 6th PM
 ----- ARAPAHOE COUNTY -----



BASIS OF BEARINGS:
 Bearings are based on the E line
 of the NW 1/4 of Sec 34 being
 N00°00'27"E using NAD 83 State
 Plane Coordinates.

<p>LEGEND</p> <p> EASEMENT ACQUIRED</p>	<p>DOCUMENT DATED: SEC'Y FILE DOC. RIMS ITEM NO. CARD NO.</p>	<p>MAIN</p> <p>EASEMENT ACQUIRED FROM SOUTHBRIDGE TERRACES HOA, INC.</p>	<p>DENVER WATER</p> <p>1600 West 12th Ave Denver, Colorado 80204-3412 T: 303.628.6000 F: 303.628.6851 denverwater.org</p>
	<p>DRN. SLG3 PM. AEC S. <i>[Signature]</i></p> <p>APPD. <i>[Signature]</i></p> <p>SHEET 1 OF 1 SHEET</p>		
		<p>SCALE: 1" = 60'</p> <p>CAD 18671-1_PMGT</p>	

Exhibit B



<p style="font-size: 2em; font-weight: bold; margin: 0;">CWC</p> <p style="font-size: 0.8em; margin: 0;">210 FRONT STREET CASTLE ROCK, CO 80104 (303) 395-2750 (HADO) (303) 393-2701 (FAX)</p> <p style="font-weight: bold; margin: 5px 0;">CONSULTING GROUP</p> <p style="font-size: 0.7em; margin: 0;">CIVIL ENGINEERING * LAND SURVEYING * CONSTRUCTION SERVICES</p>	<p style="font-weight: bold; margin: 0;">Exhibit</p> <p style="font-weight: bold; margin: 0;">50' EASEMENT</p> <p style="font-weight: bold; margin: 0;">SOUTHBRIDGE FILING NO. 8</p>	<p>DRAFTED: EDC</p> <p>DATE: 09/24/2015</p>	<p>CHECKED: EDC</p> <p>JOB NO. 120-00058</p> <p>SCALE: 1"=30'</p>	
	<p>NOTE: THIS EXHIBIT DOES NOT REPRESENT A MONUMENTED SURVEY. IT IS INTENDED ONLY TO DEPICT THE ATTACHED DESCRIPTION.</p>		<p>PREPARED FOR:</p> <p style="font-weight: bold; margin: 0;">Westside Investment Partners, Inc.</p>	
	<p>2358</p>			