

RESOLUTION NO. 20  
SERIES OF 2017

INTRODUCED BY: MIKE GALLAGHER  
SECONDED BY: AL BLUM

**A RESOLUTION  
OF THE CITY COUNCIL  
OF THE CITY OF CHERRY HILLS VILLAGE  
ACCEPTING AND APPROVING A PERMANENT UTILITY EASEMENT FROM  
WESTERN METALS RECYCLING, LLC TO  
THE CITY OF CHERRY HILLS VILLAGE**

**WHEREAS**, the City of Cherry Hills Village ("City") has the general authority, in accordance with Section 31-15-101(1)(d), Colorado Revised Statutes, to acquire, hold and dispose of real property; and

**WHEREAS**, the City has purchased 2101 West Quincy Avenue in the city of Sheridan ("Property") with the intent to relocate the Public Works Department to this property; and

**WHEREAS**, the Property is currently serviced by a septic system; and

**WHEREAS**, the City intends to construct a new Public Works office building at the Property; and

**WHEREAS**, the city of Sheridan requires that the Property be connected to a municipally owned sewer system in order to construct a new building; and

**WHEREAS**, the City requires an easement over and across the adjacent property to allow for the construction of a sewer line that will serve the Property through the Littleton/Englewood sewer mainline; and

**WHEREAS**, the City desires to accept a permanent utility easement from Western Metals Recycling, LLC in accordance with the terms and conditions set forth in the easement agreement attached to this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO THAT:**

**Section 1.** The City Council hereby accepts and approves a permanent utility easement more specifically described on Attachment A, attached hereto and incorporated herein by reference, from Western Metals Recycling, LLC.

**Section 2.** This Resolution shall be effective upon adoption.

Introduced, passed and adopted at the regular meeting of the City Council this 5<sup>th</sup> day of September, 2017, by a vote of 6 yes and 0 no.

(SEAL)

  
Laura Christman, Mayor

ATTEST:

  
Laura Smith, City Clerk

Approved as to form:

  
Linda C. Michow, City Attorney

**ATTACHMENT A**  
**PERMANENT UTILITY EASEMENT**

## PERMANENT UTILITY EASEMENT

This **PERMANENT UTILITY EASEMENT** ("Easement") is granted this 5<sup>th</sup> day of September, 2017, by **Western Metals Recycling, LLC a subsidiary of The David J. Joseph Company**, whose legal address is **2100 W. Oxford Avenue, Englewood, Colorado 80110** (the "Grantor"), to the **CITY OF CHERRY HILLS VILLAGE**, a home rule municipality of the State of Colorado, whose legal address is **2450 E. Quincy Ave., Cherry Hills Village CO 80113** (the "Grantee").

For and in consideration of the sum of One Thousand Five Hundred Dollars (\$1500.00) and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged by the Grantor, the Grantor hereby grants, bargains, sells, and conveys to the Grantee a Permanent Utility Easement and to construct, reconstruct, install, operate, use, maintain, repair, replace, and/or remove sewer line improvements ("Utility Improvements"), in, on, to, through, over, under, and across a certain parcel of real property, as more particularly described in **EXHIBIT A** (the "Easement Parcel"), and shown on **EXHIBIT B**, both of which are incorporated herein by reference, pursuant to the following terms and conditions:

1. The Grantee, its agents, successors, and permitted assigns, shall have and exercise the right of perpetual ingress and egress in, on, to, through, over, under, and across the Permanent Easement Parcel for any purpose necessary and at any and all times necessary or convenient for the full enjoyment of the rights granted to it in this Easement.
2. The Grantee shall have the right to enter upon the Easement Parcel using a rear gate that Grantee will install, secure and maintain. Grantee shall have the right to enter upon the Easement Parcel to survey, construct, reconstruct, install, operate, use, maintain, repair, replace, and/or remove the Utility Improvements made within the Easement Parcel, and to remove objects interfering therewith upon at least five (5) days' advance notice to Grantor; provided however, that Grantee's access to the Permanent Easement Parcel for emergency work shall not require advance notice but will be conducted as to minimize disruptions to Grantor's operations.
3. Notice as contemplated above and anywhere else in this Agreement shall be provided to Grantor via email to the following: General Manager of Western Metals Recycling, LLC, Jeremy McRoberts, [Jeremy.McRoberts@WMRecycling.com](mailto:Jeremy.McRoberts@WMRecycling.com) and via U.S. Mail, Return Receipt Requested to The Office of the General Counsel, The David J. Joseph Company, 300 Pike Street, Cincinnati, OH 45202.
4. Grantee, its successors and assigns shall be solely responsible for the construction, maintenance and repair of the Grantee's Utility Improvements in, on, to, through, over, under, and across the Easement Parcel. Grantee shall restore surface area to pre-existing conditions after completion of any installation, maintenance, repair, replacement or removal of Utility Improvements.
5. Grantee shall complete all work on the Utility Improvements within seven (7) days after initiation. For each day the Easement Parcel is not returned to its pre-existing condition

after the expiration of seven (7) days, Grantee shall pay Five Hundred Dollars (\$500.00) as compensation for the inconvenience and disruption to Grantor's business.

6. Grantor, its successors and/or assigns, reserves the right to use the surface of the Easement Parcel for any purpose which does not interfere with the Grantee's easement rights and Utility Improvements hereby granted, including but not limited to, the right to grant other easements.
7. Grantee shall have and exercise the right of subjacent and lateral support to the extent is necessary or desirable for the operation and maintenance of the Utility Improvements. The Grantor shall not take any action which would impair the lateral or subjacent support for the Utility Improvements. Likewise, in constructing, installing, maintaining, accessing, repairing, operating, or using the utility Improvements, Grantee shall not take any action which would prevent Grantor from continuing to use the land for its ordinary and business purposes, which include the operation of heavy machinery.
8. The Grantor warrants, covenants, grants, bargains, and agrees to and with the Grantee that the Grantor is well seized of the Easement Parcel and has good, absolute, and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell, and convey the same in manner and form as aforesaid, and that the same is free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and restrictions of whatever kind or nature so ever, except matters of record.
9. Each and every one of the benefits and burdens of this Easement shall inure to and be binding upon the respective legal representatives, heirs, administrators, successors, and permitted assigns of the Grantor and the Grantee.
10. The consideration set forth above includes full and just compensation for (a) all of the Grantor's interest, past, present, and future; (b) the interest of all lienors, deed of trust holders and beneficiaries, mortgagees, lessees, and all others with a recorded interest in the Easement Parcel; and (c) any and all other legal and equitable interest in the Easement Parcel that now exists.
11. Grantor shall assume no liability for Grantee's operations or Utility Improvements on or within the Easement Parcel. Grantor shall assume no liability for any damage caused to Grantee's Utility Improvements due to Grantor's continued use of the Easement Parcel.
12. Grantee shall at its sole cost and expense, procure and maintain workers' compensation insurance in statutorily required amounts; employer's liability insurance in the amount of \$1,000,000; commercial general liability insurance, including completed operations insurance, in the amount of \$1,000,000; automobile liability insurance in the amount of \$1,000,000; and property insurance for the full value of the Easement Parcel. Insurance Certificates must list the Certification Holder as:

**The David J. Joseph Company, its Subsidiaries and Affiliates**  
C/O myCOI  
1075 Ripple Ave, Suite 313  
Indianapolis, IN 46220

"The David J. Joseph Company and its Subsidiaries and Affiliates" must be named as an additional insured per the General liability and Automobile liability policies and the Properly Insurance policy must identify "The David J. Joseph Company and its Subsidiaries and Affiliates" as loss payee.

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SIGNATURE PAGE FOLLOWS.

GRANTOR: Western Metals Recycling, LLC

By: JMR

Name: Jeremy McRoberts

Title: VP Finance

STATE OF COLORADO MISSOURI )

) ss.

COUNTY OF Jackson )

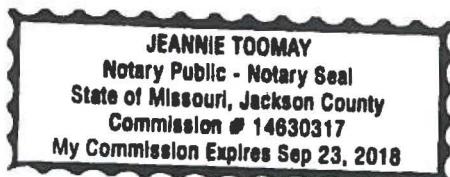
The foregoing Permanent Utility Easement was acknowledged before me this 31<sup>st</sup> day of August, 2017, by Jeremy McRoberts as VP Finance of Western Metals Recycling LLC

Witness my hand and official seal.

My commission expires: 9/23/18

[S E A L]

Jeannie Toomay  
Notary Public



**Accepted and approved**  
**CITY OF CHERRY HILLS VILLAGE**

  
\_\_\_\_\_  
Mayor  
City of Cherry Hills Village, Colorado

**ATTEST:**

  
\_\_\_\_\_  
City Clerk

**EXHIBIT A – DESCRIPTION OF EASEMENT PARCEL**

**LEGAL DESCRIPTION**

----- ARAPAHOE COUNTY -----

A strip of land situated in the southwest quarter of the southwest quarter of Section 4, Township 5 South, Range 68 West of the 6th Principal Meridian, more particularly described as follows:

Beginning at the southwest corner of said Section 4; thence north 0° 15' 00" east along the west line of said Section 4 a distance of 70 feet; thence south 89° 39' 00" east parallel to the south line of said Section 4 approximately 660 feet; thence south 01° 27' 50" west approximately 20 feet to the point of beginning; thence north 01° 27' 50" east 20.00 feet; thence north 89° 39' 00" west 301.65 feet along the north line of the existing Denver Water right-of-way easement; thence south 00° 12' 56" west 20.00 feet; thence south 89° 38' 57" east 302.08 feet to the point of beginning.

The above described parcel contains 6,037 square feet more or less.

	DOCUMENT DATED: SEC'Y FILE      DOC RIMS ITEM NO. CARD NO.	SANITARY MAIN 2101 W QUINCY AVE	
	DRN. NAS   PM. TWC   S		
	APPD.		
	SHEET 2 OF 2 SHEETS	DATE AUGUST 25, 2017	PP_Denver_Sanitary_Easement_E.doc

EXHIBIT B – PLOT OF EASEMENT PARCEL

