

RESOLUTION NO. 2
SERIES OF 2018

INTRODUCED BY: KATY BROWN
SECONDED BY: RANDY WEIL

**A RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
RATIFYING A LICENSE AGREEMENT
BETWEEN THE DENVER BOARD OF WATER COMMISSIONERS
AND THE CITY OF CHERRY HILLS VILLAGE
FOR THE INSTALLATION OF A SANITARY SEWER LINE
FOR CITY PROPERTY LOCATED AT
2101 WEST QUINCY AVENUE, SHERIDAN, COLORADO**

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 has been served by a septic system; and

WHEREAS, the City is in the process of constructing a new Public Works office building at the Property; and

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

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

WHEREAS, the Denver Board of Water Commissioners requires a License Agreement for installation of a sanitary sewer line across the Board's easement property in accordance with the terms and conditions set forth in the agreement attached to this Resolution; and

WHEREAS, due to the limited City Council meeting schedule in December and in order to meet ongoing construction deadlines for the Property, the City Manager signed the License Agreement on December 19, 2017 with the expectation of City Council ratification at the first meeting in January, 2018.


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

Section 1. The City Council hereby ratifies the license agreement more specifically described on Attachment A, attached hereto and incorporated herein by reference, with the Denver Board of Water Commissioners.

Section 2. This Resolution shall be effective upon adoption.

Introduced, passed and adopted at the
regular meeting of the City Council this 16th day
of January, 2018, by a vote of 6 yes and 0 no.

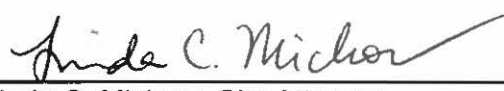
(SEAL)


Laura Christman, Mayor

ATTEST:

Approved as to form:


Laura Smith, City Clerk


Linda C. Michow, City Attorney

MNB050

**ATTACHMENT A
LICENSE AGREEMENT**



AGREEMENT DATE: Dec. 19, 2017
(To be completed by Denver Water – Property Management)

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is made between the **CITY AND COUNTY OF DENVER**, acting by and through its **BOARD OF WATER COMMISSIONERS**, a Municipal Corporation of the State of Colorado, herein referred to as "Board," and **CITY OF CHERRY HILLS VILLAGE**, herein referred to as "Licensee" (whether grammatically singular or plural).

WITNESSETH:

The term "Licensee" shall include employees, agents, and contractors of the Licensee.

The term "property" as used herein refers to real property and includes easements, rights of way and other Board interests in land and may sometimes be referred to herein as "Board property."

The Board, by these presents, without warranting title or interest, and subject to the covenants hereinafter set forth does hereby authorize the Licensee to construct, utilize, maintain, repair, and replace an **8-inch Sanitary Sewer Line** within and across the Board's Conduit 19 easement property at the location described on the Board's CAD drawing(s) 19129-1, attached hereto and made a part hereof.

1. All equipment, installations, and other activities are subject to the approval of the Board.
2. Issuance of this License Agreement indicates that the Board has reviewed and approved plans for the Licensee's proposed installation. **THE LICENSEE SHALL MAINTAIN, FOR BOARD INSPECTION, A COPY OF THIS LICENSE AGREEMENT ON THE JOB SITE DURING ANY INSTALLATION OR ACTIVITY AUTHORIZED HEREIN.**
3. Any construction or activity initiated under this License Agreement shall comply with and conform to standards formulated by the Board, and such construction or activity shall be performed and completed according to the plan and within the tolerances given on the Board's CAD drawing(s) 19129-1, a copy of which is attached hereto and made a part hereof.
4. In granting this License, the Board reserves the right to make full use of the property involved as may be necessary or convenient in the operation of the water plant and system under the control of the Board, and the Board retains all right to operate, maintain, repair, remove, relocate, or install any of its facilities within the Board's property at any time and in such a manner as it deems necessary or convenient. The Board will make reasonable attempts to locate the Licensee's facilities; however, should damage occur to the Licensee's facilities, the Board will not be held liable for any such damage. In the event the Licensee's installations should interfere with the Board's use, maintenance or operation of its property, at any time hereafter, the Licensee shall, upon request by the Board and at the Licensee's sole expense, immediately relocate or rearrange its installation so as not to interfere with any such Board use.

5. All work authorized by this License Agreement shall be performed by the Licensee at no expense to the Board. Except as otherwise set forth herein, the Licensee shall own and maintain its installation thereafter. This Agreement shall, in no way, imply that ownership of the land underlying or surrounding the licensed installation or activity is being conveyed.

6. The Licensee shall notify the Board at least forty-eight (48) hours prior to commencing work. In the event of an emergency, the Licensee shall notify the Board at 303-628-6801 (Dispatch). During regular working hours, the Licensee shall notify the Board's **Water Distribution Manager at 303-628-6407**.

7. The Licensee shall complete its installation or activity, clear the area of all construction debris and restore the area to its pre-existing condition as nearly as may be possible within seven (7) days from the date of finalization of the initial construction or authorized activity. In the event clearing and restoration of the area is not completed within the seven (7) days, the Board may complete that work at the sole expense of the Licensee.

8. At no time shall Licensee interfere with the flow of water in Board facilities, and Licensee shall assume all risks incident to the presence of water in Board facilities.

9. The Licensee will use all reasonable means to prevent any loss or damage to the Board or to others resulting from the construction, operation, maintenance, repair, modification, replacement, or removal of the Licensee's installation. Any repair or replacement of any of the Board's installations on its property made necessary, in the opinion of the Board's representative, because of the construction, operation, maintenance, repair, modification, replacement, or removal of the Licensee's installation, shall be made only by the Board and at the sole expense of the Licensee.

10. The Licensee hereby expressly agrees to defend, indemnify, and hold harmless, **insofar as it legally may**, the Board, its officers, agents, and employees, against any liability, loss, damage, demand, action, cause of action, or expense of whatever nature (including court costs and attorneys' fees) which may result from any loss, injury, death, or damage incurred by the Licensee, caused by the Licensee's negligence or wrongful act, or which arises out of or is caused by any act or omission of the Licensee, its officers, agents, or employees in connection with or by reason of any work done or omission made by the Licensee, its agents, or employees, in the construction, operation, maintenance, repair, modification, replacement, or removal of the Licensee's installations.

11. The Licensee understands and agrees that it is fully responsible for compliance with all rules and regulations relating in any way to the use, storage, treatment, or disposal of hazardous materials, including, but not limited to, chemicals and petroleum products. The Licensee agrees to strictly comply with all federal, state, and local regulations that in any way relate to hazardous materials. If, as a result of the Licensee's occupancy of the premises and its operation hereunder, any such law, ordinance, rule, or regulation is violated, the Licensee shall protect, save harmless, defend, and indemnify, **insofar as it legally may**, the Board from and against any penalties, fines, costs, and expenses including legal fees and court costs incurred by the Board, caused by, resulting from, or connected with such violation or violations.

12. Certain Board properties may contain habitat for listed "threatened" or "endangered" species under the Endangered Species Act (ESA). Licensee shall be responsible for determining the presence of such habitat and taking measures to comply with the ESA.

13. The rights granted to the Licensee hereunder may not be assigned without the written consent of the Board.

14. The rights and privileges granted in this License Agreement are subject to prior agreements, licenses, and conveyances, recorded or unrecorded, and it shall be the Licensee's sole responsibility to determine the existence of any rights, uses, or installations conflicting with the Licensee's use of the Board's property hereunder and to resolve any conflict.

15. If the Licensee does not use the right herein granted or its installation for a period of one (1) year, or if the Licensee shall at any time fail to or refuse to comply with or carry out any of the conditions of this License, the Board may, at its election, revoke this License Agreement forthwith by written notice to the Licensee in person or by mail at the Licensee's last known address. Upon termination of this License, the Licensee shall have ten (10) days to remove its installation from the Board's property. In the event the Licensee does not remove its installation within the time allowed, the Board, without incurring liability, may remove the installation at the Licensee's expense.

16. Upon abandonment of any right or privilege herein granted, the right of the Licensee to that extent shall terminate, but its obligation to indemnify and save harmless the Board, its officers, employees, and agents, shall not terminate in any event.

17. The Board may, at any time, by giving the Licensee thirty (90) days written notice, terminate this License Agreement.

~~18. Licensee shall pay for all materials joined or affixed to the Board property and shall pay in full all persons who perform labor upon the Board property and obtain lien releases for all such materials and labor, which shall be provided to the Board, and shall not permit any mechanic's or materialman's lien of any kind or nature to be enforced against that Board property for any work done and materials furnished thereon at the instance, request, or on behalf of Licensee.~~

19. The base license fee includes eight (8) hours of inspection by the Board, and if the Board requires further inspection, the Licensee shall pay therefor at the prevailing rate.

20. All Board roads and fencing that are disturbed by the construction of the Licensee's installation shall be restored to a condition satisfactory to the Board's representative within **seven (7) days** from the date of finalization of the initial construction or authorized activity. Board roads and fencing that are disturbed by the reconstruction, operation, maintenance, repair, modification, replacement, or removal of the Licensee's facilities shall immediately be restored by the Licensee to a condition satisfactory to the Board's representative. **The Licensee shall at no time obstruct Board roadways or ingress to or egress from such roadways.** Restoration of roads shall include, but is not limited to, resurfacing when deemed necessary by the Board's representative. If restoration is not accomplished by the Licensee within the **seven (7) days**, the Board at its election may perform such restoration at the Licensee's expense. The Licensee shall conduct all construction, operation, maintenance, repair, modification, replacement, or removal of its installations in such a manner that the Board at all times shall have full and complete access to its property.

~~21. If the Licensee's activity requires the clearance, trimming, or complete removal of trees located within the Board's property, the Licensee must obtain permission from the Board's Locate Center @ 303-628-6666. The Licensee will be responsible for all clean up of any trimmings and the removal of logs, branches, limbs, and other debris resulting from the Licensee's activity. Repairs of any damage to Board property will be made by the Licensee at the sole expense of the Licensee and to the satisfaction of the Board's representative. Licensee shall replace any trees removed or damaged in accordance with the current Board's policy, as described in Exhibit "B," attached hereto and made a part hereof.~~

22. All trenches and excavations, backfill and tamping shall be in accordance with the Board's Engineering Standards and subject to approval by the Board's representative.

~~23. Underground electric power line installations shall be encased in rigid steel conduit and/or concrete within the Board's property. Board facilities must not be included in any concrete encasement.~~

24. The Licensee shall place and maintain permanent, visible markers of a type and at locations designated by the Board's representative to define the centerline of the Licensee's installation. If the placing of the centerline markers is not completed within **seven (7) days** following the finalization of construction, the Board may complete the work at the expense of the Licensee.

25. All service lines within the Board's property from the facility herein licensed shall be installed in a manner satisfactory to the Board's representative.

~~26. The Licensee shall maintain a minimum overhead clearance of twenty five (25) feet over the Board's~~

~~27. No portion of the Licensee's facility shall extend below the stringers of any bridge to which it is attached.~~

~~28. The Licensee shall construct access road approaches and curb cuts, when necessary, from its installation to existing Board roadways as required by and to the satisfaction of the Board's representative. Said approaches shall not have a grade of more than four percent (4%), and curb cuts shall not be less than fourteen (14) feet in width, but may be wider, as determined by the Board's representative.~~

~~29. The Licensee shall place reinforced concrete cut-off walls, as shown on the attached drawing (Dr. 127, No. 35) entitled "Typical Cut-Off Wall" at location determined by the Board's representative. Each cut-off wall excavation, forming, and steel placement shall be inspected and approved by the Board's representative prior to placement of concrete.~~

30. The Licensee shall not and will not be permitted to discharge water into or upon any Board property or facility, but Licensee shall provide for carriage of any water over or across the Board's property or facility in a manner satisfactory to the Board's representative.

~~31. The High Line Canal between Sand Creek and the most westerly unnamed drainage located in Section 34 is determined to be a jurisdictional "Waters of the United States," subject to the federal Clean Water Act (33 U.S.C. § 1251 et seq.). Licensee shall be responsible for complying with the federal Clean Water Act and obtaining any necessary permit(s) from the proper regulatory authority prior to conducting its activity.~~

~~Licensee shall supply the Board with documentation proving that such authority has been obtained or that such permission is not required by the regulatory authority.~~

~~32. Upon completion of the restoration of the canal property by the Licensee, which may include, but is not limited to, re-seeding as defined in Exhibit "C," attached hereto and made a part hereof, to the satisfaction of the Board's representative. If the restoration is not completed by the Licensee to the satisfaction of the Board's representative within the seven (7) days set by this License Agreement, the Board will perform the restoration at the expense of the Licensee.~~

~~33. The irrigation season is from April 1st until November 1st each year, and diverted water may be flowing in the Board's High Line Canal during this time. Additionally, water may be flowing in the Canal at other time during the year. Any construction contemplated pertaining to this License Agreement may not be undertaken during April 1st through November 1st unless special authorization is obtained from the Board's Director of Operations & Maintenance prior to the commencement of said construction.~~

34. The Licensee shall place two (2) permanent marker posts, one at each end of the installation and on its centerline, to the satisfaction of the Board's representative. Each permanent marker post shall be filled with concrete and installed to allow a three (3) foot extension above the surface of the ground. The marker posts shall extend a minimum of two (2) feet below the surface of the ground and be encased in concrete. Each marker post shall have the type, size, and depth of the installation clearly marked with 1 1/2-inch stenciling.

~~35. The Board has authorized certain recreational activities along and within its property. Prior to the commencement of any construction or activity pursuant to this License Agreement within the property, the Licensee shall notify the Board's Recreational Use Entity. All paved trails and other recreational improvements within the crossing area herein licensed shall be restored to their pre-existing condition to the satisfaction of the Board's Recreational Use Entity within seven (7) days from the finalization of the construction or activity. The Licensee shall comply with all of said Entity's requirements that said Entity deems necessary to insure the safety of the general public and to minimize interference with recreational use on the property. The Board's Recreational Use Entity is~~

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

37. This License Agreement is also subject to the following special conditions:

THIS LICENSE AGREEMENT shall become effective on the date it is signed by the Director of Engineering

APPROVED:

By: Gary W. Boothe
Gary W. Boothe
Real Estate Manager

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

By: Robert J. Mahoney for RJM
Robert J. Mahoney,
Chief Engineering Officer

Date: 12/19/17

APPROVED AS TO FORM:

By: Bobacandrig
Office of General Counsel

LICENSEE: CITY OF CHERRY HILLS
VILLAGE

By: Jim Thorsen
Jim Thorsen, City Manager

Address: 2450 East Quincy Avenue
Cherry Hills Village, CO 80113

Phone: 303-783-2729

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

To S SANTA FE DR →

W OXFORD AVE

N Line SW 1/4 SW 1/4 Sec 4

N

S 1/16 Cor Sec 4/5
 Found #6 Rebar with 2" Alum Cap
 "MATRIX T5S R68W S5 S4 S1/16
 2003 PLS 32822" in Range Box

N00°04'33"E
 W Line SW 1/4 SW 1/4 Sec 4

S PLATTE RIVER

SW1/4 SW1/4
 SEC 4

UNPLATTED
 BK 7847 PG 381

UNPLATTED
 REC NO A8188393

BASIS OF BEARINGS:
 Bearings are based on the W line of the
 SW 1/4 of Section 4 being N00°04'33"E

Point of Commencement
 SW Cor Sec 4
 Found 3" Steel Pipe with 3 1/4"
 BC "D.W.D. T5S R68W S5 S4 S8
 S9 LS 16398, 1986"

8" SAN SEWER LINE

Point of
 Terminus

UNPLATTED
 REC NO 07004804

5
 8 9

N84°36'51"E
 571.72'

S89°51'56"E 301.88'

Point of
 Beginning

See DW Dr 67 No 886
 BK 1207 PG 570

S Line SW 1/4 SW 1/4 Sec 4

W QUINCY AVE EXTENDED

100' 0' 100' 200'
 SCALE IN FEET

Parcel Map Not P.L.S. Stamped or Certified

LEGEND

- LICENSE GRANTED
- BNDY EXISTING DW ESMT

DOCUMENT DATED:
 SEC'Y FILE DOC.
 RIMS ITEM NO.
 CARD NO.

DRN. MGL PM, 775 S. *MS*
 APPD. *Ray E. Bailey*
 SHEET 1 OF 1 SHEET

CONDUIT 19

LICENSE GRANTED FOR 8"
 SAN SEWER LINE TO CITY
 OF CHERRY HILLS VILLAGE

DATE: DECEMBER 4, 2017

DENVER WATER
 1600 West 12th Ave
 Denver, Colorado 80204-3412
 T: 303.628.8000
 F: 303.628.6851
 denverwater.org

SCALE: 1" = 100'

CAD 19129-1_PMG