

RESOLUTION NO. 1584

**A RESOLUTION OF THE GOLDEN CITY COUNCIL  
ACCEPTING AN AGREEMENT CONVEYING A UTILITY  
EASEMENT TO THE CITY OF GOLDEN FROM JEFFERSON  
COUNTY**

WHEREAS, the City of Golden desires to construct a pipeline to deliver non-potable water to Ulysses Park and the Golden Cemetery; and


WHEREAS, Jefferson County has provided an easement agreement conveying the a utility easement necessary to construct such a pipeline; and

WHEREAS, City Council has considered the easement conveyance to the City of Golden.

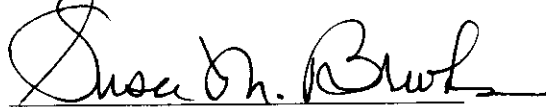
THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

City Council accepts the easement agreement, substantially in the form attached hereto as Exhibit A. The Mayor is authorized to execute such agreement.

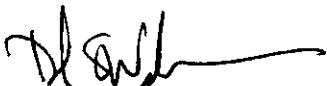
Adopted this 11th day of August, 2005.

  
\_\_\_\_\_  
Charles J. Baroch  
Mayor

ATTEST:

  
\_\_\_\_\_  
Susan M. Brooks, MMC  
City Clerk

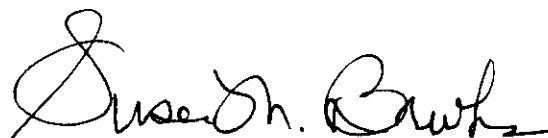
Approved as to form:

  
\_\_\_\_\_  
James A. Windholz  
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a regular meeting thereof held on the 11th day of August, A.D., 2005.

(SEAL)

ATTEST:

A handwritten signature in black ink, appearing to read "Susan M. Brooks". The signature is written in a cursive style with a large initial "S" and a long horizontal stroke at the end.

Susan M. Brooks, City Clerk of the City of  
Golden, Colorado

# EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made and entered into by and between the **COUNTY OF JEFFERSON, STATE OF COLORADO**, a body politic and corporate ("Grantor") and the **CITY OF GOLDEN, STATE OF COLORADO**, a municipal corporation, whose address is 911 10<sup>th</sup> Street, Golden, Colorado 80401 ("Grantee").

## RECITALS

Grantee has requested, and Grantor is willing to convey, an easement, over a portion of real property owned by Grantor, legally described at Exhibit A, attached hereto and incorporated herein (the "Easement Property").

NOW THEREFORE, in consideration of \$ \_\_\_\_\_ and other good and valuable consideration paid by the Grantee, the receipt and sufficiency of which are hereby acknowledged by Grantor, the parties hereby agree as follows:

## ARTICLE I: GRANT OF EASEMENT

1. In accordance with the terms herein, Grantor hereby grants to Grantee a nonexclusive, permanent easement over, under and across the Easement Property for the installation of water lines, together with all rights and privileges as are necessary to the reasonable and proper use of the Easement Property, including the construction, repair and maintenance of related improvements (the "Easement Improvements") for the limited purposes stated herein.

2. Grantor reserves the right to use and occupy the Easement Property for any purpose not inconsistent with the rights and privileges granted herein and which would not unreasonably interfere with Grantee's use thereof.

## ARTICLE II: GENERAL PROVISIONS

3. Upon completion of the construction or of any subsequent maintenance of the Easement Improvements, Grantee shall, at its sole cost and expense, and to the satisfaction of Grantor, promptly restore the Easement Property as closely as possible to its condition prior to installation of the Easement Improvements.

4. Grantor shall not be liable to Grantee or any other person or entity whatsoever for any injury or damage to persons or property occasioned by reason of the use by Grantee, its contractors, subcontractors, agents, employees, licensees, or invitees of the Easement Property, failure to maintain the Easement Improvements, or by reason of any act or thing done or omitted to be done during the term of this Easement Agreement by Grantee, its contractors, subcontractors, agents, employees, licensees, or invitees.

5. To the full extent permitted by law, the Grantee indemnifies and holds Grantor harmless from any and all loss or damage, and claims of loss or damage, including without limitation attorneys' fees, sustained or incurred by Grantor resulting from any loss or injury or damage to any person or property related to the exercise of rights granted herein, or any act or thing done or omitted to be done during the term of this Easement Agreement by Grantee, its contractors, subcontractors, agents, employees, permittees, or invitees, to the extent such loss, injury, or damage is caused by the negligence or willful misconduct of Grantee or its contractors, subcontractors, agents, employees, permittees, or invitees. The obligations of Grantee hereunder shall survive termination of this Easement Agreement.

6. If either party determines that the other party is in violation of the terms of this Easement Agreement (the "Alleging Party"), it shall give written notice of such violation and demand corrective action sufficient to cure the violation. If the other party fails to, at its sole cost and expense, cure the violation within thirty (30) days after the receipt of the notice of such alleged breach, or under the circumstances where violations cannot reasonably be cured within such thirty (30) day period, if the other party fails to begin curing such violation within such thirty (30) day period and fails, at its sole cost and expense to continue diligently to cure such violation until finally cured, then the Alleging Party may institute a suit to enforce the terms of this Easement Agreement (including by specific performance) to enjoin the violation by injunction, and to recover any damages to which such party may be entitled for violation of the terms of this Easement Agreement. The prevailing party to any legal action brought to enforce the terms of this Easement Agreement shall be entitled to all costs of suit, including, without limitation, reasonable attorneys' fees.

7. Enforcement of the terms of this Easement Agreement will be at the discretion of the parties and any forbearance by either party to exercise its rights herein will not be deemed or construed to be a waiver of such breach or of any subsequent breach of the same or any other term of this Easement Agreement or of any of the parties' rights under this Easement Agreement. No delay or omission by any party in the exercise of any right or remedy will impair such right or remedy or be construed as a waiver.

8. Grantor makes no representation, nor will Grantor be liable to Grantee, with respect to title to the Easement Property and any prior encumbrance that may affect title to any portion of the Easement Property. This Easement Agreement is subject to all prior encumbrances, restrictions, rights, claims and interests of record, or otherwise.

9. Grantee covenants, represents, and warrants that: (a) Hazardous Materials will not be handled, treated, used, placed, stored, or otherwise kept, or transported on or across any portion of the Easement Property without the prior written approval of the Grantor; and upon any such approval (b) any handling, transportation, storage, treatment, or usage of Hazardous Materials which may occur on or across any portion of the Easement Property will be in compliance with federal, state, and local laws, regulations, and ordinances. Grantee does hereby indemnify and hold harmless Grantor and its respective agents and employees from and against any and all claims, lawsuits, damages, costs, losses, judgments, of any nature whatsoever, including attorneys' fees, suffered or incurred by Grantor, arising from a breach of the covenants and warranties contained in this paragraph, or as a result of conditions created or acts performed

or omitted by Grantee, its employees, agents, contractors, permittees, invitees, or assigns. Such indemnity and covenant to hold harmless shall survive the termination of this Easement Agreement. The term "Hazardous Materials" herein means any hazardous, toxic, or dangerous substances, materials, or wastes which are regulated under any applicable county, municipal, state, or federal law, rule, ordinance, direction, or regulation.

10. Grantee, at its sole cost and expense, shall repair or replace any improvements erected by Grantor on or within the Easement Property which are damaged or destroyed by Grantee during the course of Grantee's exercise of its rights hereunder. Grantee further agrees that the Grantor is only obligated to repair or replace any portion of Grantee's Easement Improvements damaged by their respective negligent use and occupancy of the Easement Property.

11. This Easement Agreement may be executed in counterparts, each of which, taken as a whole, shall constitute but a single instrument.

12. Nothing granted hereunder is intended to convey or imply the approval of any federal, state, or local regulatory or governmental agency, including Jefferson County, with respect to any actions which Grantee may desire to take under the terms of this Agreement or otherwise relating to the Easement Property.

13. This Agreement and the rights and duties of the parties hereunder shall be interpreted in accordance with the laws of the State of Colorado. Venue for any and all legal actions arising hereunder shall lie in the District Court in and for the County of Jefferson, State of Colorado.

14. This Easement shall run with the land and be binding upon and inure to the benefit of the parties, and their respective successors and assigns.

15. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provisions shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement.

16. This written Easement Agreement constitutes the entire agreement of the parties. No provisions regarding the subject matter of this Easement Agreement, other than those expressly set forth herein, will be of any force and effect. No modification, change or alteration of this Easement Agreement will be of any force or effect, unless in writing and signed by the parties.

17. All notices, demands, requests and other communications required or permitted under this Easement Agreement will be in writing and will be deemed delivered when actually received or, if by telecopy, on the next business day after receipt, or, if earlier, and regardless whether actually received or not, three days after deposit in the United States mails, first class, postage prepaid, registered or certified addressed as follows:

if to Grantee: City of Golden  
911 10<sup>th</sup> Street  
Golden, CO 80401  
Attn: \_\_\_\_\_

if to the Grantor: Jefferson County Division of Property Management  
700 Jefferson County Parkway, Suite 300  
Golden, CO 80419  
Attn: Director

with a copy to: Jefferson County Attorney's Office  
100 Jefferson County Parkway  
Golden, CO 80419-5500

Any party may change its address by giving notice to the other parties as provided for above.

18. Each party expressly reserves the right to assert all defenses and liability limitations provided by law, including, without limitation, the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.* or any successor acts or provisions.

19. If Grantee shall abandon its rights herein granted and cease to use the same, all right, title and interest of Grantee hereunder shall cease and terminate and the Grantor shall hold the Property, as the same may then be, free from Grantee's rights so abandoned and shall own all materials, structures and facilities of Grantee so abandoned.

20. Nothing contained in this Easement Agreement will be construed to entitle either party to bring any action against the other for any injury to or change in the Easement Property resulting from causes beyond a party's control, including, without limitation, use of the Easement Property by the general public, fire, flood, storm, and earth movement, or from any prudent action taken by either party under emergency conditions to prevent, abate, or mitigate significant injury to the Easement Property, or injury or loss of life to any natural person, resulting from any such causes.

### ARTICLE III: RELOCATION OF EASEMENT

21. Grantor may, at any time and in its sole discretion, relocate all or any portion of the Easement Property to other property owned by Grantor (the "Revised Easement Property"). In such instance, Grantor will send Grantee written notice of its intent to relocate the Easement Property and will include in such notice the legal description for the Revised Easement Property. Grantor will re-record this Easement Agreement to include the Revised Easement Property.

22. Within 180 calendar days of receipt of the notice from the Grantor, Grantee shall remove the Easement Improvements from the Easement Property and restore the Easement Property to its original condition to the satisfaction of Grantor. Grantee shall be entitled to construct and maintain the Easement Improvements on the Revised Easement Property in accordance with the terms and conditions of this Easement Agreement. Grantee shall be solely

responsible for all costs and expenses associated with the relocation, restoration, and reconstruction of the Easement Property and Easement Improvements.

23. In the event that Grantee does not timely remove the Easement Improvements and/or restore the Easement Property as required above, Grantor may perform such removal and/or restoration and Grantee agrees to reimburse Grantor for all costs incurred upon receipt of an invoice from Grantor.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

GRANTOR:

COUNTY OF JEFFERSON  
STATE OF COLORADO

By: \_\_\_\_\_  
Jim Congrove, Chairman  
Board of County Commissioners

APPROVED AS TO FORM:

\_\_\_\_\_  
Jean L. Ayars  
Assistant County Attorney

STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF JEFFERSON )

The foregoing EASEMENT AGREEMENT was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2005 by Jim Congrove, Chairman for the Board of County Commissioners for the County of Jefferson.

WITNESS my hand and official seal.  
My Commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public





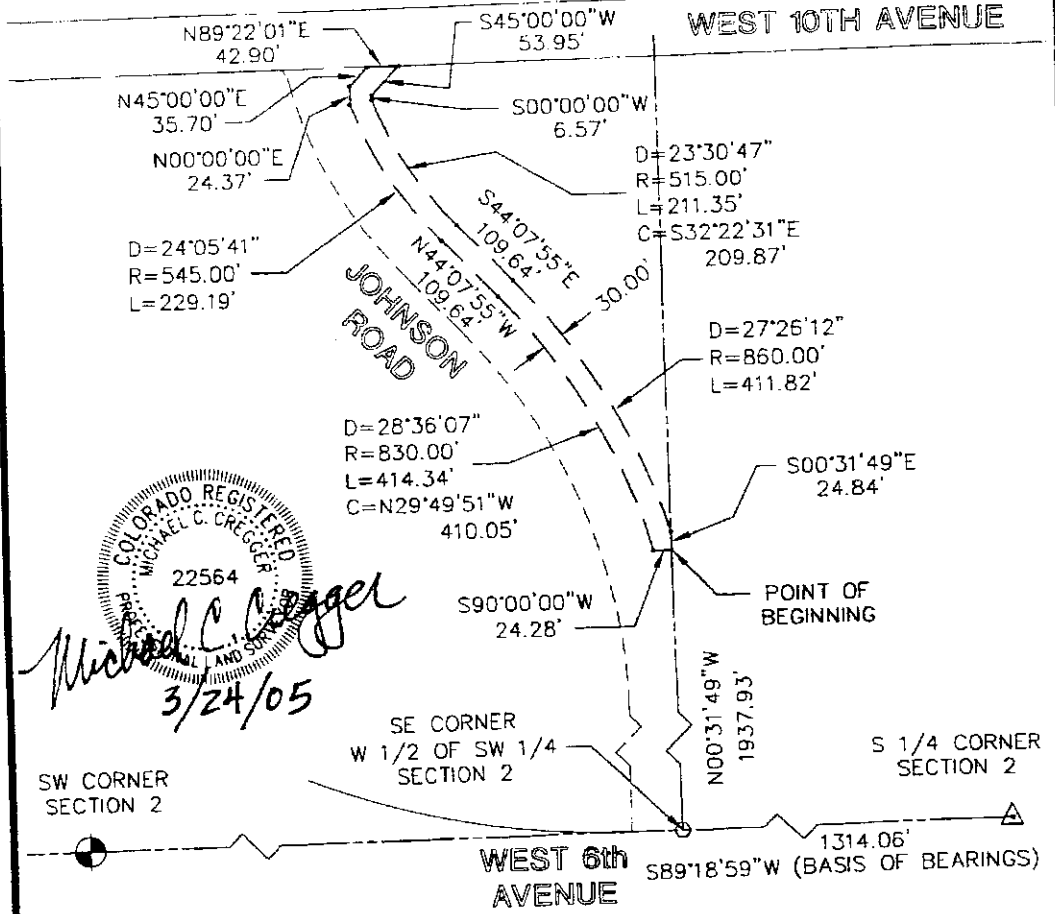
**EXHIBIT A**

**Legal Description of Easement Property**

# EXHIBIT

## 30' WATERLINE EASEMENT

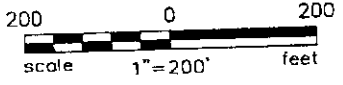
SW 1/4 SECTION 2, T.4 S., R.70 W. OF THE 6TH P.M.  
CITY OF GOLDEN, JEFFERSON COUNTY, COLORADO



**Michael C. Gregger**  
 3/24/05



**TST INC. OF DENVER**  
Consulting Engineers



**SHEET 1 OF 3**

**JOB NO. 592-279**

**EXHIBIT**  
**30' WATERLINE EASEMENT**  
**SW 1/4 SECTION 2, T.4 S., R.70 W. OF THE 6TH P.M.**  
**CITY OF GOLDEN, JEFFERSON COUNTY, COLORADO**

LEGAL DESCRIPTION

A 30.00 FOOT WIDE STRIP OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 2, TOWNSHIP 4 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF GOLDEN, JEFFERSON COUNTY, COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 2 AND CONSIDERING THE SOUTH LINE OF SAID SOUTHWEST QUARTER TO BEAR SOUTH 89°18'59" WEST WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO; THENCE ALONG SAID SOUTH LINE SOUTH 89°18'59" WEST, 1314.06 FEET TO THE SOUTHEAST CORNER OF THE WEST HALF OF SAID SOUTHWEST QUARTER; THENCE ALONG THE EAST LINE OF SAID WEST HALF, NORTH 00°31'49" WEST, 1937.93 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE DEPARTING SAID EAST LINE OF THE WEST HALF, SOUTH 90°00'00" WEST, 24.28 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A DELTA OF 28°36'07", A RADIUS OF 830.00 FEET, AN ARC OF 414.34 FEET AND A CHORD WHICH BEARS NORTH 29°49'51" WEST, 410.05 FEET; THENCE NORTH 44°07'55" WEST, 109.64 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 24°05'41", A RADIUS OF 545.00 FEET, AND AN ARC OF 229.19 FEET; THENCE NORTH 00°00'00" EAST, 24.37 FEET; THENCE NORTH 45°00'00" EAST, 35.70 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF WEST 10TH AVENUE; THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE, NORTH 89°22'01" EAST, 42.90 FEET; THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, SOUTH 45°00'00" WEST, 53.95 FEET; THENCE SOUTH 00°00'00" WEST, 6.57 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A DELTA OF 23°30'47", A RADIUS OF 515.00 FEET, AN ARC OF 211.35 FEET, AND A CHORD WHICH BEARS SOUTH 32°22'31" EAST, 209.87 FEET; THENCE SOUTH 44°07'55" EAST, 109.64



**TST INC. OF DENVER**  
 Consulting Engineers

SHEET 2 OF 3

JOB NO. 592-279

**EXHIBIT**  
**30' WATERLINE EASEMENT**  
 SW 1/4 SECTION 2, T.4 S., R.70 W. OF THE 6TH P.M.  
 CITY OF GOLDEN, JEFFERSON COUNTY, COLORADO

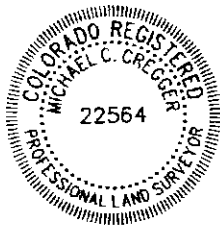
FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 27°26'12", A RADIUS OF 860.00 FEET, AND AN ARC OF 411.82 FEET TO SAID EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER; THENCE ALONG SAID EAST LINE OF THE WEST HALF, SOUTH 00°31'49"EAST, 24.84 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, CONTAINING 24,400 SQUARE FEET (0.56 ACRES), MORE OR LESS.

SURVEYOR'S CERTIFICATE

I, MICHAEL C. CREGGER, DO HEREBY CERTIFY THAT THIS EXHIBIT AND LEGAL DESCRIPTION WERE PREPARED BY ME OR UNDER MY DIRECT SUPERVISION. THIS EXHIBIT DOES NOT CONSTITUTE A LAND SURVEY AS DEFINED BY COLORADO STATUTES.

3/24/05  
 DATE

Michael C. Cregger  
 PROFESSIONAL LAND SURVEYOR  
 COLORADO REGISTRATION NO. 22564



**TST INC. OF DENVER**  
 Consulting Engineers

SHEET 3 OF 3

**EXHIBIT**  
**30' WATERLINE EASEMENT**  
 SW 1/4 SECTION 2, T.4 S., R.70 W. OF THE 6TH P.M.  
 CITY OF GOLDEN, JEFFERSON COUNTY, COLORADO

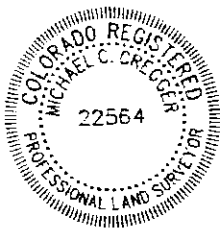
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SHEET 3 OF 3

JOB NO. 592-279