

RESOLUTION NO. 1999

**A RESOLUTION OF THE GOLDEN CITY COUNCIL
AUTHORIZING AN AGREEMENT CONVEYING AN EASEMENT
TO ST. JOSEPH GOLDEN LLLP FOR A JOINT STORM
DRAINAGE FACILITY**

WHEREAS, the City of Golden and Jefferson County staff have been jointly evaluating the opportunities to utilize a jointly controlled storm drainage detention facility at the southeast corner of West 10th Avenue and Johnson Road, and to include within the same parcel a publicly accessible sidewalk; and

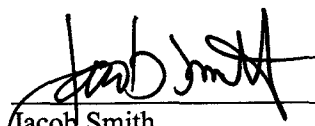
WHEREAS, City Council by Resolution 1998 approved an Easement Agreement substantially in the form attached hereto as Exhibit A with the Jefferson County Finance Corporation; and

WHEREAS, City Council has considered the easement conveyance from the City of Golden to St. Joseph Golden, LLLP for purposes of allowing storm drainage flows from St. Joseph Golden LLLP's property to utilize the jointly controlled storm drainage detention facility, and to allow construction and maintenance of a publicly accessible sidewalk.

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

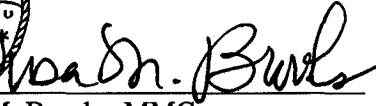
City Council authorizes the easement agreement, substantially in the form attached hereto as Exhibit B, subject to the prior approval of City Council Resolution 1998 and the associated Easement Agreement with the Jefferson County Finance Corporation. The Mayor is authorized to execute the Exhibit B agreement upon delivery of the executed Easement Agreement with the Jefferson County Finance Corporation.

Adopted this 22nd day of October, 2009.



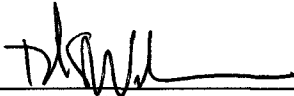
Jacob Smith
Mayor





Susan M. Brooks, MMC
City Clerk

Approved as to form:



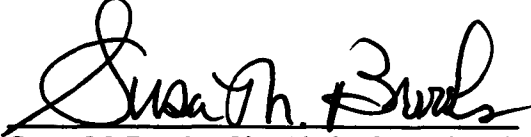
David S. Williamson
City Attorney

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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 business meeting thereof held on the 22nd day of October, A.D., 2009.



ATTEST:


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 CITY OF GOLDEN, COLORADO, a Colorado Municipal Corporation, ("Grantor") and St. Joseph Golden LLLP, ("Grantee").

RECITALS

Grantor is the recipient of a drainage and pedestrian easement, dated _____, pertaining to a certain parcel of property, described on Exhibit A hereto, and generally located at the southeast corner of West 10th Avenue and Johnson Road in Golden, Colorado, which easement is recorded at Reception No. _____ of the records of the Jefferson County Clerk and Recorder. Said parcel of property is generally vacant except for an Xcel Energy high voltage electricity tower and a storm drainage detention facility currently accepting flows from both Johnson Road and a portion of the Jefferson County Administrative Complex.

Grantee is the owner of the adjacent property known as Lot 2, Saint Joseph Golden Subdivision. Grantee intends to construct a multi-family housing development pursuant to site development plan approvals granted by the City of Golden Planning Commission on June 3, 2009 (Grantee's Project).

Grantee has requested, and Grantor is willing to convey an easement over the property described on Exhibit "A" (the "Easement Property") for the purpose of enlarging and improving an existing storm drainage detention facility, and also to allow construction of a public sidewalk connection within the easement area.

NOW THEREFORE, in consideration of the commitments herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE 1: GRANT OF EASEMENT

Grantor hereby grants to Grantee an non-exclusive, permanent easement over, under and across the Easement Property for the purpose of constructing and maintaining storm drainage detention facilities and appurtenances, and also for the purpose of constructing and maintaining public pedestrian improvements upon the Easement Property, (the "Easement Improvements"), together with all rights and privileges as are necessary or incidental to the reasonable and proper use of the Easement Property for the purposes hereinabove stated.

Grantee covenants and agrees to the following:

In the event that Grantee proceeds with construction of Grantee's Project, within two years of the date of the grant of easement, Grantee shall, at its expense, design and cause the storm drainage capacity of

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the existing storm drainage detention facility to be increased from its current capacity as of October 1, 2009 of 15,300 cubic feet to a minimum of 53,600 cubic feet. The right to use the increased detention pond volume shall be apportioned as follows:

15,300 cubic feet to accommodate for existing conditions;

18,000 cubic feet may be utilized for Grantee's Project on the property adjacent to the immediate east of the Easement Property.

20,300 cubic feet of capacity will be available for exclusive use by the Jefferson County Administrative Complex in support of future expansion of county operations in the drainage basin flowing into the detention pond.

Design and construction of public pedestrian improvements within the Easement Property shall be at Grantee's expense and shall be a condition of obtaining a building permit for Grantee's Project.

Any construction by Grantee within the easement area will be according to construction plans prepared by a registered professional engineer and approved by the City of Golden City Engineer. The construction, inspection, and acceptance process for such improvements shall be according to the provisions of Chapter 17.50 of the Golden Municipal Code.

3. Upon completion of the final inspection and acceptance process, and subject to annual appropriations by the Golden City Council, Grantor agrees to assume permanent responsibility for maintenance of Grantee's pro-rata use of the storm drainage detention facility for the current and increased capacity according to Grantor's adopted standards. Grantee shall undertake and be responsible for ongoing, routine maintenance of all pedestrian improvements installed in the Easement Property pursuant to this agreement.

ARTICLE 2: GENERAL PROVISIONS

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, or suppliers, 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.

Grantee agrees to indemnify and hold Grantor harmless from any and all 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, by Grantee, its contractors, subcontractors, agents, employees, permittees, or invitees. The obligations of Grantee hereunder shall survive termination of this Easement.

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

This Easement Agreement and the grant of easements herein shall not be strictly construed, but shall be given a reasonable construction so that the intention of the parties hereunder is fulfilled.

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

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

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.

Nothing granted hereunder is intended to convey or imply any rights or benefits in any party who is not a signator to the agreement.

This Agreement and the rights and duties of the parties hereunder shall run with the property affected thereby and be binding upon the party's successors, heirs and assigns.

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.

In the event that Grantee does not proceed with construction of Grantee's Project within two years of the date of this Agreement, this agreement shall be void *ab initio*. The parties will execute and record such documents as are necessary to reflect such status.

DATED this _____ day of _____ 20__

GRANTOR:
CITY OF GOLDEN, A Colorado Municipal Corporation

By: _____
Jacob Smith, Mayor

ATTEST:

Susan Brooks, MMC

Approved as to Form:

David S Williamson, City Attorney

GRANTEE
St. Joseph Golden LLLP

By: _____

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STATE OF COLORADO)

)ss.

COUNTY OF JEFFERSON)

The foregoing was signed and sworn to before me by _____ this ____ day of
____, 20____.

Witness my hand and official seal.

Notary Public: _____

My Commission Expires:

EXHIBIT A
SIDEWALK AND DRAINAGE EASEMENT
 A Portion of the West 1/2 of the Southwest 1/4
 of Section 2, T. 4 S., R. 70 W. of the 6th P.M.

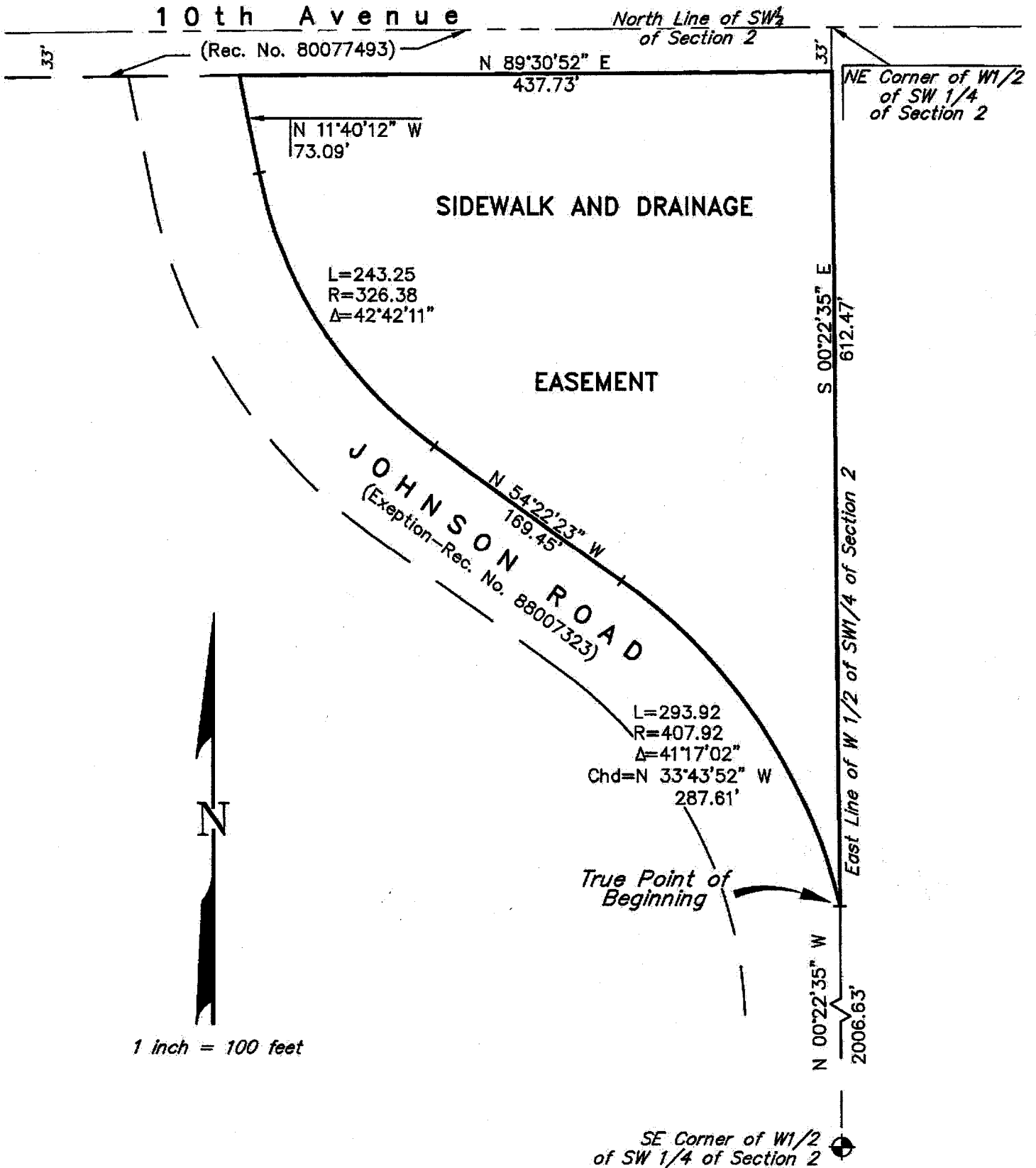
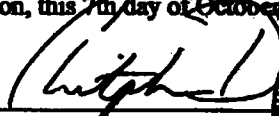


EXHIBIT A
LEGAL DESCRIPTION
SIDEWALK AND DRAINAGE EASEMENT
A Portion of the West 1/2 of the Southwest 1/4
of Section 2, T. 4 S., R. 70 W. of the 6th P.M.

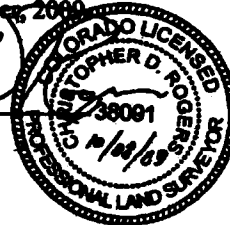
A parcel of land being that portion of the West 1/2 of the Southwest 1/4 of Section 2, T. 4 S., R. 70 W. of the 6th P.M. lying north and east of the Exception for "road purposes" described at Reception No. 88007323, and south of the North 33 feet of the Northwest 1/4 of said Southwest 1/4 as described at Reception No. 80077493, County of Jefferson, State of Colorado, described as follows.

Beginning at the Southeast Corner of the West 1/2 of the Southwest 1/4 of said Section 2; thence N 00°22'35" W, 2006.63 feet along the East line of said West 1/2 to the True Point of Beginning; thence 293.32 feet along a 407.92 feet radius non-tangential curve to the left which chord bears N 33°43'52" W and having a central angle of 41°17'02"; thence N 54°22'23" W, a distance of 169.45 feet to a point of curvature; thence 243.25 feet along a 326.38 feet radius curve to the right having a central angle of 42°42'11"; thence N 11°40'12" W, a distance of 73.09 feet to a point on the south line of the North 33 feet of the Northwest 1/4 of said Southwest 1/4 as described at Reception No. 80077493; thence N 89°30'52" E along said south line, a distance of 437.73 feet to a point on the East line of said West 1/2 which lies 33.00 feet south of the Northeast Corner of said West 1/2; thence S 00°22'35" E along said East line, a distance of 612.47 feet to the True Point of Beginning;

The above description was prepared by me, or under my direct supervision, this 7th day of October, 2009.



Christopher D. Rogers, L.S. No. 38091
Aegis Surveying, Inc.
3395 Yates Street, Denver, CO 80212



Job Name: StJoese-G
Job No. 53203
October 7, 2009
CDR/wp