

**RESOLUTION NO. 2009**

**A RESOLUTION OF THE GOLDEN CITY COUNCIL  
AUTHORIZING AN AGREEMENT CONVEYING AN EASEMENT  
TO THE CITY OF GOLDEN FROM THE COORS TECHNOLOGY  
CENTER OWNER'S ASSOCIATION FOR A REGIONAL STORM  
DRAINAGE FACILITY**

WHEREAS, the Urban Drainage and Flood Control District and Jefferson County are proposing a regional storm drainage facility in the Coors Technology Center business park; and

WHEREAS, the regional storm drainage facility design requires adjustment of a drainage easement on property owned by the Coors Technology Center Owner's Association; 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:

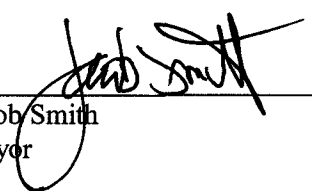
City Council authorizes the easement agreement, substantially in the form attached hereto as Exhibit A. The Mayor is authorized to execute such an agreement.

Adopted this 19th day of November, 2009.





Susan M. Brooks, MMC  
City Clerk

  
\_\_\_\_\_  
Jacob Smith  
Mayor

APPROVED AS TO FORM:



\_\_\_\_\_  
David S. Williamson  
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 business meeting thereof held on the 19th day of November, A.D., 2009.



ATTEST:

A handwritten signature in cursive script, reading "Susan M. Brooks", is written over a horizontal line.

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

## **DRAINAGE AND ACCESS EASEMENT**

THIS EASEMENT (this "Easement"), effective this \_\_\_\_ day of \_\_\_\_\_ 2009, by and between COORS TECHNOLOGY CENTER OWNERS' ASSOCIATION, INC., a Colorado non-profit corporation ("Owner") for the property known as Tract B of the Coors Technology Center Replat A Exemption Survey No. 2, Golden, Colorado 80403, and the CITY OF GOLDEN, 911 10th Street, Golden, Colorado 80401, a municipal corporation ("City").

1. Consideration. For and in consideration of the sum of Ten (\$10.00 ) and other good and valuable consideration paid by the City to the Owner, the receipt of which is hereby acknowledged, Owner hereby sells, conveys and grants unto the City a nonexclusive and permanent easement and right-of-way over, upon, across, through, and under the property as described as Tract B of the Coors Technology Center Replat A Exemption Survey No. 2, situated in the South Half of the Southwest Quarter of Section 13, and the Northeast Quarter of the Northwest Quarter of Section 24, Township 3 South, Range 70 West, of the 6<sup>th</sup> Principal Meridian, located in the County of Jefferson, State of Colorado as depicted on Exhibit ("Property"), for the uses and purposes and upon the terms hereinafter set forth.

2. Purpose. This easement and right-of-way is for the purpose of granting the City, and its successors and assigns, the right to construct, inspect, and maintain a regional storm drainage and detention facility and associated appurtenances upon, across, over, under, through, and within the Property. The City shall use the easement area in accordance with the obligations and responsibilities as set forth in that certain Intergovernmental Agreement Regarding Design and Construction of Drainage and Flood Control Improvements for McIntyre Outfall at Swamp Angel Detention Basin, Jefferson County, Agreement No. 07-03.04, by and between Urban Drainage and Flood Control District, the City, and Jefferson County, as amended from time to time. The general boundary of the drainage basin's 10-year water surface elevation is represented on Exhibit A, which levels may not be exceeded without further approval of the Owner. In addition, the Owner grants to the City, its successors and assigns, a nonexclusive and permanent right to use the Property for ingress and egress as necessary to access Tract A of the Coors Technology Center Filing No. 17. Any Property damaged by maintenance or ingress and egress activities outside of the water surface elevation shall be restored to the pre-disturbed condition, including but not limited to, regrading, reseeding, and replacement of fences at no cost to the Owner by the damaging party.

3. Hazardous Substances. Owner represents to the City, that to Owner's knowledge as of the date of the execution of this Easement, and with respect to the Property: (1) the Property has never been used as a landfill or waste dump; (2) that there has been no installation in or production, disposal, or storage on the Property of any hazardous substances, including, without limitation, asbestos, by Owner, Owner's tenants, or any previous owner or previous tenants, or any other activity which could have toxic results; (3) there is no underground storage tank on the Property; and (4) there is no proceeding or inquiry by any governmental authority or agency with respect thereto. Owner shall indemnify, defend and hold the City harmless from and against any

and all claims, demands, and liabilities, costs and expenses (including expert fees and attorney fees) arising or resulting from a breach of the covenants and warranties contained in this paragraph. For the purposes of this Easement, hazardous substances means all hazardous substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601, et seq.) and in Section 25-5-502 of the Colorado Revised Statutes, and petroleum or petroleum products.

4. Representations and Warranties of Owner.

(A) The Owner, for itself, its successors, assigns and all parties with interest in the Property, does hereby covenant and agree not to construct improvements of any kind (other than fences, irrigation systems, pump houses, tool sheds, plant materials, trails, irrigation pond and signage all existing as of the date of this Agreement, and seasonal decorations) or nature whatsoever on, over, across or under the Property or to take or fail to take any action of any kind or nature whatsoever which would interfere with the City's use of the Property for the purposes herein granted.

(B) Owner hereby warrants and represents to the City that Owner is seized with fee title to the underlying real property and there are no other parties with interest, except as set forth in that certain Easement Agreement Regarding Prospect Recreation District Trail, dated September 28, 1988, by and between Adolph Coors Company and Jefferson County, recorded in the Jefferson County real property records at Reception No. 88101644; that the rights conveyed herein are free and clear of liens and encumbrances except as noted above; and that Owner has sole and exclusive authority to enter into this Easement.

5. Representations and Warranties of City. In no instance shall the Owner be held liable for any acts, omissions, actions, or causes for action proximately caused by the negligent acts of the City, their employees or assigns when entering upon or using of the Property.

6. Survival of Indemnifications and Representations. All representations, obligations, warranties, liabilities, covenants and agreements of Owner in this Easement shall survive the consummation of the transactions contemplated in this Easement; provided, however, nothing contained herein shall imply or import a covenant on the part of Owner for quiet enjoyment.

7. Notices. Any notices given under the provisions of this Easement shall be valid if deposited with the United States Postal Service addressed to Owner at 13695 West 30th Pl, Golden, CO 80401, or to the City at the addresses stated above.

8. Binding Effect. This grant of the Easement shall run with the Property and shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns, and all parties in interest, provided nothing contained herein shall be construed to be an abandonment or dedication of such public way to any public entity.

9. Attorneys Fees and Costs. In the event of any litigation between the parties relating to this Easement, the prevailing party shall be entitled to costs and reasonable expert and attorney fees incurred in connection with such litigation.

10. Complete Agreement. This Easement consists of all the agreements, understandings, and promises between the parties with respect to the subject matter of this Easement, and there are no agreements, understandings or promises between the parties other than those set forth in this Easement.

11. Governing Law. This Easement and all of the terms and provisions hereof shall be governed by and construed in accordance with the laws of the State of Colorado, with venue in Jefferson County.

12. Representation. Each party has been advised to seek independent legal and technical counsel with respect to execution of this Easement and each has had the opportunity to do so. Each such Party has retained such advisers as appropriate to understand fully the consequences of entering into this Easement, and each such party fully understands such consequences.

*[The remainder of this page is intentionally left blank.]*

This Drainage and Access Easement is executed as of the date set forth above.

COORS TECHNOLOGY CENTER OWNERS' ASSOCIATION, INC.

By: \_\_\_\_\_  
William Clark, President

STATE OF COLORADO     )  
  ) ss:  
COUNTY OF \_\_\_\_\_)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by William Clark as President of Coors Technology Center Owners' Association, Inc.

Witness my hand and official seal.  
My commission expires:

\_\_\_\_\_  
NOTARY PUBLIC

ACCEPTED BY THE CITY OF GOLDEN THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

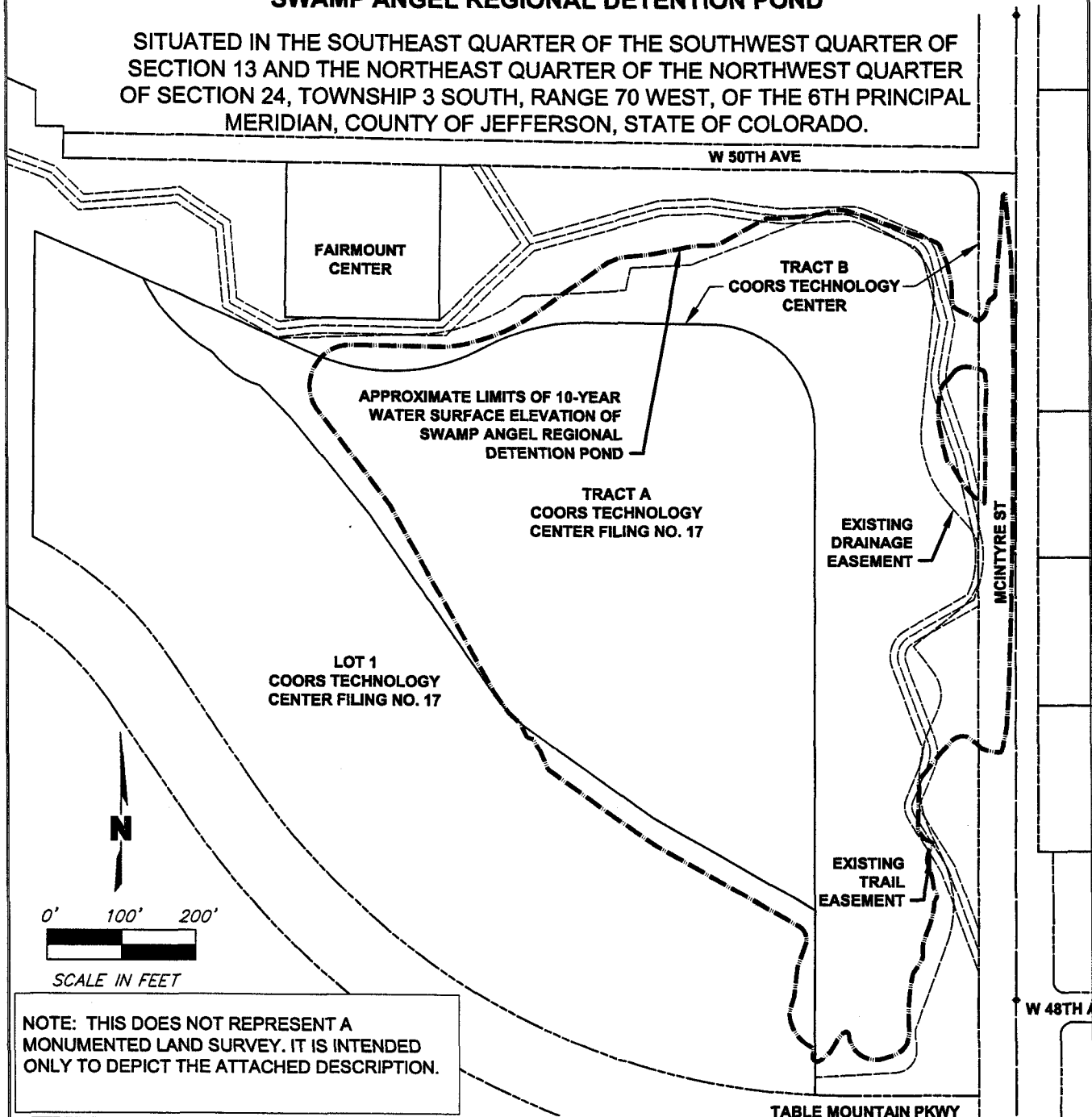
\_\_\_\_\_  
Jacob Smith  
Mayor

ATTEST:

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

**EXHIBIT A**  
**APPROXIMATE LIMITS OF 10-YEAR WATER SURFACE ELEVATION OF**  
**SWAMP ANGEL REGIONAL DETENTION POND**

SITUATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF  
 SECTION 13 AND THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER  
 OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 70 WEST, OF THE 6TH PRINCIPAL  
 MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.



**SHEET 1 of 1**

DATE: 11-03-09  
 DRAWN BY: BRK  
 CHECKED BY: DLS  
 PATH: F:\Projects\007-1431\SVY0-1431\USE....  
 DRAWING NAME: MCINTYRE ESMTS 10-21-09.dwg

**EXHIBIT A**

**OLSSON**  
 ASSOCIATES

143 Union Boulevard, Suite 700  
 Lakewood, CO 80228-1825

TEL 720.962.6072  
 FAX 720.962.6195

[www.oaconsulting.com](http://www.oaconsulting.com)

Res. 2009



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12/18/2009 10:22:51 AM 5 Page(s)

Jefferson County, Colorado

R \$26.00

D \$0.00

EASE

## DRAINAGE AND ACCESS EASEMENT

THIS EASEMENT (this "Easement"), effective this <sup>TH</sup> 16 day of ~~NOVEMBER~~ 2009, by and between COORS TECHNOLOGY CENTER OWNERS' ASSOCIATION, INC., a Colorado non-profit corporation ("Owner") and the CITY OF GOLDEN, 911 10th Street, Golden, Colorado 80401, a municipal corporation ("City").

1. Consideration. For and in consideration of the sum of Ten (\$10.00 ) and other good and valuable consideration paid by the City to the Owner, the receipt of which is hereby acknowledged, Owner hereby sells, conveys and grants unto the City a nonexclusive and permanent easement and right-of-way over, upon, across, through, and under the property described as Tract B, being a part of Coors Technology Center Replat A, as recorded at Reception Number 91085343, Book 107, Pages 4-11, of the Jefferson County records, lying in a portion of sections 13,14,23, and 24, T. 3 S, R. 69 W., 6th P.M., City of Golden, County of Jefferson, State of Colorado, as depicted on Exhibit A ("Property"), for the uses and purposes and upon the terms hereinafter set forth.

2. Purpose. This easement and right-of-way is for the purpose of granting the City, and its successors and assigns, the right to construct, inspect, and maintain a regional storm drainage and detention facility and associated appurtenances upon, across, over, under, through, and within the Property. The City shall use the easement area in accordance with the obligations and responsibilities as set forth in that certain Intergovernmental Agreement Regarding Design and Construction of Drainage and Flood Control Improvements for McIntyre Outfall at Swamp Angel Detention Basin, Jefferson County, Agreement No. 07-03.04, by and between Urban Drainage and Flood Control District, the City, and Jefferson County, as amended from time to time. The general boundary of the drainage basin's 10-year water surface elevation is represented on Exhibit A. The City shall not alter or authorize alterations to the improvements constructed under said Agreement No. 07-03.04 that would cause the modeled 10-year water elevation to exceed the levels represented on Exhibit A without further approval of the Owner. In addition, the Owner grants to the City, its successors and assigns, a nonexclusive and permanent right to use the Property for ingress and egress as necessary to access Tract A of the Coors Technology Center Filing No. 17. Any Property damaged by maintenance or ingress and egress activities outside of the water surface elevation shall be restored to the pre-disturbed condition, including but not limited to, regrading, reseeding, and replacement of fences at no cost to the Owner by the damaging party.

3. Hazardous Substances. Owner represents to the City, that to Owner's knowledge as of the date of the execution of this Easement, and with respect to the Property: (1) the Property has never been used as a landfill or waste dump; (2) that there has been no installation in or production, disposal, or storage on the Property of any hazardous substances, including, without limitation, asbestos, by Owner, Owner's tenants, or any previous owner or previous tenants, or any other activity which could have toxic results; (3) there is no underground storage tank on the Property; and (4) there is no proceeding or inquiry by any governmental authority or agency with



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respect thereto. Owner shall indemnify, defend and hold the City harmless from and against any and all claims, demands, and liabilities, costs and expenses (including expert fees and attorney fees) arising or resulting from a breach of the covenants and warranties contained in this paragraph. For the purposes of this Easement, hazardous substances means all hazardous substances as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601, et seq.) and in Section 25-5-502 of the Colorado Revised Statutes, and petroleum or petroleum products.

4. Representations and Warranties of Owner.

(A) The Owner, for itself, its successors, assigns and all parties with interest in the Property, does hereby covenant and agree not to construct improvements of any kind (other than fences, irrigation systems, pump houses, tool sheds, plant materials, trails, irrigation pond and signage all existing as of the date of this Agreement, and seasonal decorations) or nature whatsoever on, over, across or under the Property without the prior written approval of the City which approval shall not be unreasonably withheld, or to take or fail to take any action of any kind or nature whatsoever which would interfere with the City's use of the Property for the purposes herein granted.

(B) Owner hereby warrants and represents to the City that Owner is seized with fee title to the underlying real property and there are no other parties with interest, except as set forth in that certain Easement Agreement Regarding Prospect Recreation District Trail, dated September 28, 1988, by and between Adolph Coors Company and Jefferson County, recorded in the Jefferson County real property records at Reception No. 88101644; that the rights conveyed herein are free and clear of liens and encumbrances except as noted above; and that Owner has sole and exclusive authority to enter into this Easement.

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6. Survival of Indemnifications and Representations. All representations, obligations, warranties, liabilities, covenants and agreements of Owner in this Easement shall survive the consummation of the transactions contemplated in this Easement; provided, however, nothing contained herein shall imply or import a covenant on the part of Owner for quiet enjoyment.

7. Notices. Any notices given under the provisions of this Easement shall be valid if deposited with the United States Postal Service addressed to Owner at P.O. Box 1348, Golden, CO 80402-1348, or to the City at the addresses stated above.

8. Binding Effect. This grant of the Easement shall run with the Property and shall be binding upon and inure to the benefit of the parties hereto, their successors, assigns, and all

parties in interest, provided nothing contained herein shall be construed to be an abandonment or dedication of such public way to any public entity.

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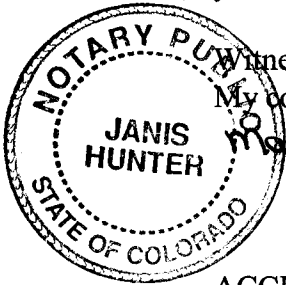
This Drainage and Access Easement is executed as of the date set forth above.

COORS TECHNOLOGY CENTER OWNERS' ASSOCIATION, INC.

By: William Clark  
William Clark, President

STATE OF COLORADO )  
 ) ss:  
COUNTY OF Jefferson )

The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of November, 2009, by William Clark as President of Coors Technology Center Owners' Association, Inc.



Witness my hand and official seal.

My commission expires:

May 6, 2011

Janis Hunter  
NOTARY PUBLIC

ACCEPTED BY THE CITY OF GOLDEN THIS 13<sup>th</sup> DAY OF November, 2009.



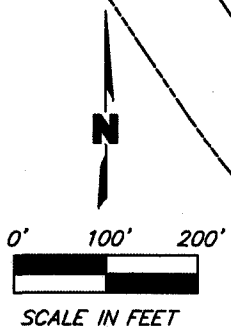
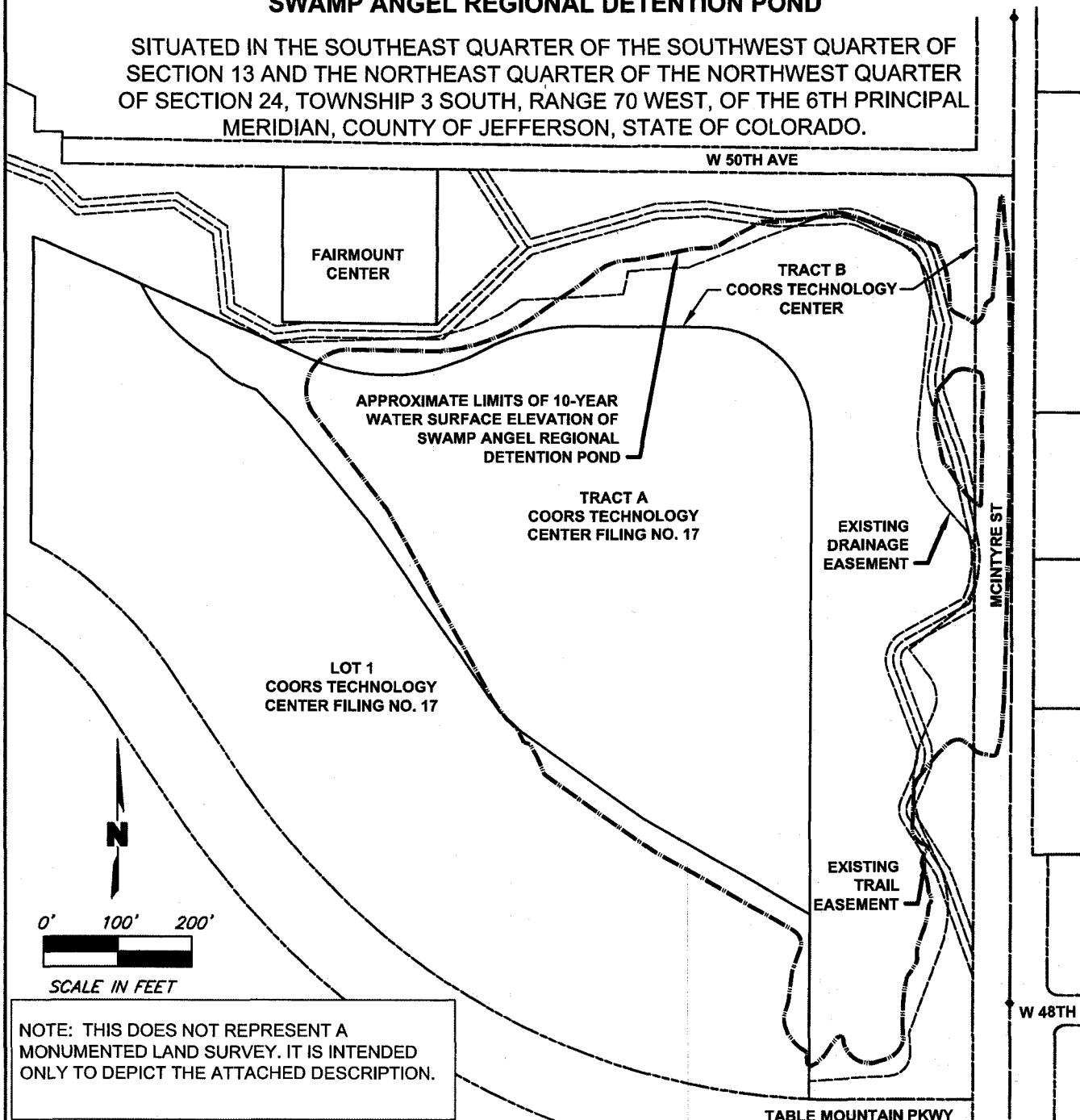
Susan M. Brooks  
Susan M. Brooks, City Clerk

Jacob Smith  
Jacob Smith  
Mayor

5

# **EXHIBIT A** **APPROXIMATE LIMITS OF 10-YEAR WATER SURFACE ELEVATION OF** **SWAMP ANGEL REGIONAL DETENTION POND**

SITUATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF  
SECTION 13 AND THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER  
OF SECTION 24, TOWNSHIP 3 SOUTH, RANGE 70 WEST, OF THE 6TH PRINCIPAL  
MERIDIAN, COUNTY OF JEFFERSON, STATE OF COLORADO.



NOTE: THIS DOES NOT REPRESENT A  
MONUMENTED LAND SURVEY. IT IS INTENDED  
ONLY TO DEPICT THE ATTACHED DESCRIPTION.

**SHEET 1 of 1**

DATE: 11-03-09

DRAWN BY: BRK

CHECKED BY: DLS

PATH: F:\Projects\007-1431\SVY0-1431\USE....

DRAWING NAME: MCINTYRE ESMTS 10-21-09.dwg

**EXHIBIT A**

**OLSSON**  
ASSOCIATES

143 Union Boulevard, Suite 700  
Lakewood, CO 80228-1825

TEL 720.962.6072  
FAX 720.962.6195

www.oaconsulting.com

Return to:

City Clerk  
911 10th St.  
Golden, CO 80401

Susan Brooks MMC