



Department of Public Works
Permit Operations and Right of Way Enforcement
201 W. Colfax Avenue, Dept. 507
Denver, CO 80202
P: 720-865-2782
F: 720-865-3280
www.denvergov.org/pwprs

REQUEST FOR RESOLUTION TO DEDICATE PUBLIC RIGHT-OF-WAY

TO: Karen Walton, City Attorney's Office
FROM: Robert J. Duncanson P.E., Engineering Manager II
Right-of-Way Services
DATE: February 21, 2014
ROW #: 2014-0051-10 **SCHEDULE #:** A portion of 0121400063000
TITLE: This request is to dedicate a City owned land as E. 39th Ave.
Located near the intersection of E. 39th and Ulster St.

SUMMARY: Request for a Resolution for laying out, opening and establishing certain real property as part of the system of thoroughfares of the municipality; i.e. as E. 39th Ave.

It is requested that the above subject item be placed on the Mayor-Council Agenda for the next available date.

Therefore, you are requested to initiate Council action to dedicate a parcel of existing City owned land for Public Right-of-Way purposes as E. 39th Ave. The land is described as follows.

INSERT PARCEL DESCRIPTION ROW (2014-0051-10-001) HERE.

A map of the area to be dedicated is attached.

RD/PK/BLV

cc: Asset Management, Steve Wirth
City Councilperson & Aides, Chris Herndon District # 11
City Council Staff, Gretchen Williams
Environmental Services, David Erickson
Public Works, Manager's Office, Alba Castro
Public Works, Manager's Office, Nancy Kuhn
Public Works, Right-of-Way Engineering Services, Rob Duncanson
Department of Law, Karen Aviles
Department of Law, Brent Eisen
Department of Law, Karen Walton
Public Works Survey, Tony Lopez
Public Works Survey, Paul Rogalla
Owner: City and County of Denver
Project file folder 2014-0051-10

ORDINANCE/RESOLUTION REQUEST

Please email requests to Nancy Kuhn at Nancy.Kuhn@Denvergov.org by **NOON on Monday**.

**All fields must be completed.*
Incomplete request forms will be returned to sender which may cause a delay in processing.*

Date of Request: February 21, 2014

Please mark one: **Bill Request** or **Resolution Request**

1. Has your agency submitted this request in the last 12 months?

Yes **No**

If yes, please explain:

2. Title: *(Include a concise, one sentence description – please include name of company or contractor and contract control number - that clearly indicates the type of request: grant acceptance, contract execution, amendment, municipal code change, supplemental request, etc.)*

This request is to dedicate a City owned land as E. 39th Ave.
Located near the intersection of E. 39th and Ulster St.

3. Requesting Agency: PW Right of Way Engineering Services

4. Contact Person: *(With actual knowledge of proposed ordinance/resolution.)*

- **Name:** Barbara Valdez
- **Phone:** 720-865-3153
- **Email:** Barbara.valdez@denvergov.org

5. Contact Person: *(With actual knowledge of proposed ordinance/resolution who will present the item at Mayor-Council and who will be available for first and second reading, if necessary.)*

- **Name:** Nancy Kuhn
- **Phone:** 720-865-8720
- **Email:** Nancy.Kuhn@denvergov.org

6. General description of proposed ordinance including contract scope of work if applicable:

Request for a Resolution for laying out, opening and establishing certain real property as part of the system of thoroughfares of the municipality; i.e. as E. 39th Ave.

****Please complete the following fields:** *(Incomplete fields may result in a delay in processing. If a field is not applicable, please enter N/A for that field.)*

- a. Contract Control Number:** N/A
- b. Duration:** Permanent
- c. Location:** Near the intersection of E. 39th and Ulster St.
- d. Affected Council District:**
- e. Benefits:** N/A
- f. Costs:** N/A

7. Is there any controversy surrounding this ordinance? *(Groups or individuals who may have concerns about it?)* **Please explain.**

None

To be completed by Mayor's Legislative Team:

SIRE Tracking Number: _____

Date Entered: _____



DENVER
THE MILE HIGH CITY

EXECUTIVE SUMMARY

Project Title: 2014-0051-10 Dedication E. 39th Ave. and Ulster St.

Description of Proposed Project: Request for a Resolution for laying out, opening and establishing certain real property as part of the system of thoroughfares of the municipality; i.e. as E. 39th Ave.

Explanation of why the public right-of-way must be utilized to accomplish the proposed project: Dedicating City owned land to Public Right of Way, from the vacant parcel program approved through City Council.

Has a Temp MEP been issued, and if so, what work is underway: N/A

What is the known duration of an MEP: N/A

Will land be dedicated to the City if the vacation goes through: N/A

Will an easement be placed over a vacated area, and if so explain: N/A

Will an easement relinquishment be submitted at a later date: N/A

Additional information: This land was deeded to the City and County of Denver for the purpose of dedicating it as Public Right-of-Way.

39th Ave.



- Denver County (Boundary)
- Street Centerline
- Interstate
- US Highway
- Other
- Parcels
- Storm Easements
- mask
- 2012_Denver.jp2.lri
- Denver County (Shaded)
- Denver County
- Adams County
- Arapahoe County
- Jefferson County

Map generated 7/30/2013. The City and County of Denver shall not be liable for damages of any kind arising out of the use of this information. The information is provided "as is" without warranty of any kind, express or implied, including, but not limited to, the fitness for a particular use. This is not a legal document.

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Land Description

A parcel of land conveyed by Quit Claim Deed to the City & County of Denver recorded July 29, 2013 by Reception No. 2013110001, in the City & County of Denver, Clerk & Recorder's Office, State of Colorado.

A strip of land thirty (30) feet wide situate in the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section Twenty-one (21), Township Three (3) South, Range Sixty-seven (67) West of the sixth Principal Meridian, in the City and County of Denver, Colorado, being all that part of the right of way of the Union Pacific Railroad Company that lies between lines parallel with and distant northerly one hundred and seventy (170) feet and two hundred (200) feet respectively, measured at right angles, from the center line of the main track of said Railroad Company as constructed and operated, and being described as follows:

Commencing at the Northwest corner of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$, thence South $00^{\circ}00'15''$ West, along the west line of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 478.94 feet, more or less, to the northerly right of way line of said Union Pacific Railroad Company, and the Point of Beginning of said strip of land;

Thence South $84^{\circ}27'18''$ East, along said northerly right of way, a distance of 950.00 feet;

Thence South $05^{\circ}32'42''$ West, a distance of 30.00 feet;

Thence North $84^{\circ}27'18''$ West, a distance of 947.09 feet to the west line of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$;

Thence North $00^{\circ}00'15''$ East, along said west line, a distance of 30.14 feet to the Point of Beginning;

Except the westerly thirty (30) feet of said land description:

Asset Management
Date: 7-29-13
Approved
29
13-097

CERTIFICATION

The Clerk and Recorder for the **CITY AND COUNTY OF DENVER** State of Colorado does hereby certify this document to be a full, true and correct copy of the original document recorded in my office.



Clerk and Recorder
by Bridget M. Svalberg
Deputy County Clerk
Date July 29, 2013
Bridget M. Svalberg

2013110001
Page: 1 of 9
07/29/2013 10:16A
City & County Of Denver QCD R0.00 00.00

2748-95

QUITCLAIM DEED

UNION PACIFIC RAILROAD COMPANY, a Delaware corporation (formerly known as Southern Pacific Transportation Company, a Delaware corporation, successor in interest through merger with Union Pacific Railroad Company, a Utah corporation), Grantor, in consideration of the sum of Ten Dollars (\$10.00), and other valuable consideration to it duly paid, the receipt whereof is hereby acknowledged, does hereby REMISE, RELEASE and forever QUITCLAIM unto the **CITY AND COUNTY OF DENVER**, a Colorado municipal corporation and home rule city, Grantee, whose address is 201 West Colfax, Department 1010, Denver, Colorado 80202-4705, and unto its successors and assigns forever, all of Grantor's right, title, interest, estate, claim and demand, both at law and in equity, of, in, and to the real estate (hereinafter the "Property") situated in the City and County of Denver, State of Colorado, as more particularly described in **Exhibit A**, hereto attached and hereby made a part hereof, together with all after-acquired title of the Grantor therein.

EXCEPTING from this quitclaim and RESERVING unto Grantor, its successors and assigns, forever, the following:

(a) All minerals and all mineral rights of every kind and character now known to exist or hereafter discovered underlying the Property, including without limiting the generality of the foregoing, oil and gas and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of said minerals by any means or methods suitable to the Grantor, its successors and assigns, but without entering upon or using the surface of the Property, and in such manner as not to damage the surface of the Property, or to interfere with the use thereof by the Grantee, its successors and assigns;

(b) All existing gas pipe lines and appurtenant facilities, whether owned by Grantor or any third party, and a PERPETUAL EASEMENT upon, over, along, under and across the portion of the Property described in **Exhibit B-1 and shown on Exhibit B-2** attached hereto and by reference made a part hereof (the "Pipeline Easement Area"), for the purposes of constructing, maintaining, repairing, operating, renewing, replacing, using and/or removing a 2-inch and a 4-inch gas pipe line and appurtenant facilities (whether now or hereafter installed, and including facilities which are the technological successor to any existing or hereafter installed facilities); together with (i) the right of ingress and egress to and from the Pipeline Easement Area, and (ii) the right to grant, at Grantor's sole discretion, sub-easements, licenses and any other interests in the Pipeline Easement Area with respect to the easement rights herein reserved, and to collect the

rents, issues and profits therefrom, and from any existing contracts. In addition to and not in limitation of Grantor's rights under the foregoing reservation of easement, Grantee, for itself, its successors and assigns, hereby covenants and agrees that Grantee shall not interfere in any manner with the rights of Grantor's Licensee under that certain License Agreement between Union Pacific Railroad Company and Public Service Company of Colorado dated April 6, 1954, as extended by Extension Riders dated October 20, 1958, November 22, 1963, December 18, 1968, December 14, 1973, and June 17, 1985, and supplemented by Supplemental Agreement dated June 1, 1995, identified in the records of Grantor as Audit Number A73855, and granting certain rights to said Licensee to use the Property for gas pipe line purposes.

It is expressly understood that the subjacent support of the Property may have been impaired by mining operations heretofore carried on beneath the surface thereof, and the quitclaiming of the Property is upon the condition that Grantor, its successors and assigns, shall not be liable for damages resulting therefrom.

Except as otherwise provided in the Assignment and Assumption Agreement, found in City Clerk File No. 2013-0646, Grantor reserves all income (including, without limitation, rentals, license fees and royalties) from any existing license and other existing rights to use the Property and renewals thereof granted by Grantor or Grantor's predecessors in interest. Grantee agrees that if Grantee receives any such income, Grantee will promptly forward the income to Grantor.

The Property is quitclaimed by Grantor subject to the following conditions and restrictions, which Grantee by the acceptance of this Quitclaim Deed, for itself, its successors and assigns, agrees to faithfully keep, observe and perform:

A. Railroad Proximity.

(i) Grantee acknowledges that the property abutting the southerly boundary line of the Property is dedicated and used for railroad purposes, that railroad operations may create noise, vibrations, emissions, fumes and odors twenty-four (24) hours a day, and that the amount, nature and intensity of railroad operations may increase or change (collectively, the "Permitted Effects"). Grantee accepts the Property subject to the existence of the Permitted Effects. By acceptance of the Property, Grantee agrees that, at Grantee's sole cost and expense, as part of the development of the Property, Grantee shall design and install and/or construct and thereafter maintain improvements to reduce or limit the Permitted Effects and to comply with all governmental requirements, if any, which may be imposed as a condition to the development and use of the Property because of the Permitted Effects.

(ii) Grantee, as Grantee and not as a governmental regulator, shall not, and hereby waives all rights to, (1) institute legal proceedings against Grantor to reduce or lessen the Permitted Effects, and (2) directly or indirectly participate in petition drives, lobbying efforts or other activities seeking the enactment of federal, state or local laws or ordinances to reduce or lessen the Permitted Effects. Any party breaching such covenant shall reimburse Grantor for all costs incurred by Grantor to comply with any such orders, laws or ordinances, including, without limitation, attorney fees and court costs.

(iii) If Grantee sells or leases all or any portion of the Property, Grantee shall require all purchasers and tenants to acknowledge the location of the railroad operations abutting

the Property and the existence of the Permitted Effects, and to agree in writing, for the benefit of Grantor, to comply with the above.

- B. Restriction on Use. The Property must not be used for (i) residential, (ii) lodgings or accommodations (including, without limitation, hotels, motels, boarding houses, dormitories, hospitals, nursing homes, or retirement centers), or (iii) educational or child-care facilities (including, without limitation, schools, kindergartens or day-care centers).
- C. Fence. Grantee, at its sole cost and expense, shall install, within ninety (90) days after the date of delivery of the Deed, and thereafter maintain a barrier at the eastern terminus of the Property to prevent access to or encroachment on the railroad right-of-way of Grantor. The barrier must be of a design and type satisfactory to Grantor, and in compliance with applicable building codes. Grantee shall submit the plans for the barrier construction to:

Assistant Vice President - Real Estate (Folder 2748-95)
Union Pacific Railroad Company
1400 Douglas Street, Mail Stop 1690
Omaha, Nebraska 68179

for review and approval. Grantor shall complete such review and make appropriate response to Grantee within twenty (20) days after receipt of such plans by Grantor. Grantor shall not unreasonably withhold its approval of such plans. Such approval does not constitute a guarantee or warranty that such plans comply with applicable governmental laws, rules, regulations or ordinances, or that the fence as constructed will be structurally sound.

- D. Agreements To Run With Land. The foregoing conditions and restrictions shall run with the Property, and a breach of the foregoing conditions and restrictions, or the continuance thereof, may, at the option of Grantor, its successors or assigns, be enjoined, abated or remedied by appropriate proceedings.

18th day of July, 2013. IN WITNESS WHEREOF, the Grantor has caused this deed to be duly executed as of the

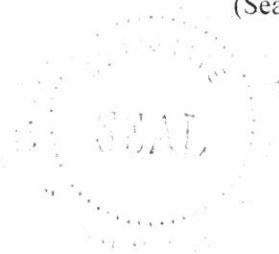
Attest:

C. J. Meyer
Assistant Secretary

(Seal)

UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation

By Tom K. Love
Title: Assistant Vice President - Real Estate

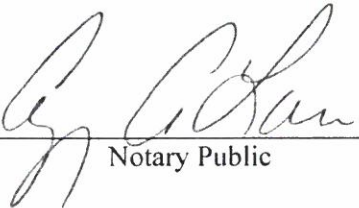


ACKNOWLEDGEMENT

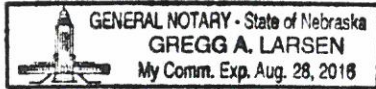
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On July 18, 2013, before me, Gregg A Larsen, Notary Public in and for said County and State, personally appeared Tony K. Love and C.J. Meyer who are the AVP - Real Estate and the Assistant Secretary, respectively, of Union Pacific Railroad Company, a Delaware corporation, and who are personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to in the within instrument, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



Notary Public



(Seal)

Grantee hereby accepts this Deed and agrees for itself, its successors and assigns, to be bound by the conditions and restrictions set forth herein.

Dated this ____ day of _____, 2013

ATTEST:



CITY AND COUNTY OF DENVER

By: Deborah Johnson

Deborah Johnson

By: [Signature]

Mayor

Clerk and Recorder, Ex-Officio Clerk
of the City and County of Denver

APPROVED AS TO FORM:

DOUGLAS J. FRIEDNASH, City Attorney

By: [Signature]

Assistant City Attorney

ACKNOWLEDGEMENT

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

On 7/22, 2013, before me, VALERIE SANCHEZ, Notary Public in and for said County and State, personally appeared MICHAEL B. HANCOCK who is the Mayor, of the City and County of Denver, a Colorado municipal corporation and home rule city, and who are personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to in the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

(Seal)

Valerie Yvette Sanchez
Notary Public
State of Colorado
Notary ID 20104017421
My Commission Expires June 8, 2014

Valerie Yvette Sanchez
Notary Public

To Be
DEDICATED

EXHIBIT A

Land Description

A strip of land thirty (30) feet wide situate in the Southwest Quarter of the Southeast Quarter (SW $\frac{1}{4}$ of SE $\frac{1}{4}$) of Section Twenty-one (21), Township Three (3) South, Range Sixty-seven (67) West of the sixth Principal Meridian, in the City and County of Denver, Colorado, being all that part of the right of way of the Union Pacific Railroad Company that lies between lines parallel with and distant northerly one hundred and seventy (170) feet and two hundred (200) feet respectively, measured at right angles, from the center line of the main track of said Railroad Company as constructed and operated, and being described as follows:

Commencing at the Northwest corner of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$, thence South 00°00'15" West, along the west line of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$, a distance of 478.94 feet, more or less, to the northerly right of way line of said Union Pacific Railroad Company, and the Point of Beginning of said strip of land;

Thence South 84°27'18" East, along said northerly right of way, a distance of 950.00 feet;

Thence South 05°32'42" West, a distance of 30.00 feet;

Thence North 84° 27' 18" West, a distance of 947.09 feet to the west line of said SW $\frac{1}{4}$ of SE $\frac{1}{4}$;

Thence North 00°00'15" East, along said west line, a distance of 30.14 feet to the Point of Beginning;

Parcel contains 28,456 sq. ft. or 0.6533 acres, more or less.

Description prepared by:



Warren L. Ruby, PLS 24966

For and on behalf of the City and County of Denver

UNION PACIFIC RAILROAD COMPANY

EXHIBIT "B-1"

A strip of land ten (10) feet wide situated in the Southwest Quarter of the Southeast Quarter (SW 1/4 of SE 1/4) of Section Twenty-one (21), Township Three (3) South, Range Sixty-seven (67) West of the sixth Principal Meridian, in the City of Denver, County of Denver, State of Colorado, lying five (5) feet on each side of the following described centerline:

Commencing at the Northwest corner of said SW 1/4 of SE 1/4, thence South 00°00'15" West, along the west line of said SW 1/4 of SE 1/4, a distance of 489.57 feet, to the Point of Beginning of said centerline;

Thence South 84°28'58" East, a distance of 948.98 feet to the point of Terminus of said centerline, the sidelines of said strip to lengthen or shorten so as to begin on the west line of said SW 1/4 of SE 1/4 of said Section.

OFFICE OF REAL ESTATE
OMAHA, NE
May 10, 2013