

EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That Fred V. Himschoot, 599 Soda Creek Road, Highway 140, Idaho Springs, of the County of Clear Creek, State of Colorado, and Kimberly McBride, Trustee for the York Street Land Trust, P.O. Box 270032, Louisville, CO 80027, each of whom owns one half of the property subject to this easement, and each of whom are the fee owners of the remaining portion of the property subject to this easement hereinafter sometimes referred to collectively as "Grantor", for and in consideration of One Dollar (\$1.00), receipt of which is acknowledged, and the prospective benefits to be derived by reason of the presence of drainage facilities for water and sewage owned and maintained by the City and County of Denver located on or below lands owned by Grantor, as defined below, and other good and valuable considerations in hand paid, do hereby grant, convey and release to the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, its successors and assigns, sometimes hereinafter referred to as the "City" or "Grantee", a non-exclusive and perpetual easement and right-of-way for drainage facilities for water and sewage across lands owned by Grantor, and situated in the City and County of Denver, State of Colorado "Easement".

Grantor hereby grants to Grantee the perpetual right to enter, re-enter and use the hereinafter described easement to locate, construct, inspect, operate, maintain, repair, remove, replace, relocate and reconstruct drainage facilities for water and sewage, including underground and surface facilities and appurtenances thereto, into, within, over, upon, across, through and under the parcel of land for which the easement and right-of-way is hereby granted, and said parcel of land is more particularly described as follows, to wit:

SEE EXHIBIT A ATTACHED AND INCORPORATED  
BY REFERENCE ("Easement Property").

The Grantor hereby warrants that Grantor has full right and lawful authority to make the grant herein contained and that Grantor has or will have fee simple title to the land over which said easement is granted. The interest granted to the City herein shall specifically include any after acquired rights of Grantor in the subject property, to the extent of the specified easement rights herein stated.

If ingress to and egress from the parcel of land for which an easement is hereby granted from and to a public road or highway is not available, the Grantor grants to Grantee the right of ingress to and egress from said parcel over and across the land owned by Grantor by means of roads and lanes thereon, if such exist, otherwise by such route or routes as shall occasion the least practicable damage and inconvenience to Grantor; provided that such right of ingress and egress shall not extend to any portion of said land which is isolated from the strip by any public road or highway now crossing or hereafter crossing said land; and provided further, that if any portion of said land is or shall be subdivided and dedicated roads or highways on such portion shall extend to the strip, the right of ingress and egress on that portion shall be confined to such dedicated roads and highways.

Grantee agrees that after Grantee's repair, maintenance, operation or improvement of any of the drainage facilities for water and sewage located within the Easement granted hereunder, Grantee shall restore, at its sole cost and expense, the surface of the Easement Property (and if applicable Grantor's immediately adjacent property) to the grade and condition it was in immediately prior to said construction, repair, and improvement which obligation shall include, the patching and resurfacing of any parking surface on a portion of the Easement Property and immediately surrounding parking surfaces to the extent the need for such patching and/or resurfacing is attributable to the construction or subsequent maintenance, repair, replacement or removal of the drainage facilities for water and sewage.

Grantor grants to Grantee the right from time to time to trim and to cut down and clear away any and all trees and brush now or hereafter on the strip and to trim and to cut down and clear away any trees on either side of the Easement Property which now or hereafter in the opinion of Grantee may be a hazard to the said facilities, or appurtenances thereto, or may interfere with the exercise of Grantee's rights hereunder; provided, however, that all trees which Grantee is hereby authorized to cut and remove, if

Blk. 2, Cheesman & Moffat's Addition

Project No. 2001-234

WMD No. 1317.02 SE

valuable for timber or wood, shall continue to be the property of Grantor, but all tops, lops, brush and refuse wood shall be burned or removed by Grantee.

Grantor RESERVES for itself the right of ownership, use and occupancy of the Easement Property insofar as said ownership, use and occupancy do not interfere with the installation, construction, maintenance, repair, inspection and operation of said facilities installed or permitted to be installed by the City and County of Denver, and PROVIDING FURTHER that the Grantor shall not erect or place any building, tree or other obstruction on the above-described easement and right-of-way and the City shall not be liable for their removal if they are so placed, EXCEPT to the extent otherwise provided herein.

The Easement granted hereby is personal to the Grantee and shall not be assigned or transferred by the Grantee voluntarily, by operation of law, by merger or other corporate proceedings, or otherwise, in whole or in part, without the prior written consent of the Grantor. No written Grantor of any of the provisions shall deem consent by Grantor a waiver hereof, except to the extent of such consent.

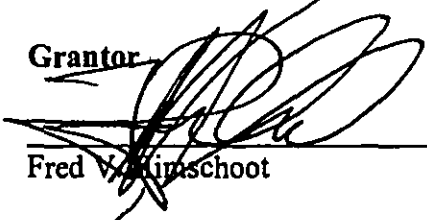
This Easement contains all of the terms agreed upon by the parties with respect to the subject matter hereof. Any amendment or modification to this Easement shall be reduced to writing and executed by the parties hereto.

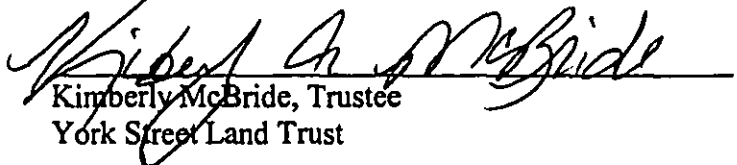
This Easement shall be governed by and construed in accordance with the laws of the State of Colorado.

This Grant shall extend to and be binding upon the successors and assigns of the respective parties hereto. The terms, covenants, agreements and conditions in this Grant shall be construed as covenants running with the land.

Signed and delivered this 17<sup>th</sup> day of August 2001.

Grantor

  
Fred V. Himschoot

  
Kimberly McBride, Trustee  
York Street Land Trust

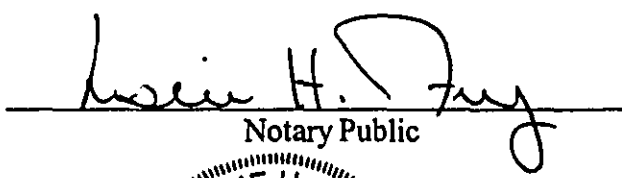
STATE OF COLORADO            )  
                                                  )  
CITY AND COUNTY OF DENVER)

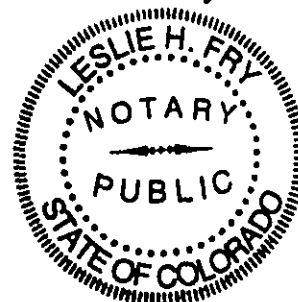
The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of August, 2001, by Fred V. Himschoot and by Kimberly McBride, Trustee for the York Street Land Trust.

In Witness Whereof.

My Commission Expires 9/24/04.

(SEAL)

  
Notary Public



NE1/4, S26, T3S, R68W, 6TH. P.M.

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE NORTHEAST 1/4 OF SECTION 26, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M., ALSO BEING A PART OF BLOCK 2, CHEESMAN AND MOFFAT'S ADDITION TO THE CITY OF DENVER, CITY AND COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID BLOCK 2, THENCE ALONG THE SOUTH LINE OF SAID BLOCK 2, NORTH 90°00'00" WEST, A DISTANCE OF 125.12 FEET TO THE POINT OF BEGINNING.

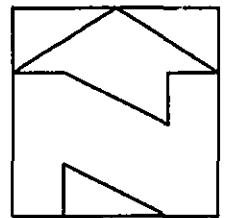
THENCE CONTINUING ALONG SAID SOUTH LINE, NORTH 90°00'00" WEST, A DISTANCE OF 16.00 FEET;  
THENCE ALONG THE WEST LINE OF THE PLATTED ALLEY RIGHT OF WAY, NORTH 00°04'20" EAST, A DISTANCE OF 367.69 FEET;  
THENCE ALONG THE NORTH LINE OF SAID BLOCK 2, SOUTH 89°50'10" EAST, A DISTANCE OF 16.00 FEET;  
THENCE ALONG THE EAST LINE OF THE PLATTED ALLEY; SOUTH 00°04'20" WEST, A DISTANCE OF 367.64 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 5,882.63± SQUARE FEET.

BASIS OF BEARING IS THE SOUTH LINE OF BLOCK 2, CHEESMAN AND MOFFAT'S ADDITION TO THE CITY OF DENVER ASSUMED TO BEAR NORTH 90°00'00" WEST, AS MONUMENTED BY 4' DENVER RANGE LINE CROSSES.

|                                                                                     |          |      |                                                                                       |                  |                                                                                      |              |        |
|-------------------------------------------------------------------------------------|----------|------|---------------------------------------------------------------------------------------|------------------|--------------------------------------------------------------------------------------|--------------|--------|
|  |          |      |                                                                                       | EXHIBIT A        |                                                                                      |              |        |
|                                                                                     |          |      |                                                                                       | PREPARED BY      | GILLANS INC.<br>8471 TURNPIKE DR. SUITE 200<br>WESTMINSTER, CO 80031<br>303-426-1731 |              |        |
|                                                                                     | REVISED  | HAR  | 8/27                                                                                  |                  |                                                                                      |              |        |
|                                                                                     | APPROVED |      |                                                                                       | PROJECT          | BLOCK 2, CHEESMAN AND<br>MOFFAT'S ADDITION ALLEY VAC.                                |              |        |
|                                                                                     | CHECKED  |      |                                                                                       | LOCATION (PT-30) | NE1/4, S26, T3S, R68W, (68-3-26.1)                                                   |              |        |
|                                                                                     | DRAWN    | HAR  | 7/10                                                                                  | JOB NO.          | PROJECT NO.                                                                          | R/W FILE NO. | SHEET  |
|                                                                                     | SURVEYED |      |                                                                                       | 101004           | 2001-234                                                                             | 1317.02-SE   | 1 of 2 |
| ACTION                                                                              | BY       | DATE | CITY AND COUNTY OF DENVER, DEPARTMENT OF PUBLIC WORKS, WASTEWATER MANAGEMENT DIVISION |                  |                                                                                      |              |        |

NE1/4, S26, T3S, R68W, 6TH. P.M.



SCALE: 1" = 60'



60 0 20 40 60

38TH AVENUE

80'  
ROW

GAYLORD STREET

BLOCK 2 CHEESMAN  
& MOFFAT'S ADDITION  
TO THE CITY OF  
DENVER

LOT 1

LOT 30

16.00' S89°50'10"E

367.69'

S00°04'20"W

80'  
ROW

YORK STREET

POINT OF COMMENCEMENT

LOT 15

LOT 16

125.12'

N00°04'20"E

367.64'

P.O.B.

16.00'

N90°00'00"W

37TH AVENUE 60' ROW



|          |     |      |  | EXHIBIT A                                                                            |             |              |        |
|----------|-----|------|--|--------------------------------------------------------------------------------------|-------------|--------------|--------|
|          |     |      |  | PREPARED BY                                                                          |             |              |        |
|          |     |      |  | GILLANS INC.<br>8471 TURNPIKE DR. SUITE 200<br>WESTMINSTER, CO 80031<br>303-426-1731 |             |              |        |
|          |     |      |  | PROJECT                                                                              |             |              |        |
|          |     |      |  | BLOCK 2, CHEESMAN AND<br>MOFFAT'S ADDITION ALLEY VAC.                                |             |              |        |
|          |     |      |  | LOCATION (NT-683)                                                                    |             |              |        |
|          |     |      |  | NE1/4, S26, T3S, R68W, (68-3-26.1)                                                   |             |              |        |
|          |     |      |  | JOB NO.                                                                              | PROJECT NO. | N W FILE NO. | SHEET  |
|          |     |      |  | 101004                                                                               | 2001-234    | 1317.02-SE   | 2 OF 2 |
| REVISED  | HAR | 8/27 |  |                                                                                      |             |              |        |
| APPROVED |     |      |  |                                                                                      |             |              |        |
| CHECKED  |     |      |  |                                                                                      |             |              |        |
| DRAWN    | HAR | 7/10 |  |                                                                                      |             |              |        |
| SURVEYED |     |      |  |                                                                                      |             |              |        |
| ACTION   | BY  | DATE |  |                                                                                      |             |              |        |

CITY AND COUNTY OF DENVER, DEPARTMENT OF PUBLIC WORKS, WASTEWATER MANAGEMENT DIVISION