DENVER
THE MILE HIGH CITY

REQUEST FOR ORDINANCE TO RELINQUISH AN EASEMENT

TO: Ivone Avila-Ponce, City Attorney's Office

FROM: Glen Blackburn, PE, Director, Right of Way Services

PROJECT NO: 2023-RELINQ-0000008

DATE: November 16, 2023

SUBJECT: Request for an Ordinance to relinquish an easement in its entirety established in the Easement Agreement, Recordation Number 2007131798. Located at 8890 East Lowry Boulevard.

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

This office has investigated the request of Erich W. Hoffer, dated January 6, 2023 on behalf of Bishop Machebeuf High School, for the relinquishment of the subject easement.

This matter has been coordinated with Asset Management; City Forester; Comcast; Denver Water; DOTI: Survey, Construction Engineering, Policy & Planning, TES Signing and Striping, DES Transportation & Wastewater; Denver Fire Department; Historic Preservation/Landmark; Metro Water Recovery; Emergency Management; Parks & Recreation; CenturyLink; Xcel Energy; City Councilperson Sawyer, District 5; CPD: DS Project Coordinator; RTD; and CDOT all of whom have indicated no objection to the proposed easement relinquishment.

As a result of these investigations, it has been determined that there is no objection to relinquishing the subject easement.

A vicinity map of the subject easement area and a copy of the document creating the easement are attached.

GB:bw

cc: City Councilperson & Aides
City Council Staff – Luke Palmisano
Department of Law – Bradley Beck
Department of Law – Deanne Durfee
Department of Law – Maureen McGuire
Department of Law – Martin Plate
DOTI, Manager's Office – Alba Castro
DOTI, Legislative Services – Jason Gallardo
DOTI, Survey – Paul Rogalla

ORDINANCE/RESOLUTION REQUEST

Please email requests to Jason Gallardo
at Jason.Gallardo@denvergov.org by **12:00pm on Monday.** Contact him with questions.

Date of Request: November 16, 2023

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

1. Type of Request:

☐ **Contract/Grant Agreement** ☐ **Intergovernmental Agreement (IGA)** ☐ **Rezoning/Text Amendment**

☐ **Dedication/Vacation** ☐ **Appropriation/Supplemental** ☐ **DRMC Change**

☒ **Other:** Easement Relinquishment

2. Title: (Start with *approves, amends, dedicates*, etc., include name of company or contractor and indicate the type of request: grant acceptance, contract execution, contract amendment, municipal code change, supplemental request**,** etc.)

Request for an Ordinance to relinquish an easement in its entirety established in the Easement Agreement, Recordation Number 2007131798. Located at 8890 East Lowry Boulevard.

3. Requesting Agency: DOTI: Right of Way Services; Engineering and Regulatory

4. Contact Person:

Contact person with knowledge of proposed ordinance/resolution	Contact person to present item at Mayor-Council and Council
Name: Brianne White	Name: Jason Gallardo
Email: Brianne.white@denvergov.org	Email: Jason.Gallardo@denvergov.org

5. General description or background of proposed request. Attach executive summary if more space needed:

Request for an Ordinance to relinquish an easement in its entirety established in the Easement Agreement, Recordation Number 2007131798. Located at 8890 East Lowry Boulevard.

6. City Attorney assigned to this request (if applicable): Martin Plate

7. City Council District: Council Person Sawyer, District 5

8. **For all contracts, fill out and submit accompanying Key Contract Terms worksheet**

Key Contract Terms

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____ Date Entered: _____

Type of Contract: (e.g. Professional Services > $500K; IGA/Grant Agreement, Sale or Lease of Real Property):

Vendor/Contractor Name:

Contract control number:

Location:

Is this a new contract? ☐ **Yes** ☐ **No** **Is this an Amendment?** ☐ **Yes** ☐ **No** **If yes, how many?** _____

Contract Term/Duration (for amended contracts, include existing term dates and amended dates):

Contract Amount (indicate existing amount, amended amount and new contract total):

Current Contract Amount (A)	*Additional Funds (B)*	*Total Contract Amount (A+B)*

Current Contract Term	*Added Time*	*New Ending Date*

Scope of work:

Was this contractor selected by competitive process? **If not, why not?**

Has this contractor provided these services to the City before? ☐ **Yes** ☐ **No**

Source of funds:

Is this contract subject to: ☐ **W/MBE** ☐ **DBE** ☐ **SBE** ☐ **XO101** ☐ **ACDBE** ☐ **N/A**

WBE/MBE/DBE commitments (construction, design, Airport concession contracts):

Who are the subcontractors to this contract?

To be completed by Mayor's Legislative Team:

Resolution/Bill Number: _____ Date Entered: _____

EASEMENT RELINQUISHMENT
EXECUTIVE SUMMARY

Project Title: 2023-RELINQ-0000008- 8890 E Lowry Blvd

Property Owner: Bishop Machebeuf High School

Description of Proposed Project: Request for an Ordinance to relinquish an easement in its entirety established in the Easement Agreement, Recordation Number 2007131798. Located at 8890 East Lowry Boulevard.

Background: The existing easement is recorded as exclusive and perpetual for stormwater and sewage conveyance. Proposed development requires water main to cross over the easement. A new PNEE was recorded for the existing and proposed utilities prior to this relinquishment.

Location Map:

City and County of Denver Department of Transportation & Infrastructure
Right-of-Way Services / Engineering & Regulatory
201 W Colfax Ave, Dept 507 | Denver, CO 80202
www.denvergov.org/doti
Phone: 720-865-3003

2007131798
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08/22/2007 10:07A
City & County Of Denver EAS R36.00 D0.00

EASEMENT AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

That **LOWRY ECONOMIC REDEVELOPMENT AUTHORITY**, a separate legal entity established pursuant to an Intergovernmental Agreement between the City and County of Denver, Colorado, and the City of Aurora, Colorado pursuant to the provisions of C.R.S. § 29-1-203(4), whose address is 555 Uinta Way, Denver, Colorado 80220, hereinafter referred to as "Grantor", for and in consideration of Ten Dollars ($10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant, convey and release to the CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, its successors and assigns, hereinafter referred to as the "City", an exclusive and perpetual easement ("**Easement**") to locate, construct, inspect, operate, maintain, repair, remove, replace, relocate and reconstruct facilities for stormwater and sewage conveyance ("**Facilities**"), into, within, over, upon, across, through and under the following described parcel of land ("**Easement Property**"):

See Exhibit(s) A attached hereto

Grantor hereby warrants that Grantor has full right and lawful authority to grant the Easement and has a fee interest in the Easement Property and, other than the leasehold and possessory interest of Bishop Machebeuf High School, Inc. ("**Lessee**") in the Easement property, as disclosed in the Memorandum of Sublease dated December 20, 2000 and recorded in the Clerk and Recorder's office of the City and County of Denver, State of Colorado on December 28, 2000 under Reception No. 2000187608, there are no other known interests in the Easement Property that could impair the rights granted hereby.

The interest granted to City herein shall specifically include any after acquired rights of Grantor and Lessee in the Easement Property, to the extent of the Easement rights herein stated.

If entering upon the Easement Property to locate, construct, inspect, operate, maintain, repair, remove, replace, relocate and reconstruct the Facilities, the City shall, to the greatest extent practicable, access the Easement Property from public rights of way, private roads or other paths of ingress or egress designated by the Grantor or Lessee that abut the Easement Property.

The City agrees to restore the Easement Property to substantially the same condition as the lands were in prior to the City's entrance onto the Easement Property, whether such access is from public rights of way, private roads or other paths of ingress or egress designated by the Grantor or Lessee, at no cost to the Lessee. City's obligation shall be expressly limited to the following items:

Return to: Lowry Redevelopment Authority
555 Uinta Way
Denver, CO 80203

1. Repair or replacement of grass, trees, shrubbery and other foliage damaged or removed by virtue of City's ingress to or egress from the Easement Property and/or by virtue of the City's construction, inspection, maintenance, repair, removal, replacement, relocation or reconstruction of the Facilities, and maintenance of the surface elevation within the Easement Property in connection therewith; and

2. Repair or replacement of the sprinkler system and other irrigation equipment damaged or destroyed by virtue of City's ingress to or egress from the Easement Property and/or by virtue of the City's construction, inspection, maintenance, repair, removal, replacement, relocation or reconstruction of the Facilities.

In the event the City needs to perform any routine maintenance or repair of the Facilities it must access the Easement Property from abutting streets or public rights of way. In such case, the City will endeavor to provide Lessee with at least five (5) days advance notice prior to entry on the Easement Property and, except in the case of emergencies, will endeavor to coordinate with Lessee with respect to any such routine maintenance or repair of the Facilities.

Lessee, its successors and assigns, reserves the right to fully use and enjoy the Easement Property, so long as such use and enjoyment shall not unreasonably interfere with the installation, construction, maintenance, repair, inspection, operation, relocation, and reconstruction of the Facilities installed or permitted to be installed by City, and provided that the Lessee shall not erect or place any building, structure, tree, or other below or above ground obstruction on the Easement Property, except as exists as of the date hereof. In the event the terms of this Easement are violated, such violation shall promptly be corrected by Lessee upon receipt of written notice from the City, or the City may elect to correct or eliminate such violation. Lessee shall promptly reimburse the City for its reasonable costs and expenses actually incurred by the City in enforcing the terms of this Easement Agreement.

It is the intention of Grantor that the Easement created pursuant to this Easement Agreement shall, immediately upon Lessee obtaining fee simple title to the Easement Property, extend and bind the fee simple title to the Easement Property, without the necessity of any further documentation. Notwithstanding the foregoing, however, Lessee agrees to execute and record such additional and further documentation as may be reasonably necessary to implement the terms and intent of this Easement Agreement.

Notwithstanding the common ownership of the Easement Property and the Easement as of the date of this Easement Agreement, it is the specific intention of the Grantor that there shall be no merger of interests as a result of such common ownership, but that the easements and other rights created, and burdens imposed, pursuant hereto shall survive any such common ownership.

Signed and delivered this 20th day of August, 2007.

Grantor:

LOWRY ECOMONIC REDEVELOPMENT AUTHORITY

By: Thomas O Markham
Thomas O. Markham
Executive Director

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 20th day of August, 2007, by Thomas O. Markham as Executive Director of LOWRY ECONOMIC REDEVELOPMENT AUTHORITY, a separate legal entity established pursuant to an Intergovernmental Agreement between the City and County of Denver, Colorado, and the City of Aurora, Colorado (the "Intergovernmental Agreement") pursuant to the provisions of C.R.S. § 29-1-203(4).

Witness my hand and official seal.

My commission expires: 10/15/2009

(SEAL)

Orena J. Lindholm
Notary Public

ORENA J. LINDHOLM
NOTARY PUBLIC
STATE OF COLORADO
My Commission Expires 10/15/2009

Signed and approved this 30 day of August, 2007.

Lessee:

BISHOP MACHEBEUF HIGH SCHOOL, INC.

By: _____
Thomas S. Fryar as attorney-in-fact for
Charles J. Chaput, Archbishop and
Member of the Board of Members

Reviewed and Acknowledged:

_____
Richard Thompson,
Board of Members

STATE OF COLORADO)
) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 30th day of August, 2007, by Thomas S. Fryar as attorney in fact for Charles J. Chaput, Archbishop and Member of the Board of Members of Bishop Machebeuf High School, Inc.

My commission expires: August 2, 2010

WITNESS my hand and official seal.

LINDA A. SARMO NOTARY PUBLIC STATE OF COLORADO

_____
Notary Public

EXHIBIT A
TO
EASEMENT AGREEMENT
(Legal Description)

EXHIBIT A

DES PROJECT NO: 2002-1074
FILE NO: 1161.10-SE

NE 1/4, SEC. 9 & NW 1/4, Section 10, Township 4 South, Range 67 West, 6th P.M.

City and County of Denver, State of Colorado

DESCRIPTION
Machebeuf – Sanitary Sewer Easement

A part of that parcel of land described at Reception Number 2001184498 in the Clerk and Recorders office of the City and County of Denver located in the Northeast Quarter of Section 9 and the Northwest Quarter of Section 10, Township 4 South, Range 67 West of the Sixth Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

COMMENCING at the Northwest corner of said Section 10;
thence South 19°17'05" East a distance of 976.03 feet to a point on the southwesterly line of Yosemite Street (proposed 120') and the **POINT OF BEGINNING;**
thence South 36°32'18 East, along said southwesterly line of Yosemite Street (proposed 120'), a distance of 30.00 feet;
thence South 53°12'57 West a distance of 258.22 feet;
thence South 55°43'21 West a distance of 233.19 feet to the southwesterly line of said parcel of land described at Reception Number 2001184498;
thence North 36°28'21 West, along said southwesterly line, a distance of 30.02 feet;
thence North 55°43'21 East a distance of 233.69 feet;
thence North 53°12'57 East a distance of 257.69 feet to the **POINT OF BEGINNING;**

Containing 14,742 square feet, 0.338 acres, more or less.

BASIS OF BEARINGS: Bearings are based on the north line of the Northwest Quarter of Section 10, Township 4 South, Range 67 West of the Sixth Principal Meridian, said line to bear South 89°51'45" East. The bearing of said line is shown on the City and County of Denver Lowry Air Force Base Boundary Survey, under Project No. 94-576, dated 4/09/96 and recorded in Book 23 of the County Surveyor's Land Survey/Right-of-way Surveys at Pages 102-103 and as marked by a found 3-1/4" aluminum cap in range box, stamped: URS CORP PLS 20683 at the Northwest corner and by a found City of Aurora 3" brass cap in range box, stamped LS 16848 at the North Quarter corner of said Section 10.

02/23/06

A. David Johnson, P.L.S. 20683
For and on behalf of URS CORP

This exhibit does not represent a monumented survey
It is intended only to depict the attached description.

REVISED			
APPROVED			
CHECKED	ADJ	1/10/06	
DRAWN	BKB	1/10/06	
SURVEYED			
ACTION	BY	DATE	

PREPARED BY
URS, INC.
8158 E. 5th AVENUE
SUITE 200
DENVER, COLORADO 80230 PHONE 303.592.2831

PROJECT
SANITARY SEWER EASEMENT BISHOP MACHEBEUF
HIGH SCHOOL VARSITY BASEBALL FIELD

LOCATION (Q-S-T-R))
NE 1/4 SEC. 9 & NW 1/4 SEC 10, T4S, R67W

JOB NO.	PROJECT NO.	ROW FILE NO.	SHEET
			1 OF 2

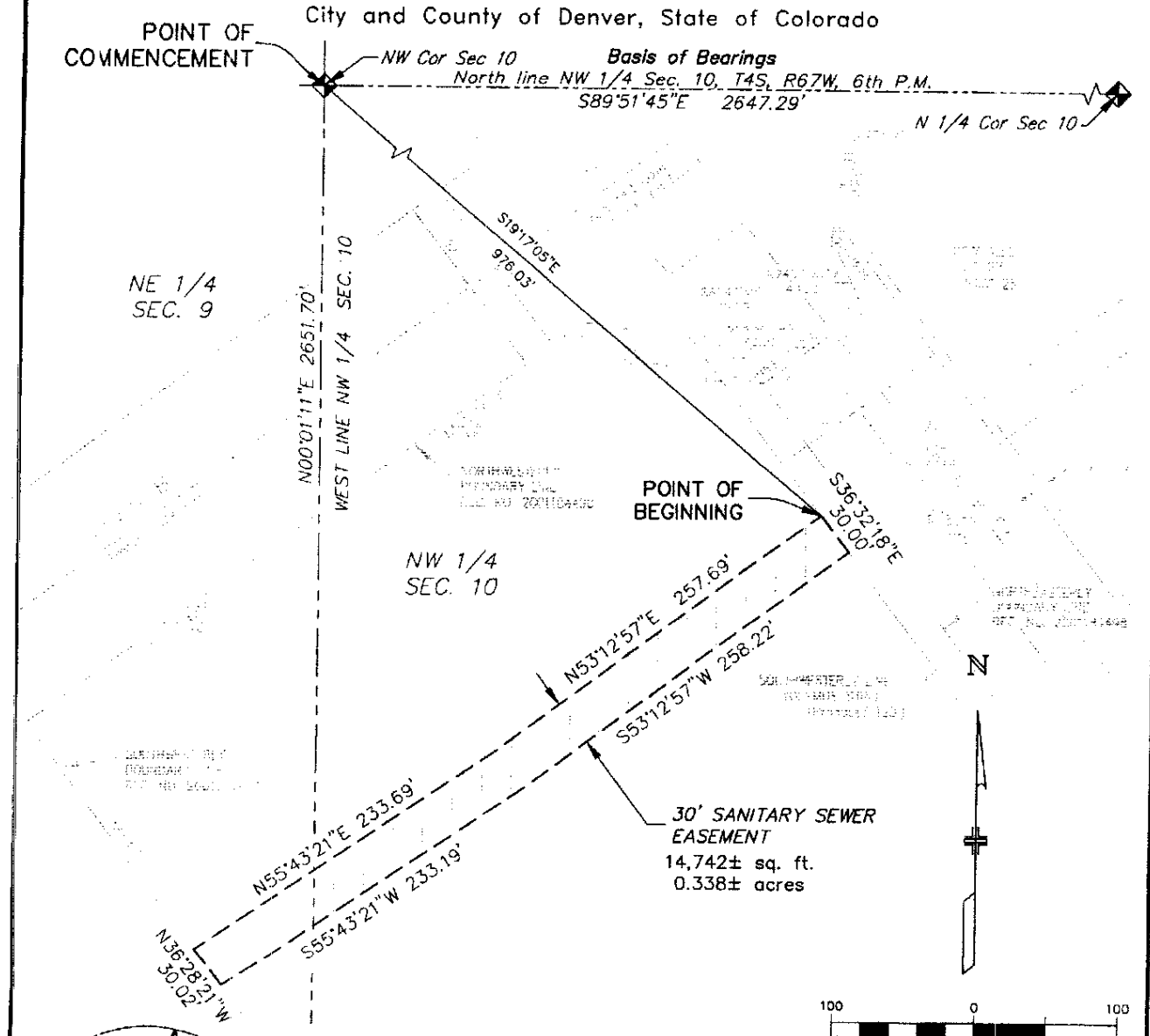
FORM 3107 (10/02) DES

EXHIBIT A

DES PROJECT NO: 2002-1074
FILE NO: 1161.10-SE

NE 1/4, SEC. 9 & NW 1/4, Section 10, Township 4 South, Range 67 West, 6th P.M.

City and County of Denver, State of Colorado



This exhibit does not represent a monumented survey
It is intended only to depict the attached description.

COLORADO LICENSED
A. DAVID JOHNSON
20683
PROFESSIONAL LAND SURVEYOR

ACTION	BY	DATE
REVISED		
APPROVED		
CHECKED	ADJ	1/10/06
DRAWN	BKB	1/10/06
SURVEYED		

PREPARED BY
URS, INC.
8158 E. 5th AVENUE
SUITE 200
DENVER, COLORADO 80230 PHONE: 303.592.2831

PROJECT
SANITARY SEWER EASEMENT BISHOP MACHEBEUF HIGH SCHOOL VARSITY BASEBALL FIELD

LOCATION (Q-S-T-R))
NE 1/4 SEC. 9 & NW 1/4 SEC 10, T4S, R67W

JOB NO.	PROJECT NO.	ROW FILE NO.	SHEET
			2 OF 2

FORM 3107 (10/02) DES