

SOUTHEAST METRO STORMWATER AUTHORITY
Acting by and through
SEMSWA WATER ACTIVITY ENTERPRISE

RESOLUTION 15-06

Authorization to Accept an Easement from Willow Creek Homeowners Association. Number 2

WHEREAS, SEMSWA has been organized to manage and maintain regional stormwater facilities within its boundaries; and

WHEREAS, Tract A in Willow Creek-Filing 10 (Property) is owned by all of the individual homeowners within the subdivision owning real property; and

WHEREAS, the Property contains a major tributary channel to Little Dry Creek; and

WHEREAS, the Property contains stormwater infrastructure to control flooding and maintain water quality; and

WHEREAS, the owner of the Property is responsible for stormwater maintenance and improvements to these structures; and

WHEREAS, the drainage channel serve the interests of the general public; and

WHEREAS, a permanent drainage easement on the Property would enable SEMSWA to maintain and construct improvements to the drainage channel more efficiently and effectively; and

WHEREAS, a permanent drainage easement on the Property would be conveyed to SEMSWA by Willow Creek Homeowners Association. Number 2, acting in behalf of all individual homeowners with the subdivision owing real property, at no cost; and

WHEREAS, Willow Creek Homeowners Association. Number 2 has requested relief from the responsibility of having to maintain the drainage channels; and

WHEREAS, the Private Property Committee has recommended acceptance of the Property.

NOW, THEREFORE BE IT RESOLVED THAT:

1. The Board agrees to accept a permanent drainage easement from Willow Creek Homeowners Association. Number 2 and authorizes the Executive Director to record the Permanent Drainage Easement.

SOUTHEAST METRO STORMWATER AUTHORITY
Acting by and through
SEMSWA WATER ACTIVITY ENTERPRISE

Date: _____

ATTEST:

Secretary

Chairperson

APPROVED AS TO FORM:
Attorney for
Southeast metro Stormwater Authority

By _____
Edward J. Krisor

PERMANENT DRAINAGE EASEMENT

January, 2015

This PERMANENT DRAINAGE EASEMENT ("Easement") is granted this ²³ day of, by the Willow Creek Homeowners Association. Number 2, whose legal address is c/o TMMC Property Management 401 South Wilcox Street, Castle Rock, Colorado 80104, ("The Grantor"), to the Southeast Metro Stormwater Authority, whose legal address is 7437 South Fairplay Street, Centennial, CO 80112 ("The Grantee").

- A. Grantor is the owner of the property referred to as Tract A, Willow Creek - Filing No. 10, also known as 8500 East Mineral Drive, Centennial, CO, Arapahoe County, Colorado.
- B. Presently Tract A is designated as common area pursuant to the terms of the plat for Willow Creek - Filing No. 10 filed in the office of the County Clerk and Recorder of Arapahoe County on September 12, 1978, in Book 35, Pages 56 & 57, at Reception No. R1773066.

For and in consideration of the sum of One Dollars (\$1.00) and other good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged by the Grantor, the Grantor hereby grants, bargains, sells and conveys to the Grantee, its transferees and successors in title or assigns, a Permanent Drainage Easement to construct, reconstruct, install, operate, use, maintain, repair, replace and/or remove drainage improvements, in, on, to, through, over, under and across a certain parcel of real property located in the Arapahoe County, Colorado, as more particularly described in Exhibit A (Attached) (the "Easement Parcel") pursuant to the following terms and conditions:

1. The Grantee, its contractors, agents, successors and permitted assigns shall have and exercise the right of perpetual ingress and egress in, to, through, over, under and across the Easement Parcel for any purpose necessary and, at any and all times necessary or convenient, for the full enjoyment of the rights granted it in the Easement. Grantee agrees to give Grantor such notice as is practical under the circumstances prior to exercising its rights hereunder which will result in significant ground disturbance.
2. The Grantee, its contractors, agents, successors and permitted assigns, shall have the right to enter upon the Easement Parcel and to survey, construct, reconstruct, operate, use, maintain, repair, upgrade, replace and remove the improvements made within the Easement, and to remove objects interfering therewith. Grantee shall not be responsible for incidental

damages caused by its non-negligent operations authorized by this Easement to Grantor's turf areas, irrigation or other facilities caused by its work hereunder. Notwithstanding the foregoing, Grantee shall attempt to minimize such damage, will promptly restore and compact the surface to approximately its original contour as nearly as possible, will notify the HOA if it becomes aware that its work has caused damage to buried utilities, and will use best management practices such as the segregation and replacement of topsoil. Upon request of and in consultation with Grantor, the Grantee shall seed the disturbed area with a weed-free seed mixture.

The Easement described in Exhibit A does NOT include any portion of the adjacent existing tennis courts or existing improvements associated therewith and Grantee shall not damage those tennis courts and associated improvements.

Notwithstanding the foregoing, if Grantee damages any existing tennis court, associated improvements, sidewalk that was not previously damaged, the wooden bridge, or existing trees or shrubs located within the Easement described in Exhibit A, Grantee shall, at its sole cost, promptly repair or replace such damage item.

3. The Grantee shall have and exercise the right of subjacent and lateral support to whatever extent is necessary or desirable for the operation and maintenance of the drainage improvements. The Grantor shall not take any action which would impair the lateral or subjacent support for the drainage improvements.

4. The Grantee shall have the right and authority to assign to any appropriate local governmental entity, or to any public utility provider, any and all rights to use, and all rights and obligations associated with, the Easement as are granted to and accepted by the Grantee herein.

5. The Grantee agrees that at such time and in the event that the Easement described herein be abandoned by the Grantee and any assignee, such Easement shall terminate and the real property interest represented by such Easement shall revert to the Grantor, its heirs, successors and/or assigns. Because of the potentially infrequent nature of the allowed use of the Easement, mere non-use of the Easement Parcel notwithstanding, the length of time of such non-use shall not constitute abandonment.

6. The Grantor warrants, covenants, grants, bargains and agrees that, to the best of its knowledge, the Grantor is well seized of the Easement Parcel above conveyed and has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and

form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restriction of whatever kind or nature so ever, except matters of record.

7. Each and every one of the benefits and burdens of the Easement shall inure to and be binding upon the respective legal representatives, administrators, successors and permitted assigns of the Grantor and the Grantee.

8. The consideration set forth above includes full and just compensation.


9. In further consideration hereof, Grantor, for itself and its transferees and successors in title or assigns, covenants and agrees that no building, structure, fill of soils or other materials, or other above or below ground obstruction that will interfere with the established drainage or the purposes of this Easement, will be placed, erected, or installed on behalf of the Grantor on the Easement Parcel or permitted by Grantor without written authorization of Grantee, which will not be unreasonably withheld. Nothing in this Paragraph shall prohibit Grantor from maintaining, repairing and replacing existing buildings, structures, fill of soils or other materials, or other above or below ground obstructions, including but not limited to concrete paths and irrigation systems, in its normal course of business as long as the same does not interfere with the purposes of this Easement. Grantor covenants and agrees that in the event the terms of this paragraph are violated by Grantor, its transferees and successors in title or assigns, such violation shall be corrected and eliminated within ninety (90) calendar days after the receipt of notice from Grantee. If such corrections are not made or diligently pursued by Grantor, its transferees and successors in title or assigns, or whoever is the current owner of the fee title to the Easement Parcel, if different from Grantor, within said ninety day period, Grantee, after written notice to Grantor, shall have the right to correct and eliminate such violation, and Grantor, its transferees and successors in title or assigns, or whoever is the current owner of the fee title to the real property described as the Easement Parcel, if different from Grantor shall promptly pay the actual costs thereof. Grantee shall re-connect, in any manner which allows the continued use of Grantor's drain lines which currently connect with the drainage pipe in the Easement Parcel.

10. Although Grantee is granted herein the authority to maintain drainage improvements on Grantor's property, that grant shall in no way be construed to require Grantee to perform any maintenance on such drainage improvements. It is specifically understood and agreed to by and between Grantor and Grantee that any such maintenance of drainage improvements is contingent upon the approval of and budgeting for such maintenance by the Board of Directors of Grantee, neither of which can be guaranteed.

Notwithstanding anything herein, all rights and obligations as set forth on the plats for Willow Creek - Filing No. 10, recorded on September 12, 1978, at Reception No. R1773066, Arapahoe County records, shall remain in full force and effect. Notwithstanding the foregoing, Grantee agrees that unless agreed upon by Grantor which agreement shall not be unreasonably be withheld, any underground drainage facilities which now exist on the Easement Parcel shall (with the exception of an additional manhole) continue to be maintained underground, and shall not be converted to an above-ground drainage facility.

[SIGNATURE ON FOLLOWING PAGE]

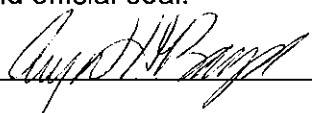
GRANTOR:
WILLOW CREEK HOMEOWNERS ASSOCIATION. NUMBER 2.

By 
President

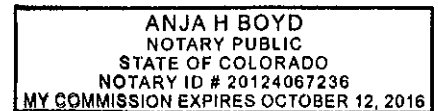
STATE OF COLORADO DR)
County of Adams Denver) ss.

The foregoing Permanent Drainage Easement was acknowledged before me this
23 day of January, 2015, by Jeff Rudnick as the
President of Grantor, Willow Creek Homeowners Association. Number 2.

Witness my hand and official seal:

Notary Public 

My Commission Expires: Oct. 12, 2016



SOUTHEAST METRO STORMWATER AUTHORIT
acting by and through SEMSWA WATER ACTIVITY ENTERPRISE

Chairperson

Date: _____

APPROVED AS TO FORM:

Attorney for
Southeast Metro Stormwater Authority

By _____
Edward J. Krisor

EXHIBIT "A"

1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.

2.) ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS AFTER THE DATE OF THE CERTIFICATION SHOWN HEREON.

3.) THE ONLY PURPOSE OF THIS EXHIBIT IS TO SHOW THE LOCATION OF THE EASEMENT(S).

4.) THIS DOCUMENT SHALL BE CONSIDERED NULL AND VOID IF IT DOES NOT BEAR THE ORIGINAL SIGNATURE AND SEAL OF THE PROFESSIONAL LAND SURVEYOR OR IF ALTERED IN ANY WAY.

PRECISION SURVEY & MAPPING, INC.
PROFESSIONAL LAND SURVEYING CONSULTANTS
9145 E. Kenyon Ave., Suite 101, Denver, CO 80237
Tel: (303) 753-9799 Fax: (303) 753-4044

DRN. BY: J.L.
CHKD. BY: C.J.
DATE: 12/04/14
SCALE: 1" = 60'

FILE: R11099.dwg
SHEET: 1 OF 2
W.O.#:

PERMANENT EASEMENT

TRACT "A"
WILLOW CREEK FILING NO. 10
FILED IN THE ARAPAHOE COUNTY
CLERK & RECORDER'S OFFICE

SE1/4 SECTION 33
T5S, R67W, 6TH P.M.

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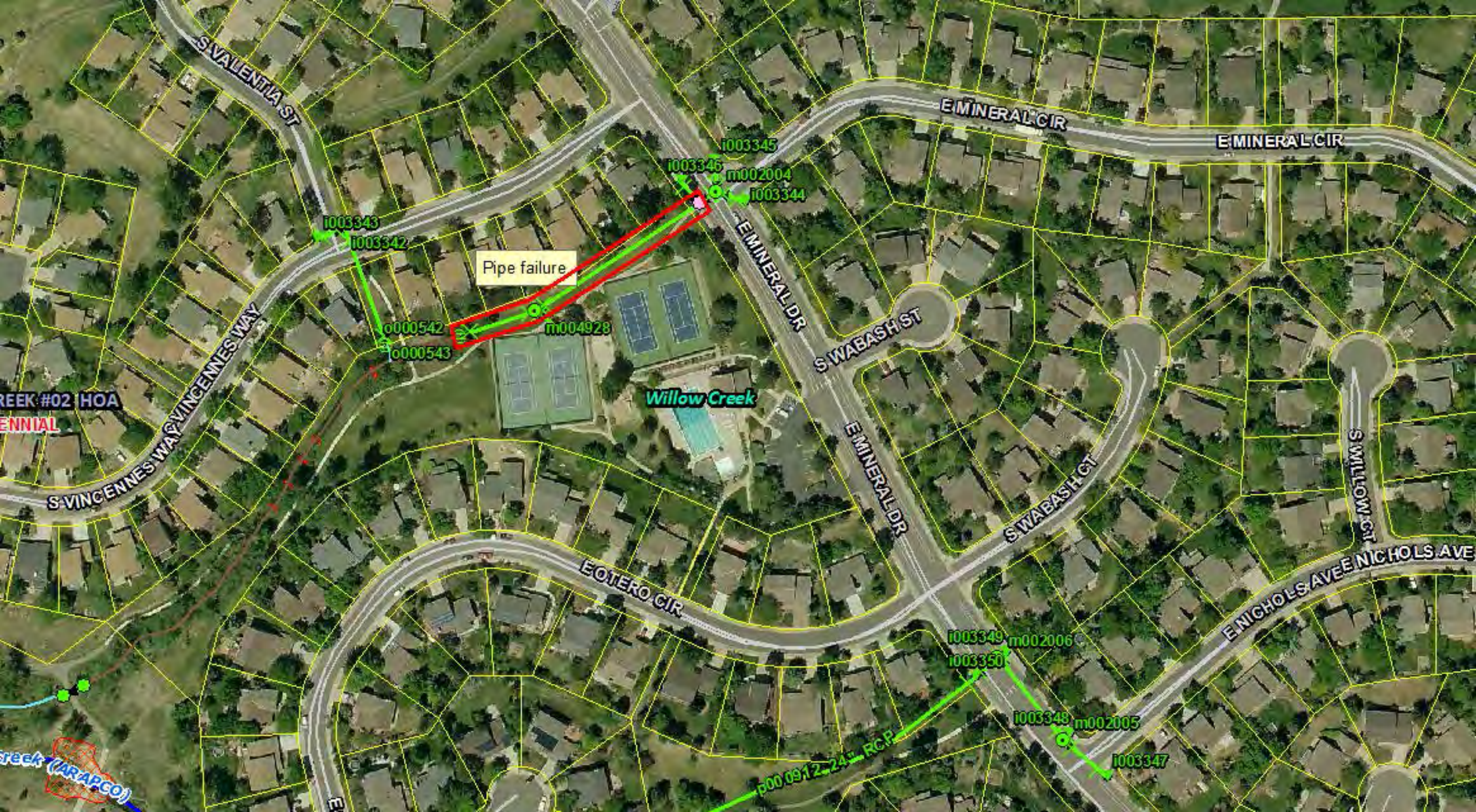


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PERMANENT EASEMENT



Pipe failure

Willow Creek

CREEK #02 HOA
ENNIAL

CREEK (ARAPCO)

p000912-24" RCP