

SPONSORED BY: COUNCIL MEMBER MARTIN

COUNCILMAN'S RESOLUTION

RESOLUTION NO.

No. CR-117
Series of 2006

Series of 2006

A RESOLUTION APPROVING THE FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT AND THE FIRST AMENDMENT TO THE ESTABLISHING CONTRACT BETWEEN THE CITY OF NORTHGLENN AND THE CITY OF WESTMINSTER REGARDING THE CHURCH DITCH WATER AUTHORITY

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO, THAT:

Section 1. The First Amendment to Intergovernmental Agreement attached hereto as **Exhibit 1** between the City of Northglenn, and the City of Westminster regarding the Church Ditch Water Authority is hereby approved and the Mayor is authorized to execute same on behalf of the City.

Section 2. The First Amendment to Establishing Contract attached hereto as **Exhibit 2** between the City of Northglenn, and the City of Westminster regarding the Church Ditch Water Authority is hereby approved and the Mayor is authorized to execute same on behalf of the City.

DATED at Northglenn, Colorado, this ____ day of _____ 2006.

KATHLEEN M. NOVAK
Mayor

ATTEST:

DIANA L. LENTZ, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT

This First Amendment to Intergovernmental Agreement (the "First Amendment") is made this ___ day of _____, 2006, by and between the City of Northglenn, Colorado, a Colorado home municipal corporation ("Northglenn") and the City of Westminster, Colorado, a Colorado home municipal corporation ("Westminster"). The parties shall be referred to collectively as the "Cities."

RECITALS

A. The Cities previously established the Church Ditch Water Authority (the "Authority") within the meaning of C.R.S. § 29-1-204.2 in order to effect the development of water resources, systems and facilities associated with the Church Ditch for the benefit of the Cities and other parties as more particularly described in the Intergovernmental Agreement between the Cities dated October 29, 2004, attached hereto as Exhibit A, and incorporated herein by this reference (the "Original IGA"); and

B. The Cities now desire to amend the Original IGA to authorize the Authority to also own and operate drainage facilities as specifically authorized by C.R.S. § 29-1-204.2.

FIRST AMENDMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Cities further agree as follows:

1. Church Ditch Water Authority's Authorization to Own and Operate Drainage Facilities. In addition to the provisions and authorizations contained in the Original IGA, the Cities hereby further determine to authorize the Church Ditch Water Authority to own and operate drainage facilities pursuant to C.R.S. § 29-1-204.2, as more particularly set forth in the First Amendment to Establishing Contract for the Church Ditch Water Authority, attached hereto as **Exhibit B**, and incorporated herein by this reference. The Church Ditch Water Authority is hereafter determined to be established in order to effect the development of water resources, systems and facilities, and drainage facilities associated with the Church Ditch for the benefit of the Cities and the Contractual Users.

2. Entire Agreement. The Original IGA and this First Amendment constitute the entire understanding, contract, and agreement between the parties as to the subject matters herein set forth, and the Original IGA together with this First Amendment supersede prior written or oral understandings, agreements, and commitments, formal or informal, relative thereto between all the parties hereto. No change, modification, alteration, or amendment to the Original IGA and this First Amendment shall be binding upon the parties except as specifically expressed in writing, making reference to the Original IGA and this First Amendment, signed by all of the parties hereto agreeing to be bound thereby.

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment on the date stated above.

CITY OF NORTHGLENN, COLORADO

By: _____
KATHLEEN M. NOVAK
Mayor

ATTEST:

DIANA L. LENTZ, CMC
City Clerk
APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

CITY OF WESTMINSTER, COLORADO

By: _____
NANCY MCNALLY
Mayor

ATTEST:

LINDA YEAGER, MMC
City Clerk

APPROVED AS TO FORM:

MARTIN MCCULLOUGH
City Attorney

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement is made this 29th day of October, 2004, by and between the City of Northglenn, Colorado, a Colorado home municipal corporation ("Northglenn") and the City of Westminster, Colorado, a Colorado home municipal corporation ("Westminster"). The parties shall be referred to collectively as the "Cities."

RECITALS

A. Northglenn incorporated the Church Ditch Company (the "Company"), a Colorado corporation, formed to operate and maintain the Church Ditch (the "Ditch"), a carrier ditch organized pursuant to C.R.S. § 7-42-101, *et seq.* The Company owns miscellaneous real and personal property interests associated with the Ditch;

B. Northglenn owns a two-thirds interest and Westminster owns a one-third interest as tenants in common in the water rights, and diversion structures associated with the Ditch, fee title of certain easements, rights-of-way, licenses and other real property interests associated with the Ditch, as well as certain prescriptive rights associated with the Ditch. The water rights and diversion structures owned by the Cities are those identified in **Exhibit A**, attached hereto and incorporated herein by this reference. An index of those known interests in property is attached hereto as **Exhibit B**, and incorporated herein by this reference;

C. The financial interest and control of the assets of the Company is vested in Northglenn;

D. The Company is currently responsible for the delivery of water via the Ditch to certain interest holders known by the Company as "Inch-holders." Said Inch-holders have the contractual right to receive the water rights owned by the Cities, and put the water to beneficial use in order to protect the Cities' interest in the water rights contracted to the Inch-holders. Said Inch-Holders are further responsible for paying sufficient rates to cover the cost of developing and operating the Ditch;

E. The Ditch is operated and maintained by the Company with revenues received through carriage rates pursuant to the Company's water delivery contracts with the Inch-holders;

F. The Cities hold certain contractual rights as "Inch-holders", which gives each of the Cities the right to use that amount of water stated in their respective contracts, but the contractual right to use such water does not govern the amount of control allowed each City, and is separate and distinct from the financial interest, control of the assets, and management of the Company and the various rights associated with the Ditch as described in Paragraph C. above; and

G. The Cities desire to create a water authority within the meaning of C.R.S. § 29-1-204.2 in order to effect the development of water resources, systems and facilities associated with the Church Ditch for the benefit of the Cities and the Inch-holders, and to convey all interests of the Cities and the Company to the water authority, as set forth in more detail herein.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Cities agree as follows:

1. Establishment of the Church Ditch Water Authority. The Cities hereby determine to establish a water authority pursuant to C.R.S. § 29-1-204.2, as more particularly set forth in the Establishing Contract for the Church Ditch Water Authority, attached hereto as **Exhibit C**, and incorporated herein by this reference. The Church Ditch Water Authority is determined to be established in order to effect the development of water resources, systems and facilities associated with the Church Ditch for the benefit of the Cities and the Inch-holders.

2. Public Notification. The Cities each hereby determine to provide at least fifteen (15) days' notice to all Inch-holders of the regular City Council meeting of both the City of Northglenn and the City of Westminster at which the Establishment Contract will be considered to allow and encourage public comment on the creation of the Church Ditch Water Authority. Such notification shall be sent to the last known address of each Inch-holder via regular first class mail, and such notification shall also be published in a newspaper of general circulation in each County in which the Church Ditch is located

3. Governance of the Church Ditch Water Authority. The Church Ditch Water Authority shall be governed by a Board of Directors consisting of two Directors appointed by the City Manager of the City of Northglenn, and one Director appointed by the City Manager of the City of Westminster.

4. Conveyance of Real and Personal Property by the Cities and the Company to the Authority. Within thirty (30) days of the establishment of the Church Ditch Water Authority, the Cities and the Company shall convey all real and personal property interests to the Authority as follows:

- (a) The Cities shall convey via Bargain and Sale Deed their respective interests as tenants in common in the real property of the Church Ditch, including any fee ownership, permanent easements, licenses, prescriptive rights, and any other interests in real property to the Authority. An index of those known interests in property is attached hereto as **Exhibit B**, and incorporated herein by this reference;
- (b) The Cities shall further convey via Bargain and Sale Deed their respective interests as tenants in common in any water rights, diversion structures, and any other tangible property interests to the Authority. The decrees

identifying those known water rights and diversion structures are attached hereto as **Exhibit A**, and incorporated herein by this reference;

- (c) The Company, by and through its representatives of the Cities sitting as the Companies' Board of Directors, shall convey via Bargain and Sale Deed any real property interests, any interest in personal property, any financial assets, any water rights, and any diversion structures, if any, to the Authority. A list of such personal property is attached hereto as **Exhibit D**, and incorporated herein by this reference.

5. Conveyance and Delegation by the Company of all Rights and Obligations. Within thirty (30) days of the establishment of the Church Ditch Water Authority, the Company, by and through its representatives of the Cities sitting as the Companies' Board of Directors, shall further do the following:

- (a) It shall convey via Bargain and Sale Deed all other assets not included in the conveyances above to the Authority. Such assets may include, but not be limited to, any rights in existing contracts, and any intangible rights not specifically identified in Exhibits A through E.
- (b) It shall further delegate and assign all rights, liabilities and obligations of the Company whatsoever, both known and unknown, to the Authority.

6. Acceptance by the Authority. Following the establishment of the Authority in accordance with this Agreement and the Establishing Contract, the Authority shall accept all real and personal property rights, water rights, diversion structures, contract rights, and all tangible and intangible assets, rights, liabilities and obligations of the Company and the Cities conveyed, delegated and assigned to it by the Company and the Cities pursuant to Paragraphs 3 and 4 of this Agreement.

7. Operation of the Church Ditch by the Authority. The Church Ditch Water Authority shall be subject to the following operational guidelines:

- (a) *Control of the Board of Directors.* As set forth in Paragraph 2 of this Agreement, the Board of Directors, consisting of three (3) persons, shall consist of two (2) Directors appointed by the City Manager of the City of Northglenn, and one (1) Director appointed by the City Manager of the City of Westminster. The control of the Board of Directors shall remain subject to the two-thirds (2/3) control by the City of Northglenn, and may only be modified by written amendment to this Agreement.
- (b) *Contractual Users.* The "Inch-holders" shall be hereafter known by the Authority as "Contractual Users" and shall have the same contractual relationship, including the same contractual rights and obligations with the Church Ditch Water Authority that the contractual users previously enjoyed with the Church Ditch Company, except as otherwise provided in subparagraph (e) of this Paragraph 7.

- (c) *Contractual Rights of the Cities.* The Cities' contractual rights to receive water from the Authority shall be governed in the same manner as the contractual rights of other Contractual Users' rights, and nothing in the creation of the Authority is intended to give the Cities any additional rights to receive water from the Church Ditch.
- (d) *Insurance Coverage.* The Authority shall cause insurance coverage to be provided by the Colorado Intergovernmental Risk Sharing Agency ("CIRSA").
- (e) *Rate-Setting.* The Authority shall be authorized to set carriage rates for the water delivery contracts and in accordance with the provisions of Colorado Constitution Article XIV, Section 18(2)(a) and C.R.S. § 29-1-204.2. The Authority shall be required to hold noticed public hearings to establish a procedure and criteria for rate-setting, which criteria and procedure shall then be duly adopted by the Authority by Resolution.

8. Dissolution of the Church Ditch Company. Upon the creation of the Authority in accordance with this Agreement and the Establishing Contract, the Company, by and through its representatives of the Cities sitting as the Companies' Board of Directors, shall move to dissolve the Church Ditch Company pursuant to the provisions of Colorado law.

9. Termination or Change in Membership of Water Authority.

- (a) *Sale or Conveyance of Interest in the Authority.* Nothing in this Agreement shall be construed to prevent the Cities, or each of them in their sole discretion, from selling or otherwise conveying their interests in the Church Ditch Water Authority to another political subdivision authorized by Colorado law to enter the Authority contract pursuant to C.R.S. § 29-1-204.2(3)(n). However, such a sale or conveyance shall require a written amendment to this Agreement, which approval shall not be unreasonably withheld, in order to memorialize any new contractual arrangements that may arise from the sale or conveyance of a City's interest in the Authority.
- (b) *Dissolution of the Authority.* The Authority may be dissolved by action of the governing bodies of both Cities. In the event of such dissolution, all right, title and interest of the Authority in the legal and equitable interests in real or personal property, both tangible and intangible, shall be distributed pro rata among the Cities as tenants in common based upon the number of Directors of the Authority from each City, except that any assets owned by the Company at the time of the execution of this Agreement, which assets are wholly owned by the City of Northglenn, shall be conveyed back to the City of Northglenn. It is the intent of this Paragraph 9, section (b) that the interests of the Cities upon dissolution of the Authority shall be in the same proportion as the respective interests of the Cities existed upon creation of the Authority.

- (c) *Rights of the Contractual Users Upon Dissolution.* Any dissolution of the Authority, including the distribution of the assets and interests thereof, shall be subject to the contractual rights of the Contractual Users of the Authority, as defined hereinabove.

10. General Provisions.

a. Notices. All notices, demands, requests, or other communications required under this Agreement which are in writing shall be deemed to be received only if delivered personally or mailed by registered or certified mail, return receipt requested, in a postage-paid envelope, or sent by facsimile transmission, or sent by Federal Express addressed to the party at the address it has designated below or to such other address as any party may from time to time designate to the others by notice given pursuant to this paragraph.

The address and facsimile phone number of the City of Northglenn is:

11701 Community Center Drive
Box 330061
Northglenn, Colorado 80233
Fax: 303-450-8902

with copy to: Herbert C. Phillips, City Attorney
Hayes, Phillips, Hoffmann & Carberry, P.C.
1350 17th Street, Suite 450
Denver, Colorado 80202
Fax: 303-825-1269

The address and facsimile phone number of the City of Westminster is:

4800 West 92nd Avenue
Westminster, Colorado 80031
Fax: 303-430-1809

with copy to: Martin McCullough, City Attorney
4800 West 92nd Avenue
Westminster, Colorado 80031
Fax: 303-430-1809

Any party may change the address for notice by notice to the other parties as specified herein. Any such notice, demand, request or other communication shall be deemed to have been given upon such personal delivery, facsimile transmission, or three (3) days following when the same is mailed or sent by regular mail, or one (1) day following when the same is sent by overnight delivery.

b. Choice of Law. This Agreement shall be interpreted and construed in accordance with the laws of the State of Colorado.

c. Invalidity of Terms. If any term, claim, clause or provision of this Agreement shall be judged to be invalid, the validity and effect of any other term, claim, clause or provision shall not be affected; and such invalid term, claim, clause or provision shall be deemed deleted from this Agreement in a manner to give effect to the remaining terms, claims, clauses or provisions.

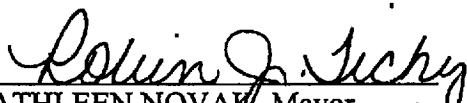
d. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes, and all of which when taken together shall constitute one and the same Agreement.

e. Authority. Each of the undersigned represents as to itself that each has the authority to execute this Agreement.


f. Entire Agreement. This Agreement constitutes the entire understanding, contract, and agreement between the parties as to the subject matters herein set forth, and this Agreement only supersedes prior written or oral understandings, agreements, and commitments, formal or informal, relative thereto between all the parties hereto. No change, modification, alteration, or amendment to this Agreement shall be binding upon the parties except as specifically expressed in writing, making reference to this Agreement and signed by all of the parties hereto agreeing to be bound thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date stated above.

CITY OF NORTHGLENN, COLORADO

By: 
KATHLEEN NOVAK, Mayor
Mayor Pro-Term 10-14-04

ATTEST:


DIANA L. LENTZ, CMC
City Clerk

APPROVED AS TO FORM:


HERBERT C. PHILLIPS
City Attorney

CITY OF WESTMINSTER, COLORADO

By: *Nancy McNally*
NANCY McNALLY, Mayor

ATTEST:

Michele Kelley
MICHELE KELLEY, City Clerk

APPROVED AS TO FORM:

[Signature]
Legal Counsel - *Special Water Counsel*

EXHIBIT "A"

D I S U . 5 2

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BOOK 2267 PG 166

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WILLIAM SOKOL
COUNTY RECORDER
ADAMS COUNTY, COLO.

CONTRACT

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THIS CONTRACT, made and entered into this 22 day of June, 1978, by and between the GOLDEN, RALSTON CREEK AND CHURCH DITCH COMPANY (CHURCH), a Colorado Corporation, and THE CITY OF NORTEGLENN, COLORADO (NORTEGLENN), a Colorado Municipal Corporation,

WITNESSETH:

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U.S. DEPT. OF THE INTERIOR

WHEREAS, CHURCH is the owner of the Golden City and Ralston Creek Ditch, to which have been decreed the following decreed water rights:

- a. The Swadley Ditch, priority No. 21 from Clear Creek in former water district No. 7, for 0.90 cubic feet of water per second of time for irrigation purposes with an appropriation date of June 1, 1862, transferred to the Golden City and Ralston Creek Ditch by decree dated September 23, 1912;
- b. The Golden City and Ralston Creek Ditch, priority No. 40 from Clear Creek in former water district No. 7, for 41.43 cubic feet of water per second of time for irrigation purposes with an appropriation date of February 28, 1865;
- c. The Swadley Ditch, priority No. 44 from Clear Creek in former water district No. 7, for 1.25 cubic feet of water per second of time for irrigation purposes with an appropriation date of May 16, 1865, transferred to the Golden City and Ralston Creek Ditch by decree dated September 23, 1912;
- d. The Golden City and Ralston Creek Ditch, priority No. 62 from Clear Creek in former water district No. 7, for 18.26 cubic feet of water per second of time for irrigation purposes with an appropriation date of November 18, 1877;
- e. The Golden City and Ralston Creek Ditch, priority No. 65 from Clear Creek in former water district No. 7, for 18.85 cubic feet of water per second of time for irrigation purposes with an appropriation date of November 15, 1878;

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f. The Golden City and Ralston Creek Ditch, priority no. 66 from Clear Creek in former water district No. 7, for 32.34 cubic feet of water per second of time for irrigation purposes with an appropriation date of November 20, 1881;

g. The Golden City and Ralston Creek Ditch, priority no. 22 from Ralston Creek in former water district No. 7, for 185.0 cubic feet of water per second of time for irrigation purposes with an appropriation date of November 18, 1877;

h. The Golden City and Ralston Creek Ditch, priority no. 74 from Clear Creek in former water district No. 7, for 100.12 cubic feet of water per second of time for irrigation purposes with an appropriation date of March 16, 1886;

i. The Golden City and Ralston Creek Ditch, priority no. 74a from Clear Creek in former water district No. 7, for 88.27 cubic feet of water per second of time, conditional, for irrigation purposes with an appropriation date of March 16, 1886; and

j. The Golden City and Ralston Creek Ditch, priority no. 23a from Ralston Creek in former water district No. 7, for 315.0 cubic feet of water per second of time, conditional, for irrigation purposes with an appropriation date of December 5, 1892.

WHEREAS, CHURCH is operated as a carrier ditch company, and has outstanding statutory rights for the purchase of five thousand, seven hundred, ten and 64/100 (5,710.64) "inches" of water under the subject water rights, at the rate of 50 "inches" per cubic foot per second; and

WHEREAS, NORTHGLENN desires to acquire CHURCH's interests in the Golden City and Ralston Creek Ditch, including the subject water rights and all lands, easements, ditch structures and rights of way used in connection therewith, for use in NORTHGLENN's municipal water utility system;

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NOW, THEREFORE, in consideration of the premises and the covenants herein below set forth, CHURCH and NORTHGLENN agree as follows:

1. GRANT. CHURCH agrees to sell to NORTHGLENN, and NORTHGLENN agrees to buy from CHURCH, upon the terms and conditions contained herein, all of CHURCH's right, title and interest in and to the Golden City and Ralston Creek Ditch, including the subject water rights, and all land, easements, ditch structures and rights of way used in connection therewith for the conveyance of water, but not including the caretaker's house, with all rights, duties and obligations thereto pertaining.

2. PURCHASE PRICE. NORTHGLENN shall pay to CHURCH Five Hundred Thousand Dollars (\$500,000.00), and the payment thereof shall be in the following manner:

a. Five Thousand Dollars (\$5,000.00), previously paid, receipt of which is hereby acknowledged.

b. Forty-five Thousand Dollars (\$45,000.00) to be paid within sixty (60) days following shareholder approval hereof as provided herein.

c. The remainder to be paid in nine (9) annual installments on or before January 5 of each year commencing in 1979, each installment to be in the amount of Fifty Thousand Dollars (\$50,000.00) plus interest at the rate of six percent (6%) per annum.

3. POSSESSION AND CLOSING. Closing shall be held at a time and place convenient to CHURCH and NORTHGLENN within thirty (30) days after the final payment is made by NORTHGLENN. Conveyance shall be by Quit Claim Deed. Possession of the subject properties shall be deemed to be in NORTHGLENN upon shareholder approval hereof and payment in accordance with paragraph 2.b. hereof.

4. TAXES.

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a. Real and personal property taxes, if any, attributable to the subject interest shall be the responsibility of NORTHGLENN after the date hereof.

b. Income taxes, if any, attributable to payments received by CHURCH under this CONTRACT shall be the sole responsibility of CHURCH.

5. RECORDS. CHURCH shall make available to NORTHGLENN and its attorneys all records, files, abstracts and documents pertaining to the subject properties in the possession of CHURCH or its attorneys.

6. REMEDIES. Time is of the essence hereof, and if any payment or other condition hereof is not made, tendered or performed as herein provided, there shall be the following remedies:

a. In the event a payment or any other condition hereof is not made, tendered or performed by NORTHGLENN, then this CONTRACT shall be null and void and of no effect, and all parties hereto released from all obligations hereunder, and all payments made hereon shall be retained on behalf of CHURCH as liquidated damages.

b. In the event that CHURCH fails to perform any condition hereof as provided herein, then NORTHGLENN may, at its election, treat the CONTRACT as terminated by mutual consent, and all payments made hereon shall be returned to NORTHGLENN; provided, however, that NORTHGLENN may, at its election, treat this CONTRACT as being in full force and effect with the right to an action for specific performance and damages.

7. ASSIGNMENT AND OPERATION.

a. This CONTRACT shall not be assigned by NORTHGLENN without the prior written approval of CHURCH.

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BOOK 2267 PG 170

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b. NORTHGLENN agrees that NORTHGLENN and its successors assigns and lessees shall operate the Church Ditch and the priorities awarded thereto only in such a manner as is necessary to meet and fulfill the obligations imposed by statute and by contracts in full force and effect as of the date of this CONTRACT; NORTHGLENN agrees to operate the Church Ditch so as not to cause a reduction in the supply of water available to the Croke Canal, as determined by The Farmers Reservoir and Irrigation Company (FRICO), so long as the Croke Canal is owned by FRICO and its shareholders as a mutual ditch company, and is not owned by a municipality; NORTHGLENN further agrees to replace any water lost by FRICO because of any change in the operation of said Church Ditch from the FRICO method of operation that existed on the date of this CONTRACT.

c. NORTHGLENN and FRICO shall enter into an agreement providing for the actual, physical operation and management of the Church Ditch and water rights by employees of FRICO, at the election of FRICO, which shall thereafter be renewed from year to year as the two of them shall agree.

d. NORTHGLENN agrees to prosecute or defend, on behalf of itself and FRICO, CHURCH, their Boards of Directors, their officers or directors individually, any legal proceedings arising out of or necessitated by this CONTRACT at no expense to FRICO, CHURCH, their Boards of Directors or their officers or directors individually, however FRICO, CHURCH, their Boards of Directors, their officers or directors individually shall have the right at all times to be represented and participate in any such proceedings through independent legal counsel selected and paid by them; FRICO and CHURCH hereby consents to the joinder of NORTHGLENN in any such proceedings and to the substitution of NORTHGLENN for FRICO or CHURCH in such proceedings with the right to raise any and all claims and defenses available to FRICO or CHURCH in such proceedings.

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8. CONDEMNATION. This CONTRACT shall be deemed terminated by mutual consent, and all payments made hereon shall be returned to NORTHGLENN, should condemnation suits concerning the Standley Lake Division of FRICO which are pending on the date of this CONTRACT result in the taking of the Properties which are the subject of this CONTRACT.

9. SHAREHOLDER APPROVAL. Execution hereof by the officers of CHURCH shall constitute their certification that the Board of Directors of CHURCH has approved this CONTRACT subject to shareholder approval, and CHURCH agrees to promptly initiate procedures for a special shareholders' meeting at which the approval or rejection of this CONTRACT will be considered and submitted for vote. CHURCH, its officers and Board of Directors covenant that they shall make no other agreements respecting disposition of the subject properties pending final shareholder action. Shareholder approval of this CONTRACT shall be deemed met when a two-thirds (2/3) majority of the shareholders of CHURCH vote in favor of approval, otherwise the CONTRACT shall be deemed rejected. In the event that CHURCH shareholders have not taken action within one hundred twenty (120) days of the date of this CONTRACT, then this CONTRACT shall be null and void.

10. FURTHER ENCUMBRANCES. CHURCH shall not knowingly mortgage, sell or otherwise encumber the subject properties during the term hereof.

11. AUTHORITY. In the event that any provision of this CONTRACT, or the sale of the subject property by CHURCH to NORTHGLENN upon the terms and conditions of this CONTRACT, is determined to be beyond the authority of CHURCH, its Board of Directors or any of its Directors individually then this CONTRACT shall be null and void and all payments made hereon shall be returned to NORTHGLENN; in the event that by executing this CONTRACT, or by approving its execution or by approving the sale of the subject property upon the terms

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and conditions of this CONTRACT, FRICO, CHURCH, their Boards of Directors acting as such, or any of their officers or directors acting individually is determined to be liable to any party for damages, then NORTHGLENN shall indemnify and save and hold harmless FRICO, CHURCH, their Boards of Directors, and their officers and directors individually, from any loss as a result of such determination; in the event that such indemnification is determined to be invalid, then this CONTRACT shall be null and void, and all payments made hereon shall be returned to NORTHGLENN.

12. MERGER OF AGREEMENTS. This CONTRACT contains the entire agreement of the parties. The contract previously executed by CHURCH and NORTHGLENN providing for the sale of the subject properties by CHURCH to NORTHGLENN, dated April 6, 1978, recorded at Book 2228, Page 187, Adams County, Colorado, to the extent inconsistent herewith, shall be null and void.


Attached hereto are a certified copy of an Ordinance duly adopted by the City Council of NORTHGLENN, and a certified copy of a resolution duly adopted by the Board of Directors of CHURCH, both approving the sale and purchase of the subject property upon the terms and conditions contained hereon.

Executed the day and year first above written.

THE GOLDEN, RALSTON CREEK AND CHURCH COMPANY

By Adolph Bohlender
Adolph Bohlender, President


Richard S. Tilton
Secretary



THE CITY OF NORTHGLENN, COLORADO

By Alvin B. Thomas
Alvin B. Thomas, Mayor

Shirley Whitten
Shirley Whitten, Clerk



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STATE OF COLORADO)
)
COUNTY OF ADAMS) SS. FILM 109

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BOOK 2267 PG 173

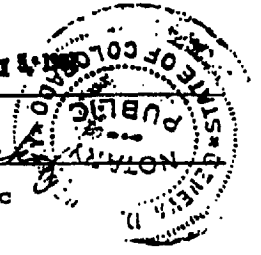
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The foregoing instrument was acknowledged before me this
2nd day of August, 1978, by Adolph Bohlender
as President of The Golden, Ralston Creek and Church Ditch Company,
a Colorado corporation.

Witness my hand and official seal.

My commission expires: My Commission expires February 8, 1980

George D. Sandusky
Notary Public



STATE OF COLORADO)
)
COUNTY OF ADAMS) SS.

The foregoing instrument was acknowledged before me this
10th day of June, 1978, by Alvin B. Thomas and
Shirley Whitten, Mayor and Clerk respectively of the City of
Northglenn, both of whom certify that the execution of this
Contract has been authorized by a duly adopted ordinance of
the City Council of the City of Northglenn.

Witness my hand and official seal.

My commission expires: Sept 8, 1980

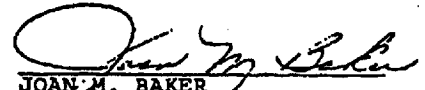
Charles L. Sharp, Jr.
Notary Public



CERTIFICATION

I, Joan M. Baker, do hereby certify that the attached copy of Ordinance No. 501, Series of 1978, is a true and exact copy of the original ordinance passed by the City Council of the City of Northglenn at their regular Council Meeting Thursday, April 6, 1978.

April 7th, 1978


JOAN M. BAKER
Deputy City Clerk

APR 7 11 35 AM '78

WILLIAM O. ...
PROPERTY RECORDS
CLERK

6126886

Online COLORADO'S Decision Support Systems

Overview View Data Products Documentation News

District 7

Tabulation Report

08/13/2004

Name of Structure	Typ	Name of Source	WD	--	LOCATION	--	Use	Net Abs	Net Cond	AltP/Exch	U	Adj Date	P	Adj Date	Appro Date	Or
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.004	C	10/04/1884			05/16/1860	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.014	C	10/04/1884			05/31/1860	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.048	C	10/04/1884			06/01/1860	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.175	C	10/04/1884			07/01/1860	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.310	C	10/04/1884			08/31/1860	
CHURCH DITCH RALSTON CR	D	RALSTON CREEK	7	SE	SE	NW	2 3 S 70 W S IMC			0.310	C	10/04/1884			08/31/1860	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.006	C	10/04/1884			04/10/1861	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			4.790	C	10/04/1884			05/02/1861	
CHURCH DITCH RALSTON CR	D	RALSTON CREEK	7	SE	SE	NW	2 3 S 70 W S IMC			0.430	C	10/04/1884			05/02/1861	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			4.536	C	10/04/1884			06/29/1861	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			22.097	C	10/04/1884			11/01/1861	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC	0.900		0.001	C	10/04/1884			06/01/1862	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			1.007	C	10/04/1884			06/14/1862	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.080	C	10/04/1884			06/20/1862	
CHURCH DITCH RALSTON CR	D	RALSTON CREEK	7	SE	SE	NW	2 3 S 70 W S IMC			0.080	C	10/04/1884			06/20/1862	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.059	C	10/04/1884			07/04/1862	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.007	C	10/04/1884			05/28/1863	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.012	C	10/04/1884			06/20/1863	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			5.645	C	10/04/1884			11/05/1863	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.044	C	10/04/1884			06/14/1864	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.135	C	10/04/1884			06/20/1864	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.940	C	10/04/1884			06/30/1864	
CHURCH DITCH RALSTON CR	D	RALSTON CREEK	7	SE	SE	NW	2 3 S 70 W S IMC			0.940	C	10/04/1884			06/30/1864	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC	41.430			C	10/04/1884			02/28/1865	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.019	C	10/04/1884			04/23/1865	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.006	C	10/04/1884			05/06/1865	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC	1.250		0.004	C	10/04/1884			05/16/1865	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			8.291	C	10/04/1884			03/05/1867	
CHURCHES DITCH	D	RALSTON CREEK	7		SE	32	2 S 70 W S I	5.840			C	10/04/1884			05/31/1868	
CHURCHES RES	R	RALSTON CREEK	7		SE	32	2 S 70 W S I					10/04/1884			05/31/1868	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.078	C	10/04/1884			11/05/1868	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.028	C	10/04/1884			05/24/1870	
CHURCH DITCH	D	CLEAR CREEK	7	SE	NW	NE	32 3 S 70 W S IMC			0.678	C	10/04/1884			04/01/1872	
CHURCHES DITCH	D	RALSTON CREEK	7		SE	32	2 S 70 W S I	2.890			C	10/04/1884			05/20/1873	

CHURCHES RES	R	RALSTON CREEK	7	SE 32	2 S	70 W S I			10/04/1884	05/20/1873
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC		8.731	C 10/04/1884	04/05/1874
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC	18.260		C 10/04/1884	11/18/1877
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC	18.850		C 10/04/1884	11/15/1878
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC	32.340		C 10/04/1884	11/20/1881
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC			10/04/1884	12/20/1881
CHURCHS LOWER LAKE	R	CLEAR CREEK	7	NW SE 11	2 S	69 W S IMC		80.440	A 12/19/1900	03/02/1882 05/20/1870
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC		0.840	C 10/09/1895	10/04/1884 04/01/1886
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC		1.478	C 10/09/1895	10/04/1884 04/23/1895
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC		0.853	C 05/13/1936	10/09/1895 04/01/1872
CHURCH DITCH RALSTON CR	D	RALSTON CREEK	7	SE SE NW 2	3 S	70 W S IMC	194.620		C 05/13/1936	10/09/1895 11/18/1877
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S	211.000		C 05/13/1936	10/09/1895 12/31/1878
CHURCHS LOWER LAKE	R	CLEAR CREEK	7	NW SE 11	2 S	69 W S IMC	149.080		A 05/13/1936	10/09/1895 12/31/1878
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S	4.000		C 05/13/1936	10/09/1895 03/01/1879
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC	100.120		C 05/13/1936	10/09/1895 03/16/1886
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S	67.120		C 05/13/1936	10/09/1895 11/15/1886
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S	20.300		C 05/13/1936	10/09/1895 12/10/1887
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S	50.600		C 05/13/1936	10/09/1895 09/01/1888
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S	20.300		C 05/13/1936	10/09/1895 05/01/1889
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S	211.000		C 05/13/1936	10/09/1895 12/07/1889
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S	50.600		C 05/13/1936	10/09/1895 12/16/1889
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC	20.300		C 05/13/1936	10/09/1895 12/01/1895
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S	20.300		C 05/13/1936	10/09/1895 12/01/1895
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC		134.231	C 05/13/1936	10/09/1895 03/04/1902
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC	110.880	2.046	C 05/13/1936	10/09/1895 07/12/1905
CHURCH DITCH RALSTON CR	D	RALSTON CREEK	7	SE SE NW 2	3 S	70 W S	110.880		C 05/13/1936	10/09/1895 07/12/1905
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S			05/13/1936	10/09/1895 11/02/1909
CHURCH DITCH RALSTON CR	D	RALSTON CREEK	7	SE SE NW 2	3 S	70 W S			05/13/1936	10/09/1895 11/02/1909
CHURCH WELL NO 9	W	GRNDWTR-EXEMPT	7	SE NE NW 21	2 S	70 W S S	0.022		C 12/31/1983	12/31/1943
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IM			10/04/1884	06/01/1962
CHURCH SPRING WELL 13	W	GRNDWTR-EXEMPT	7	NE NE NE 24	2 S	70 W S S	0.011		C 12/31/1984	12/31/1962
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IM			10/04/1884	02/28/1965
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC	76.000	62.000	C 12/31/1981	12/31/1980 03/25/1981
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC			20.000	C 12/31/1982 12/31/1981 06/28/1982
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC			66.462	C 12/31/1986 12/31/1986
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC			200.000	C 12/31/1988 03/04/1988
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC			25.000	C 12/31/1988 06/10/1988
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC			30.800	C 12/31/1988 12/30/1988
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S		75.000	C 12/31/1989	12/31/1988 12/14/1984
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC			2.000	C 12/31/1989 08/31/1989
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC			6.000	C 12/31/1990 12/31/1990
CHURCH DITCH	D	CLEAR CREEK	7	SE NW NE 32	3 S	70 W S IMC			226.760	C 12/31/1993 12/22/1993
CHURCH DITCH RALSTON CR	D	RALSTON CREEK	7	SE SE NW 2	3 S	70 W S IMC			226.760	C 12/31/1993 12/22/1993

Query and formatting took 0.63 seconds.

HydroBase output generated on: 2004-08-13 09:08:01 MDT

EXHIBIT "B"

HEIMBECHER, DAVE, 5/4/92 & 9/8/92	610
HEIMBECHER, DAVE, EASEMENT VACATION - 2/1/99	610
KELLER, WILLIAM J. & WILLA D. 5/25/93	610
KELLER, WILLIAM J. & WILLA D. 6/24/93	610
LAKECREST VENTURE QUIT CLAIM DEED 1/12/00	610
NEWMAN, RICHARD & HELEN, CD RELOCATION, QUAKER ST & W 70TH AV - 7/16/92	610
SADDLEBROOK BY REMINGTON HOMES, QUIT CLAIM DEED TRACT R 3/10/04	610
SHELLWOOD DEVELOPMENT, FOX HAVEN FARMS - 5/11/00 XREF: SHELLWOOD DEVELOPMENT & CITY OF ARVADA	610
SUMMERTREE LANE LTD, CITIES OF WESTMINSTER & NORTHGLENN - 2/16/99	610
ADOLPH COORS COMPANY BOX CULVERT CROSSING #86-3 - 2/12/86	615
ADOLPH COORS COMPANY EASEMENT 11/19/91	615
ARVADA, CITY OF, CITIES OF NORTHGLENN & WESTMINSTER WEST WOODS NINE NON-EXCLUSIVE EASEMENT 4/17/00	615
ARVADA, CITY OF, ACCESS EASEMENT 7/7/91	615
ARVADA, CITY OF, AUGMENTATION STATION #83-4 - 10/12/83	615
ARVADA, CITY OF, BLUNN TRANSMISSION LINE #83-5A - 7/26/83 & 1/5/84	615
ARVADA, CITY OF, PEDESTRIAN & BIKE CROSSING 6/7/82	615
CHURCH DITCH CO. STREET DEDICATION NORTH FOOTHILLS 10/29/87	615
COORS TECHNOLOGY CENTER STREET DEDICATION 7/18/91	615
CORNMAN, SUSAN J., STARWOOD ACRES EASEMENT AGREEMENT 11/28/00 XREF: LITTMAN, MICHAEL A.	615
COUNTRYSIDE INVESTORS, CITY OF WESTMINSTER BOX CULVERT EXTENSION W 100TH AV & SIMMS ST - 9/9/85 #85-2	615
COUNTRYSIDE INVESTORS, CITY OF WESTMINSTER BOX CULVERT EXTENSION W 100TH AV & SIMMS ST - 11/16/83 #83-2	615
COUNTRYSIDE INVESTORS, CITY OF WESTMINSTER WATER LINE CROSSING W 100TH AV & SIMMS ST - 11/7/83 #83-1	615
DRY CREEK VALLEY DITCH CO. & CHURCH DITCH COMPANY COUNTRYSIDE VENTURE 5/21/85	615
FARMERS HIGH LINE NON-EXCLUSIVE EASEMENT - 12/9/99	615
GENESEE COMPANY, WWR PARCEL D, LOT 57 - 6/16/94	615
GOLDEN, CITY OF, JEFFCO TRAIL NON-EXCLUSIVE EASEMENT - 2/2/04	615
GRAHAM, MARK S. & LINDA, STONE VIEW SUBDIVISION - 1/8/98	615
GRANO, DONNA, NON-EXCLUSIVE EASEMENT - 11/26/96	615
HARR, RICKY, BEVERLY BROOKS ESTATES, NON-EXCLUSIVE ESMT - 7/28/98	615
HEIMBECHER, DAVE - EASEMENT DEDICATION, 2/1/99	615
HEIMBECHER, DAVE, 5/23/96	615
JEFFERSON, COUNTY OF, ACCESS AGREEMENT - 8/1/01	615
JEFFERSON, COUNTY OF, STANDLEY LAKE PARK #83-6 - 1/31/84	615

LAKECREST VENTURE, CITY OF ARVADA, SIMMS & 83RD #84-2 - 6/16/86	615
LAKECREST VENTURE, CITY OF ARVADA, SIMMS & 84TH #83-7 - 11/30/83	615
LAKECREST VENTURE, CITY OF ARVADA, SIMMS & 84TH #83-7A - 2/20/84	615
LAKECREST VENTURE, CITY OF ARVADA, SIMMS & 84TH #83-8 - 2/15/83	615
LAKECREST VENTURE, CITY OF ARVADA, SIMMS & 86TH #83-3 - 11/15/83	615
NORTH TABLE MTN WATER & SAN DIST, MCINTYRE & 50TH AVE - 7/6/79	615
NORTH TABLE MTN WATER & SAN DIST, ULYSSES & 60TH AVE. - 5/25/82	615
NORTHRIDGE CAPITAL, LLC, CITY OF NORTHGLENN & CITY OF WESTMINSER NON-EXCLUSIVE EASEMENT 4/01	615
NOWICKI, TERRY & CINDY, MTCE & OPERATION EASEMENT 6/10/86	615
OCHSNER, CHARLES S. & NORTH FOOTHILLS ESTATES - 9/10/87	615
PETTUS/ASPREY, WWR LOT 15, BLK 1 - 11/4/96	615
PUBLIC SERVICE CO. OF COLORADO UNDERGROUND LINES #86-5 - 12/3/86	615
PUBLIC SERVICE CO., 3980 EASLEY RD. #85-3 - 1/15/86	615
PUBLIC SERVICE CO. UNDERGROUND ELECTRIC LINE W 100TH & SIMMS #83-9	615
PULTE HOME CORPORATION, CLAYCUTOFF WALL 6/10/86 #86-4	615
PULTE HOME CORPORATION & COUNTRYSIDE INVESTORS 5/21/85	615
RALSTON VALLEY W & S DISTRICT, 16" WATER MAIN - 3/10/81	615
RALSTON VALLEY W & S DISTRICT, SANITARY SEWER PIPELINE - 11/12/81	615
ROBINSON, GEORGE, CONCRETE BOX CULVERT #85-1 - 2/7/85	615
SADDLEBROOK BY REMINGTON HOMES, NON-EXCLUSIVE EASEMENT - 3/10/04	615
SCHLESSMAN, MARK, CONCRETE BOX CULVERT #86-2 - 3/5/86	615
SUMMERTREE LANE LTD., CITY OF BROOMFIELD - 7/13/95	615
UNITED CABLE TV OF COLORADO - 11/16/82	615
WEST WOODS RANCH QUIT CLAIM DEEDS	615
WESTMINSTER, CITY OF, AUGMENTATION STA. - 3/4/82	615
WWR LTD PARTNERSHIP, CITIES OF NORTHGLENN & WESTMINSTER	615

EXHIBIT "C"

**ESTABLISHING CONTRACT FOR THE
CHURCH DITCH WATER AUTHORITY**

The undersigned, desiring to create the Church Ditch Water Authority, a water authority, a body corporate and politic, a separate governmental entity, a political subdivision and a public corporation of the State of Colorado, pursuant to Section 18(2)(a) and (2)(b) of Article XIV, Constitution of the State of Colorado, and to C.R.S. § 29-1-204.2, as amended (the "Act"), by this Establishing Contract, by and between the City of Westminster, a Colorado municipal corporation and the City of Northglenn, a Colorado municipal corporation (the "Members"), authorized by law to own and operate water systems, hereby agree:

ARTICLE I

Name

The name of the entity hereby established shall be Church Ditch Water Authority (the "Authority").

ARTICLE II

Purpose and Powers

The purpose of the Authority is to effect the development of water resources, systems and facilities in whole or in part for the benefit of the Members and their inhabitants, and others, including the Contractual Users of the Church Ditch, through the operation, maintenance and continued development of the Church Ditch. The functions, services and general powers of the Authority are, to the extent permitted by law, as follows:

(a) To acquire, construct, manage, maintain, or operate water systems, facilities, works or other improvements, or to acquire a leasehold or any other interest therein, including without limitation dams, reservoirs, other storage facilities, ditches, canals, treatment facilities, and transmission and collection facilities.

(b) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any legal or equitable interest in real or personal property, specifically including water rights, by contract or otherwise and water stock, utilized for the authorized purposes of the Authority, including water treatment, distribution, and wastewater disposal.

(c) To conduct its business and affairs for the benefit of the Members and their inhabitants and others, in the discretion of the Board of Directors.

(d) To enter into, make and perform contracts of every kind with Members, the United States, any state or political subdivision thereof, or any city, town, municipality, city and county, any special district formed pursuant to Title 32, C.R.S. or any predecessor thereof, or with any individual, individual firm, association, partnership, corporation, or any other organization of any kind with the capacity to contract for any of the purposes contemplated under this contract.

(e) To employ agents and employees.

(f) To incur debts, liabilities, or obligations to the extent and in the manner permitted by law and as provided herein, and to borrow money and, from time to time, to make, accept, endorse, execute, issue and deliver bonds, notes and other obligations of the Authority for monies borrowed or in payment for the property acquired, or for any of the other authorized purposes of the Authority, and as provided by law, and to the extent permitted by law to secure the payment of any such obligations by mortgage, pledge, deed, indenture, agreement, or other collateral instrument, or by other lien upon, assignment of, or agreement in regard to, all or any part of the properties, rights, assets, contracts, easements, revenues and privileges of the Authority. The bonds, notes and any other obligations of the Authority shall not themselves be the debts, liabilities or obligations of the Members.

(g) To buy, lease, construct, appropriate, contract for, invest in, and otherwise acquire, and to own, hold, maintain, equip, operate, manage, improve, develop, and deal in and with, and to sell, lease exchange, transfer, convey and otherwise dispose of and to mortgage, pledge, hypothecate and otherwise encumber real and personal property of every kind, tangible and intangible, utilized for the purposes of the Authority.

(h) To have and to exercise the power of eminent domain and, in the manner provided by law to condemn property for use as rights-of-way only if such property is not owned by any public utility and devoted to such public use pursuant to state authority.

(i) To construct and maintain works and establish and maintain facilities across or along any public street or highway, provided the Authority shall promptly restore any such street or highway to its former state of usefulness.

(j) To fix, maintain and revise fees, rates and charges for the use of the Authority's functions, services (including, without limitation, water carriage service) or facilities, and for waters conveyed or treated thereby, and to adopt, by resolution, reasonable regulations for the public welfare and pertaining to such facilities and waters, including, without limitation, the use and protection of such facilities and waters.

(k) To sue and be sued in the name of the Authority and to participate in all manner of legal and administrative proceedings including, but not limited to, proceedings in the water courts of the State of Colorado.

(l) To have and use a corporate seal.

(m) In general, to exercise all powers which are now conferred by law upon a water authority organized pursuant to the Act, or essential to the provision of its functions, services and facilities, subject to such limitations as are or may be prescribed by law.

(n) To permit other municipalities, special districts or political subdivisions of this state that are authorized to supply water to enter the contract at the sole discretion of the Board of Directors, subject to fulfilling any and all conditions of the contract establishing the entity, and subject to fulfilling any other conditions deemed necessary by the Board of Directors in its sole discretion.

(o) The powers of the Authority shall not include indemnification of property owners or others affected for any losses or damages incurred, including reasonable attorneys fees, or that may subsequently be caused by or which result from actions of the Authority.

ARTICLE III Board of Directors and Powers

1. Board of Directors. All legislative power, as hereinafter defined, of the Authority shall be vested in a Board of Directors (the "Board" and the "Directors"). Each Director shall be a person designated by the City Manager of the Member which the Director represents. There shall be two (2) Directors designated by the City Manager of the City of Northglenn and one (1) Director designated by the City Manager of Westminster.

2. Initial Directors. The name, address, and Member represented of each of the initial Directors is as listed in **Exhibit A** which is attached hereto and incorporated herein.

3. Tenure of Directors. Each Director shall serve until replaced by the Member which the Director represents.

4. Vacancy. A vacancy occurring on the Board, whether such vacancy be the result of resignation, removal by the governing body of the Member, or for any other reason, shall be filled by the selection of a successor Director in the same manner as is provided in paragraph 1 of this Article.

5. Compensation. Directors shall not receive compensation for their services from the Authority.

6. Meetings. Regular meetings of the Board shall be held at such place, on such day, and at such hour as the Board shall, by resolution, from time to time establish. Special meetings may be held at any time and at any place within the State of Colorado either (a) when attended by Directors representing all Members or (b) upon seventy-two (72) hours written notice either hand delivered or sent by first-class mail, postage prepaid, to the home or place of employment of each Director, unless such notice be waived in writing by a Director or alternate of any Member not represented at such meeting. The President or Vice President may, and on the written request of one of the Directors, shall, call a special meeting of the Board.

7. Quorum. A majority of the number of Directors in office shall constitute a quorum for the transaction of business, but if less than a majority of the Directors then in office is present at a meeting, a majority of the Directors present, or if none are present, the Secretary

or other officer, may adjourn the meeting to a different time and place, and in such case the Secretary shall notify absent Directors of the time and place of such adjourned meeting.

8. Powers. The powers and duties of the Board ("Legislative Power"), which shall be exercised by approval of a majority of the Directors present unless otherwise specified, provided a quorum is present, shall be:

(a) To govern the business and affairs of the Authority and to establish, by a vote of at least two-thirds (2/3) of the Directors present, the policies of the Authority.

(b) To exercise all power of the Authority, including but not limited to:

(i) adopting an operating budget based upon the price previously fixed by the Board of County Commissioners for the purchase of water from the Church Ditch.

(ii) establishing a procedure and criteria by resolution for setting carriage rates for water delivery contracts, and setting said carriage rates in the event the price fixed by the Board of County Commissioners as of the date of the creation of this Authority is not sufficient to finance the proper operation and maintenance of the Church Ditch in accordance with the Authority's rules and regulations, including the costs of administrative and professional services.

(iii) establishing a method of assessment in the event carriage rates are not sufficient to finance the proper operation and maintenance of the Church Ditch in accordance with the Authority's rules and regulations, including costs of administrative and professional services. Any assessment approved by a majority of the Directors present shall be prorated among the Members according to the number of Directors for each Member.

(iv) ensuring the delivery of water to the Contractual Users of the Church Ditch pursuant to such rules and regulations as may be established by the Authority.

(c) To comply with the provisions of C.R.S. Parts 1, 5 and 6, Article 1, Title 29, as amended.

(d) To keep minutes of its proceedings.

(e) To establish bylaws of the Board and adopt, by resolution, regulations respecting the exercise of the Authority's powers and purposes.

(f) To authorize the employment of such employees, agents, consultants, and contractors, as in the discretion of the Board may be necessary, subject to the limitations of any adopted budget or assessment.

9. Voting, General Rule. Except where another method of voting is specified, each Director shall be entitled to one (1) vote.

ARTICLE IV Officers and Powers

1. Officers. The officers of the Authority shall be a President, Vice President, Secretary, Treasurer, and such other officers and assistant officers as may be authorized by the Board from time to time to perform such duties as may be approved by the Board. Officers of the Authority other than the President and Vice President need not be Directors. Each officer shall be elected upon a vote of the majority of the Board and shall serve for a term of one (1) calendar year (except that the terms of the initial officers may be less than one (1) full year) or until his/her successor is duly appointed.

2. Removal of Officers. Any officer elected by the Board may be removed from such office by the Board, with or without cause, upon the vote of a majority of the Board.

3. Duties of Officers. In addition to duties designated by the Board, the duties of the officers shall include the following:

(a) The President shall preside at all meetings of the Board, except as otherwise delegated by the Board, and shall execute all legal instruments of the Authority.

(b) The Vice President shall, in the absence of the President, or in the event of his/her inability or refusal to act, perform the duties of the President and when so acting shall have all the powers of and be subject to all the restrictions upon the President. The Vice President shall also perform such other duties as may be prescribed by the Board from time to time.

(c) The Secretary shall maintain the official records of the Authority, including the minutes of the meetings of the Board and the Executive Committee, and a register of the names and addresses of the Members, Directors and officers and shall issue notice of meetings, attest and affix the corporate seal to all documents of the Authority and perform such other duties as the Board may prescribe from time to time.

(d) The Treasurer shall serve as financial officer of the Authority and except as the Board may otherwise decide by resolution, shall be responsible for the receipt, custody, investment and disbursement of the Authority's funds and securities and for duties incident to the office of the Treasurer, and shall perform such other duties as the Board may prescribe from time to time.

4. Bonds. The Treasurer and any other officer, employee or agent of the Authority charged with responsibility for the custody of any of its funds or property shall give a fidelity bond in such sum and with such surety as the Board shall determine. The Board in its discretion may also require any other officer, agent or employee of the Authority to give a fidelity bond in

such amount and with such surety as it shall determine. The cost of such fidelity bond shall be an expense payable by the Authority.

ARTICLE V
Successor in Interest to the Church Ditch Company

The Authority shall be the successor in interest to the Church Ditch Company, a corporate entity previously organized by the City of Northglenn to operate and maintain the Church Ditch. As such, and to the extent permitted by law, the Authority shall be entitled to all rights and privileges and shall assume all obligations and liabilities of the Church Ditch Company under any existing contracts, and shall also assume all other obligations and liabilities of the Church Ditch Company, except to the extent the Authority is specifically authorized to engage in rate-setting pursuant to Article II, subsection (j) of this Establishing Contract.

ARTICLE VI
Indemnification

The Authority shall, to the extent permitted and within the limitations of the Colorado Governmental Immunity Act, indemnify and defend each Director, officer and employee of the Authority in connection with any claim or actual or threatened suit, action, or proceeding in which he/she may be involved in his/her official capacity by reason of his/her being or having been such Director, officer or employee, or by reason of any action or omission by him/her in any such capacity. The Authority shall have no obligation to indemnify and defend any such Director, officer or employee for any claim, suit, action or proceeding arising out of criminal offenses or willful and wanton misconduct of each Director, officer, or employee.

ARTICLE VII
Amendment

Except as hereinafter provided, this Contract and the contractual obligations and rights hereunder, shall continue in full force and effect until amended or modified by action of the governing bodies of all of the Members.

ARTICLE VIII
Term, Termination and Withdrawal

1. Term. This Contract shall remain in full force and effect until rescinded or terminated by action of the governing bodies.

2. Termination. In the event of the rescission or termination of this Contract and the dissolution of the Authority, all right, title and interest of the Authority in the General Assets (as hereinafter defined) of the Authority shall be conveyed to the Members who are such at the time of rescission or termination tenants-in-common subject to any outstanding liens, mortgages or other pledges of such General Assets. The interest in the General Assets of the Authority conveyed to each Member shall be distributed pro rata among the Members based upon the number of Directors for each Member. The terms "General Assets" as used herein shall include

all legal and equitable interests in real or personal property, tangible or intangible of the Authority. In no event may this Contract be rescinded or terminated or the Authority dissolved if the Authority has bonds, notes or other obligations outstanding, unless provision for full payment of such obligations, by escrow or otherwise, has been made, not in contravention of the terms of such obligations.

**ARTICLE IX
Severability**

If any provision of this Contract or the application thereof to any party, person, or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Contract which can be given effect without the invalid provision or application, and to this end the provisions of this Contract, and each and every provision thereof, are declared to be severable.

**ARTICLE X
Execution of Contract**

This Contract may be executed in several counterparts, each of which will be an original but all of which together shall constitute one and the same Contract.

IN WITNESS WHEREOF, the undersigned Members have caused this instrument to be executed as of this 29 day of October, 2004.

CITY OF NORTHGLENN, COLORADO

By: *Kathleen Novak*
KATHLEEN NOVAK, Mayor *10-24-04*
Mayor Pro-Tem

ATTEST:

Diana L. Lentz
DIANA L. LENTZ, CMC, City Clerk

APPROVED AS TO FORM:

Herbert C. Phillips
HERBERT C. PHILLIPS, City Attorney

CITY OF WESTMINSTER, COLORADO

By: *Nancy McNally*
NANCY McNALLY, Mayor

ATTEST:

Michele Kelley
MICHELE KELLEY, City Clerk

APPROVED AS TO FORM:

[Signature]
Legal Counsel & Special Water Counsel

EXHIBIT "A"

Dale Kralicek, President

City of Northglenn
11701 Community Center Drive
Northglenn, CO 80233

Amy Stecyk, Vice President and General Manager

City of Northglenn
11701 Community Center Drive
Northglenn, CO 80233

Dan Strietelmeier

City of Westminster
4800 W. 92nd Avenue
Westminster, CO 80031

EXHIBIT "D"

Church Ditch Personal Property

Winch for 1994 4x4 Pickup
1999 Dodge Ram Pickup 2500
2001 Dodge Ram Pickup 1500 Quad Cab 4x4
2001 Eco Trailer
Miscellaneous Hand Tools and Equipment

**FIRST AMENDMENT TO THE Establishing Contract for THE
CHURCH DITCH WATER AUTHORITY**

The undersigned, desiring to amend the Establishing Contract for the creation of the Church Ditch Water Authority, previously duly established as a water authority, a body corporate and politic, a separate governmental entity, a political subdivision and a public corporation of the State of Colorado, pursuant to Section 18(2)(a) and (2)(b) of Article XIV, Constitution of the State of Colorado, and pursuant to C.R.S. § 29-1-204.2, as amended (the "Act"), by and between the City of Westminster, a Colorado municipal corporation and the City of Northglenn, a Colorado municipal corporation (the "Members"), authorized by law to own and operate water and systems and drainage facilities, hereby agree to the following First Amendment to the Establishing Contract for the Church Ditch Water Authority:

Section 1. Article II of the Establishing Contract is hereby amended to read as follows:

**ARTICLE II
Purpose and Powers**

The purpose of the Authority is to effect the development of water resources, systems and facilities AND THE DRAINAGE FACILITIES in whole or in part for the benefit of the Members and their inhabitants, and others, including the Contractual Users of the Church Ditch, through the operation, maintenance and continued development of the Church Ditch. The functions, services and general powers of the Authority are, to the extent permitted by law, as follows:

- (a) To acquire, construct, manage, maintain, or operate water systems, facilities, works or other improvements OR DRAINAGE FACILITIES, or to acquire a leasehold or any other interest therein, including without limitation dams, reservoirs, other storage facilities, ditches, canals, treatment facilities, and transmission and collection facilities.
- (b) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of any legal or equitable interest in real or personal property, specifically including water rights, by contract or otherwise and water stock, utilized for the authorized purposes of the Authority, including water treatment, distribution, and wastewater disposal, OR OF DRAINAGE.
- (c) To conduct its business and affairs for the benefit of the Members and their inhabitants and others, in the discretion of the Board of Directors.
- (d) To enter into, make and perform contracts of every kind with Members, the United States, any state or political subdivision thereof, or any city, town, municipality, city and county, any special district formed pursuant to Title 32, C.R.S. or any predecessor thereof, or with any individual, individual firm, association, partnership, corporation, or any other organization of any kind with the capacity to contract for any of the purposes contemplated under this contract.
- (e) To employ agents and employees.

(f) To incur debts, liabilities, or obligations to the extent and in the manner permitted by law and as provided herein, and to borrow money and, from time to time, to make, accept, endorse, execute, issue and deliver bonds, notes and other obligations of the Authority for monies borrowed or in payment for the property acquired, or for any of the other authorized purposes of the Authority, and as provided by law, and to the extent permitted by law to secure the payment of any such obligations by mortgage, pledge, deed, indenture, agreement, or other collateral instrument, or by other lien upon, assignment of, or agreement in regard to, all or any part of the properties, rights, assets, contracts, easements, revenues and privileges of the Authority. The bonds, notes and any other obligations of the Authority shall not themselves be the debts, liabilities or obligations of the Members.

(g) To buy, lease, construct, appropriate, contract for, invest in, and otherwise acquire, and to own, hold, maintain, equip, operate, manage, improve, develop, and deal in and with, and to sell, lease exchange, transfer, convey and otherwise dispose of and to mortgage, pledge, hypothecate and otherwise encumber real and personal property of every kind, tangible and intangible, utilized for the purposes of the Authority.

(h) To have and to exercise the power of eminent domain and, in the manner provided by law to condemn property for public use as rights-of-way only if such property is not owned by any public utility and devoted to such public use pursuant to state authority.

(i) To construct and maintain works and establish and maintain facilities across or along any public street or highway, provided the Authority shall promptly restore any such street or highway to its former state of usefulness.

(j) To fix, maintain and revise fees, rates and charges for the use of the Authority's functions, services (including, without limitation, water carriage service) or facilities, INCLUDING DRAINAGE FACILITIES, and for waters conveyed or treated thereby, and to adopt, by resolution, reasonable regulations for the public welfare and pertaining to such facilities and waters, including, without limitation, the use and protection of such facilities and waters.

(k) To sue and be sued in the name of the Authority and to participate in all manner of legal and administrative proceedings including, but not limited to, proceedings in the water courts of the State of Colorado.

(l) To have and use a corporate seal.

(m) In general, to exercise all powers which are now conferred by law upon a water OR DRAINAGE authority organized pursuant to the Act, or essential to the provision of its functions, services and facilities, subject to such limitations as are or may be prescribed by law.

(n) To permit other municipalities, special districts or political subdivisions of this state that are authorized to supply water OR TO PROVIDE DRAINAGE FACILITIES

to enter the contract at the sole discretion of the Board of Directors, subject to fulfilling any and all conditions of the contract establishing the entity, and subject to fulfilling any other conditions deemed necessary by the Board of Directors in its sole discretion.

(o) TO PROVIDE FOR THE REHABILITATION OF ANY SURFACES ADVERSELY AFFECTED BY THE CONSTRUCTION OF WATER PIPELINES, FACILITIES, OR SYSTEMS OR OF DRAINAGE FACILITIES THROUGH THE REHABILITATION OF PLANT COVER, SOIL STABILITY, AND OTHER MEASURES APPROPRIATE TO THE SUBSEQUENT BENEFICIAL USE OF SUCH LANDS.

(p) The powers of the Authority shall not include indemnification of property owners or others affected for any losses or damages incurred, including reasonable attorneys fees, or that may subsequently be caused by or which result from actions of the Authority.

Section 2. Article III, Section 8 of the Establishing Contract is hereby amended to read as follows:

8. Powers. The powers and duties of the Board ("Legislative Power"), which shall be exercised by approval of a majority of the Directors present unless otherwise specified, provided a quorum is present, shall be:

(a) To govern the business and affairs of the Authority and to establish, by a vote of at least two-thirds (2/3) of the Directors present, the policies of the Authority.

(b) To exercise all power of the Authority, including but not limited to:

(i) adopting an operating budget based upon the price previously fixed by the Board of County Commissioners for the purchase of water from the Church Ditch.

(ii) establishing a procedure and criteria by resolution for setting carriage rates for water delivery contracts, and setting said carriage rates in the event the price fixed by the Board of County Commissioners as of the date of the creation of this Authority is not sufficient to finance the proper operation and maintenance of the Church Ditch in accordance with the Authority's rules and regulations, including the costs of administrative and professional services.

(iii) establishing a method of assessment in the event carriage rates are not sufficient to finance the proper operation and maintenance of the Church Ditch in accordance with the Authority's rules and regulations, including costs of administrative and professional services. Any assessment approved by a majority of the Directors present shall be prorated among the Members according to the number of Directors for each Member.

(iv) ensuring the delivery of water to the Contractual Users of the Church Ditch pursuant to such rules and regulations as may be established by the Authority

(v) ENSURING THE LONG TERM OPERATION AND MAINTENANCE OF CERTAIN DRAINAGE FACILITIES AND STRUCTURES WITHIN THE CHURCH DITCH, AND INCLUDING THE CHURCH DITCH ITSELF, WITHIN THE STANDLEY LAKE DRAINAGE BASIN.

(c) To comply with the provisions of C.R.S. Parts 1, 5 and 6, Article 1, Title 29, as amended.

(d) To keep minutes of its proceedings.

(e) To establish bylaws of the Board and adopt, by resolution, regulations respecting the exercise of the Authority's powers and purposes.

(f) To authorize the employment of such employees, agents, consultants, and contractors, as in the discretion of the Board may be necessary, subject to the limitations of any adopted budget or assessment.

Section 3. Miscellaneous. The following provisions shall apply with respect to this Amendment:

(a) Except as modified herein, the original provisions of the Establishing Contract remain in full force and effect, and are hereby ratified by the Members.

(b) In the event of any conflict between the Establishing Contract and this First Amendment, the terms and conditions of this First Amendment shall control.

IN WITNESS WHEREOF, the undersigned Members have caused this First Amendment to Establishing Contract to be executed as of this ____ day of _____, 20__.

CITY OF NORTHGLENN, COLORADO

By: _____
Mayor

ATTEST:

CITY OF WESTMINSTER, COLORADO

By: _____
Mayor

ATTEST:
