

**PUBLIC WORKS MEMORANDUM
#12-2023**

DATE: March 13, 2023

TO: Honorable Mayor Meredith Leighty and City Council Members

THROUGH: Heather Geyer, City Manager *hmg*
Jason Loveland, Interim Deputy City Manager *AL2*

FROM: Kent Kisselman PE, Director of Public Works *CHK*

SUBJECT: CR-45 – York Street Bridge Improvements IGA

PURPOSE

To consider CR-45, a resolution approving an Intergovernmental Agreement (IGA) between the City of Northglenn and the City of Thornton regarding the design and construction of York Street over Big Dry Creek near Northglenn’s Force Main A.

BACKGROUND

Thornton desires to construct a new York Street bridge in its right of way near 156th Avenue. This right of way contains an easement where Force Main A is located. The proposed overpass consists of piers that would be within the easement and very close to Force Main A.

Thornton engaged Northglenn’s Engineering staff to discuss how to best mitigate the risk to the force main. It was determined that the best way to mitigate both risk to the force main and financial impact to the Thornton project would be to protect the force main in place with a concrete cap and construct the eventual rerouting of the force main at this time. However, the newly rerouted force main would not be tied in and activated unless there is an emergency during construction, such as a pier damaging the existing force main. The concrete cap and rerouting materials would be paid for and installed by the City of Thornton before the start of the overpass construction.

The proposed IGA contains the following provisions:

- Thornton will construct a portion of Northglenn’s future force main where it crosses Big Dry Creek as part of their York Street Bridge project
- Northglenn’s existing force main will be protected in place during construction
- Connection pieces to the existing force main will be provided in case of an emergency
- Northglenn will be released from any financial liability if the Thornton project damages Force Main A
- Northglenn will inspect the new force main to ensure it is built to the approved design and specifications

Thornton will convey the required easement to the City once the new force main is in place for the purpose of providing access to the rerouted force main.

BUDGET/TIME IMPLICATIONS

There are no financial or time impacts to the City.

STAFF RECOMMENDATION

Attached is CR-45, a resolution that, if approved, would authorize the Mayor to execute an Intergovernmental Agreement with the City of Thornton to construct a portion of the City’s future

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force main as part of Thornton’s York Street Bridge Improvements project. Staff recommends approval of CR-45.

STAFF REFERENCE

If Council members have any questions, please contact Kent Kisselman, Director of Public Works, at kkisselman@northglenn.org or 303.450.4005.

CR-45 – York Street Bridge Improvements IGA
IGA regarding the Design and Construction of York Street Over Big Dry Creek

SPONSORED BY: MAYOR LEIGHTY

COUNCIL MEMBER'S RESOLUTION

RESOLUTION NO.

No. CR-45
Series of 2023

Series of 2023

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF NORTHGLENN AND THE CITY OF THORNTON REGARDING THE DESIGN AND CONSTRUCTION OF YORK STREET OVER BIG DRY CREEK

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

Section 1. The Intergovernmental Agreement between the City of Northglenn and the City of Thornton regarding the design and construction of York Street over Big Dry Creek, attached hereto as **Exhibit 1**, is hereby approved and the Mayor is authorized to execute same on behalf of the City.

DATED at Northglenn, Colorado, this _____ day of _____, 2023.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, CMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF THORNTON
AND THE CITY OF NORTHGLENN REGARDING THE DESIGN AND
CONSTRUCTION OF YORK STREET OVER BIG DRY CREEK**

This Intergovernmental Agreement ("Agreement") is made and entered into this ___ day of _____, 2023 by and between the City of Thornton, a home rule municipality located at 9500 Civic Center Drive, Thornton, CO 80229 ("Thornton") and the City of Northglenn, a home rule municipality located at 11701 Community Center Drive, Northglenn, CO 80233 ("Northglenn"). Thornton and Northglenn may be referred to individually as a "Party" or collectively as the "Parties."

WITNESSETH

WHEREAS, Section 18(2)(a) of Article XIV of the Colorado Constitution and Sections 29-1-201, et seq., and 29-20-105 of the Colorado Revised Statutes authorize and encourage governments to cooperate by contracting with one another for their mutual benefit; and

WHEREAS, Northglenn's existing forcemain is located in a 20-foot sanitary sewer easement on E-470 property; and

WHEREAS, Thornton will construct a portion of Northglenn's future forcemain where it crosses Big Dry Creek as part of the York Street Over Big Dry Creek from E-470 Northbound Ramps to E. 156th Ave project (the "Project"); and

WHEREAS, Northglenn's future forcemain will cross property owned by Thornton; and

WHEREAS, concurrently with construction of the Project, Thornton will convey to Northglenn the required easement for the future forcemain at no cost to Northglenn; and

WHEREAS, Northglenn's existing forcemain will be protected in place during construction; and

WHEREAS, the Thornton Contractor will be responsible for connecting the future forcemain to the existing forcemain in case of emergency during construction of the Project; and

WHEREAS, Thornton will provide Northglenn with pipe connections to be stockpiled by Northglenn for future use; and

WHEREAS, following completion of the Project Northglenn will inspect the new forcemain to ensure it is built to the approved design and specifications.

TERMS

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties hereto agree as follows:

1. Recitals Incorporated. The recitals set forth above are incorporated into this Agreement, and shall be deemed terms and provisions hereof, to the same extent as if fully set forth in this Section.

2. Construction Access and Future Forcemain. Northglenn agrees to allow Thornton to operate within Northglenn's existing 20-foot sanitary sewer easement on E-470 property, provided that Thornton complies or causes the Thornton Contractor to comply with the following conditions related to construction of the Project, and associated risks of a forcemain break caused by construction of the Project:

A. The Thornton Contractor will protect the existing forcemain in place and the top of pipe will be encased in concrete. Additional provisions to ensure protection include vibration monitoring during construction and all foundation elements will be drilled caissons that will have at least ten (10) feet of clearance to the existing forcemain pipeline.

B. Thornton shall require that construction sequencing occur to cause the future forcemain pipe to be in place before any bridge work adjacent to the existing forcemain may commence.

C. The Thornton Contractor will not connect the future forcemain pipe to the existing forcemain pipeline except in case of emergency. The future pipe connections will be fabricated off-site and delivered to site before any work impacting the existing forcemain begins.

D. The Thornton Contractor will be required to provide proof of insurance in the standard amounts required by the Thornton for a project of this nature. In addition to naming the City of Thornton as additional insured, the Thornton Contractor will be required to name the City of Northglenn as additional insured with regard to Northglenn's existing 20-foot sanitary sewer easement and the protection in place of the existing forcemain therein.

E. Thornton shall further cause the Thornton Contractor to indemnify Northglenn, including specific protection for the following:

i. Any costs associated with bypassing Lift Station A, included costs assessed from Metro Water Recovery;

ii. Any costs associated with the costs of bypassing the Bunker Hill Lift Station, including the costs of utilizing pump trucks and any emergency rates assessed by third parties for such costs;

iii. Any costs associated with feeding "bugs" at the Northglenn Wastewater Treatment Plant for treatment to maintain Northglenn's existing biological treatment processes; and

iv. Any costs associated with enforcement action by the Colorado Department of Public Health and Environment (the “CDPHE”) or the Environmental Protection Agency (the “EPA”) that may be assessed against a system owner resulting from a forcemain break as part of the Project, and specifically also including costs associated with retaining an environmental consultant if ordered to do so by the CDPHE or the EPA in the event of a sewage spill as part of the Project.

F. At completion of the Project, Thornton will provide the pipe connections to Northglenn for future use.

3. Easement Conveyance.

A. Thornton will convey an easement for the portion of the future forcemain in the form attached hereto as Exhibit A.

B. The City Manager is hereby authorized by City Council to execute a nonexclusive sanitary sewer line easement (“Easement”) in the form attached as Attachment 1 to this Agreement, at such time the new forcemain is in place and to be conveyed to Northglenn as described by engineered as-built drawings.

C. The approximate location of the Easement is shown in Exhibit A to Attachment 1, with said location to be finalized with construction and the Easement will be executed and recorded at that time. The total Purchase Price for the Easement is zero Dollars (\$0) (“Purchase Price”). Thornton and Northglenn shall sign and complete all customary or required documents at or before closing. Each Party shall pay the cost of its own attorneys' fees. Thornton shall pay the premium for any title insurance policy. Thornton shall pay all costs and charges in connection with the closing, including the cost of recording the easements.

4. Party Representatives. The Party Representatives to manage the Project for each Party from engineering through construction, completion and conveyance of the Easement are as follows:

Northglenn
Michael Roman, PE
City of Northglenn
12301 Claude Court
Northglenn, CO 80234
mroman@northglenn.org
P: 303-450-4079

Thornton
Pete Brezall, Project Manager II
Thornton IMC
12450 Washington St.,
Thornton, CO 80241
Pete.Brezall@thorntonco.gov
720-977-6251

5. Miscellaneous.

A. Colorado Governmental Immunity Act. Northglenn and Thornton by entering into this Agreement do not waive the rights, limitations, and defenses of the

Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as it is from time to time amended, or other rights or protections as otherwise provided by law.

B. Separate Entities. Northglenn and Thornton are separate, independent governmental entities and shall maintain such status throughout.

C. Responsibility. Each Party hereto shall be responsible for any suits, demands, costs, or actions at law resulting from its own acts or omissions.

D. Appropriations. Notwithstanding any other term, condition, or provision herein, each and every financial obligation of Northglenn and Thornton stated in this Agreement is subject to the requirement of a prior appropriation of funds therefore by the appropriate governing body.

E. No Agency. It is understood and agreed that this Agreement is intended to facilitate cooperation between Northglenn and Thornton to cause the construction of the Foremain Improvements to be completed as specified in Paragraph 2, but nothing in this Agreement shall be construed to establish a separate legal entity and, except as set forth herein, this Agreement does not authorize any Party to act for another for any other purpose whatsoever.

F. No Implied Waiver. A waiver by any Party of a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

G. Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if hand-delivered, sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to each Party hereto. Such notice shall be deemed to have been given when deposited in the United States mail.

H. Paragraph Captions. The captions of the paragraphs are set forth only for the convenience and reference of the Parties hereto.

I. Integration and Amendment. This Agreement represents the entire agreement between Northglenn and Thornton with regard to the subject matter of this Agreement and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by Northglenn and Thornton. If any provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

J. Termination. This Agreement may be terminated upon thirty (30) days' written notice by any party to this Agreement, but only if there are no contingent,

outstanding contracts. If there are contingent, outstanding contracts, this Agreement may only be terminated upon the cancellation of all contingent, outstanding contracts

K. Governing Law. This Agreement shall be governed by the laws of the State of Colorado.

L. Venue. Venue for any actions under this contract shall be in Adams County, Colorado.

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IN WITNESS WHEREOF, Northglenn and Thornton have caused this Agreement to be executed as of the day and year first above written.

CITY OF NORTHGLENN, COLORADO,

Meredith Leighty, Mayor

Johanna Small, City Clerk

APPROVED AS TO FORM:

Corey Hoffmann, City Attorney

CITY OF THORNTON, COLORADO

Jan Kulmann, Mayor

ATTEST:

Kristen N. Rosenbaum, City Clerk

APPROVED AS TO FORM:

Tami Yellico, City Attorney

ATTACHMENT 1 TO IGA

GRANT OF PERPETUAL EASEMENT

THIS GRANT OF PERPETUAL Easement is made this ____ day of _____, 2023, by and between the City of Thornton, a Colorado home rule municipal corporation, whose address is 9500 Civic Center Drive, Thornton, Colorado 80229 ("Grantor") and the City of Northglenn, a Colorado home rule municipality located at 11701 Community Center Drive, Northglenn, CO 80233 , Grantor and Grantee may be referred to herein separately and collectively as "Party" or "Parties".

1. For and in consideration of the covenants and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants and conveys to the Grantee, a perpetual nonexclusive easement for the purpose of constructing, re-constructing, maintaining, operating, repairing, replacing, and surveying and testing at any time and from time to time sanitary sewer lines and necessary appurtenances ("Improvements") through, over, under and across Grantor's property as described in **Exhibit A** attached hereto and incorporated herein by this reference (the "Easement Area").
2. Grantor further grants to the Grantee:
 - a. The right from time to time to, improve, reconstruct, relocate and replace any Improvements or other appurtenance constructed hereunder within the Easement Area;
 - b. The right to ingress and egress over and across the Easement Area for the purpose of exercising the rights herein granted;
 - c. The right to mark the location of the Easement Area by suitable markers set in or on the ground; provided that permanent markers shall be placed in locations which will not interfere with any reasonable use Grantor shall make of the Easement Area.
3. Grantor reserve the right to use and occupy the Easement Area for any purpose consistent with the rights and privileges above granted and which will not interfere with or endanger any of the Grantee's Improvements or otherwise interfere with Grantee's rights hereunder; and the Parties further agree that the uses of the Easement by Grantor and the agreements concerning those uses shall be as follows:
 - a. Grantor shall not erect or construct any building or other structure, or drill or operate any well, or construct any permanent obstruction, or plant any trees or decrease or substantially increase ground level, or allow the installation of other utilities, in said Sanitary Sewer Line Easement or grant any other easements or other property rights in the Sanitary Sewer Line Easement without first obtaining the specific written permission of the Grantee.

- b. Grantors shall take no action that would impair the lateral or subjacent support for the Improvements within the Easement Area without obtaining specific written permission of the Grantee.
 - c. The Grantor may use the Sanitary Sewer Line Easement for any and all lawful purposes not inconsistent with the purposes set forth in this Sanitary Sewer Line Easement, including but not limited to setbacks, density, open space, landscaping except for trees, roadway, and parking, so long as such uses do not interfere with the continued use, maintenance and repair of, or cause damage to the Sanitary Sewer Line Improvements.
4. The rights granted herein shall be possessed and enjoyed by Grantee, its successors and assigns, so long as the Improvements and the appurtenances thereto are maintained and operated by Grantee, its successors and assigns. If Grantee permanently abandons and ceases to use the easement herein granted, as evidenced in a written release, all of Grantee's right, title and interest in the premises shall vest to the then owner of the underlying property.
 5. Grantee will repair any damage to the Grantors' property resulting from Grantee's operation, maintenance, repair, reconstruction, replacement, inspection, survey or removal of the Improvements or appurtenances thereto whenever same may occur except as necessarily modified to accommodate the Improvements installed by Grantee, provided that Grantee shall provide Grantor advance written notice advising Grantor of the necessity of repairs and setting forth a reasonable time to perform the repair.
 6. The Parties agree that this instrument arises from an Intergovernmental Agreement between the parties that provides for Grantor's initial construction and Grantees acceptance of improvements to be owned and maintained by Grantee. This instrument and that certain Intergovernmental Agreement dated _____, 2023 are the entire agreement between the parties with respect to the subject matter of this instrument and no oral representation, promise, or consideration different from the terms herein contained shall be binding on either Party, or its agents or employees, hereto.
 7. Grantor warrants that it has full and lawful authority to make the grant hereinabove contained and promises and agrees to defend Grantee in the exercise of its rights hereunder against any defect in Grantors' title to the land involved or Grantors' rights to make the grant hereinabove contained.
 8. All of the covenants contained in this Grant of Perpetual Easement shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, personal representatives, successors and assignees.

IN WITNESS WHEREOF, the undersigned has set his hand hereto on the day and year above first written.

**GRANTOR
CITY OF THORNTON**

Kevin S. Woods, City Manager

ATTEST:

Kristen N. Rosenbaum, City Clerk

APPROVED AS TO FORM:

Tami Yellico, City Attorney

**GRANTEE
CITY OF NORTHGLENN, COLORADO**

ATTEST:

Johanna Small, City Clerk

APPROVED AS TO FORM:

Corey Hoffmann, City Attorney

EXHIBIT A

[Legal Description of Location of New Forcemain]



EXHIBIT A
UTILITY EASEMENT

June 2, 2022

A portion of the parcel described in Special Warranty Deed recorded on March 31, 2011, under Reception No. 2011000020849, of the Official Public Records of Adams County, Colorado, lying in the Southwest 1/4 of Section 12, Township 1 South, Range 68 West of the Sixth Principal Meridian, City of Thornton, Adams County, Colorado, being more particularly described as follows:

COMMENCING at the Center 1/4 Corner of said Section 12; thence along the North line of said Southwest 1/4 of Section 12, N89°49'16"W (Bearings are relative to a line formed by the Center 1/4 Corner of Section 12, Township 1 South, Range 68 West of the Sixth Principal Meridian, Adams County, Colorado, being monumented by a found No. 6 rebar with a 3-1/4" brass cap marked, "Adams County Public Works PLS 28664 1995" 0.8' below grade, and the intersection of the south line of the parcel described in Warranty Deed recorded on December 17, 2004, under Reception No. 2004001286410, of the Official Public Records of Adams County, Colorado and the apparent west line of the York Street right-of-way, being parallel with and 30 feet west of the west line of said Northwest 1/4 of Section 12, having a measured bearing and distance of N89°49'16"W, 2706.02 feet), a distance of 2646.11 feet; thence leaving said North line, S00°21'10"E, a distance of 30.00 feet, to the northwest corner of said parcel; thence along the west line of said parcel, S00°21'10"E, a distance of 71.58 feet, to an angle point on said west line; thence continuing along said west line, S54°33'21"E, a distance of 44.07 feet, to the **POINT OF BEGINNING**; thence leaving said west line along the following four (4) courses:

1. N90°00'00"E, a distance of 81.49 feet;
2. S45°00'00"E, a distance of 27.22 feet;
3. S00°00'00"E, a distance of 348.60 feet;
4. S47°46'31"W, a distance of 5.58 feet, to a point on said west line;

thence along said west line, N04°49'59"W, a distance of 307.07 feet; thence leaving said west line along the following three (3) courses:

1. N00°00'00"W, a distance of 33.94 feet;
2. N45°00'00"W, a distance of 2.37 feet;
3. S90°00'00"W, a distance of 26.92 feet, to a point on said west line;

thence along said west line, N54°33'21"W, a distance of 51.73 feet, to the **POINT OF BEGINNING**.

Containing 8,488 Sq Ft, 0.195 Acres, more or less.



DocuSigned by:

4AC420E8B32A435...

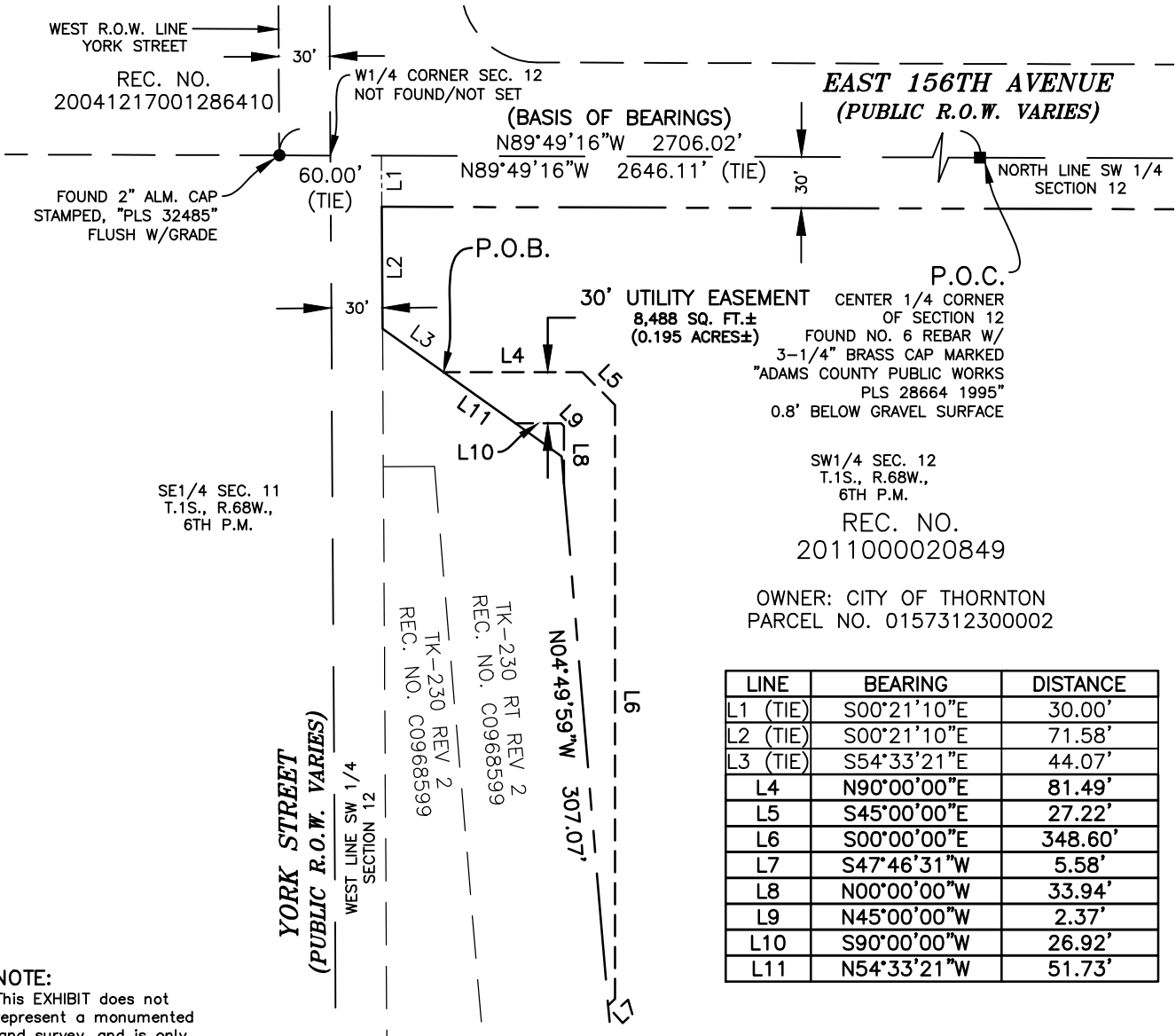
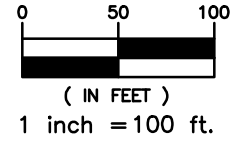
Stewart L. Mapes, Jr.
Colorado Professional Land Surveyor No. 38245
For and on behalf of Clark Land Surveying, Inc.

EXHIBIT A UTILITY EASEMENT



DocuSigned by:
Stewart L. Maples
4AC420E8B32A435...

GRAPHIC SCALE



LINE	BEARING	DISTANCE
L1 (TIE)	S00°21'10"E	30.00'
L2 (TIE)	S00°21'10"E	71.58'
L3 (TIE)	S54°33'21"E	44.07'
L4	N90°00'00"E	81.49'
L5	S45°00'00"E	27.22'
L6	S00°00'00"E	348.60'
L7	S47°46'31"W	5.58'
L8	N00°00'00"W	33.94'
L9	N45°00'00"W	2.37'
L10	S90°00'00"W	26.92'
L11	N54°33'21"W	51.73'

Clark Land Surveying, Inc.

177 S. Tiffany Dr. • Pueblo West, Co. 81007 • 719.633.8533
www.clarkls.com

Project No:
190718

Drawn: EJC
Check: SLM

Date: 6/2/2022
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