

PERMISSION TO ENTER PROPERTY AND RIGHT OF ENTRY AGREEMENT

Property Address/Location:

See Property locations on attached map entitled "ROE Parcels Commerce City"(The "Property")
To include PINs

Property Owner(s) or Authorized Representative:

City of Commerce City

For the sum of \$300.00, which amount constitutes good and sufficient consideration for the rights granted herein, the receipt of which is acknowledged, the undersigned Property Owner(s) or such Owner(s)' Authorized Representative ("Landowner") hereby voluntarily grant(s) permission to Metro Wastewater Reclamation District, its contractors, agents, employees, and all others deemed necessary by Metro Wastewater Reclamation District (collectively referred to herein as "MWRD") to enter the Property identified above, on one or more occasions, in order to perform the following described work and related activities.

Physical entry onto the Property will commence no earlier than 7:00 a.m. on the first full day after the expiration of the forty-eight (48) hour advance notice (described below). The terms of this Agreement will remain in effect until October 31, 2020.

DESCRIPTION OF PROPOSED WORK

- Perform land surveying activities including recovery of and measurements to horizontal and vertical survey marks; topographic surveys which include the modeling of ground terrain and the measuring and mapping of physical features; the placement of temporary survey stakes or project control markers; take photographs and/or video of the Property; and coordinating with subcontractors and utility locators (if any) to locate and mark underground utilities using temporary paint, flags, and/or stakes for the purpose of surveying locations. Utility locates may involve excavating or "potholing" using vacuum extraction to expose conduit to determine size and depth. All temporary markers, stakes, etc. will be removed from the premises by MWRD at or before the end of the term of this Agreement or when the grant of access is terminated.
- Conduct preliminary environmental and natural resource site reviews to identify and document hydrological, soil, wetland vegetation, threatened and endangered species, historical and archaeological conditions, and other environmental conditions. Soil conditions will be documented by hand-excavating areas of limited extent, and removing and analyzing samples. Natural resources reviews will be limited to surface observation of vegetation, wildlife, and other related resources.
- Perform environmental/geotechnical site assessments and groundwater level monitoring. Personnel may perform drilling, excavation, and sampling of material up to and including the use of truck-mounted boring and drilling rigs. Conduct geotechnical studies, which involve one or more soil borings, to collect data about the subsurface conditions of the site. Temporary groundwater monitoring wells may be installed, maintained, and monitored. In select instances, aquifer pumping tests may occur using the groundwater monitoring wells, including removing and analyzing samples.
- MWRD will provide copies of all reports provided to MWRD relating to the work conducted on the Property to Landowner.
- MWRD will obtain the required permits for the work in accordance with the regulations of the governing authority.

- All excavations will be backfilled, compacted, and restored to their original condition immediately after all data has been collected and temporary wells will be abandoned as near as practicable at or before the end of the term of this Agreement.
- MWRD shall be liable and responsible for any and all damages to persons or property caused by or arising from the actions or omissions of MWRD in the exercise of MWRD's rights under this Agreement. MWRD shall repair damages caused on the Property or adjoining lands when caused by the exercise of the rights or obligations of the MWRD under this Agreement. If such damages are not restored by the MWRD, the MWRD shall reimburse the Landowner for its reasonable out of pocket costs to repair such damages.

Conditions requested by Landowner:

- Before commencing any activity on the Property, MWRD shall obtain all necessary permits and approvals required by the Commerce City Revised Municipal Code.
- MWRD shall cause all contractors and subcontractors performing work on or about the Property to take all necessary safety measures with respect to the construction and maintenance activities.
- Before commencing any activity in the Property, the MWRD will secure and maintain general liability insurance coverage in an amount no less than five million and no/100s dollars (\$2,000,000.00). Landowner (including its officials and employees) will be named as an additional insured under any such policy of insurance.
- The grant of access to the Property is non-exclusive. MWRD shall not interfere with or disturb the work of Landowner or any other person using the Property.

Entry onto the Property provided by this Agreement is at the sole liability of MWRD, and the Landowner shall not be liable for any injury or damage to MWRD (including any personal injury, death, or damage to property) which occurs during, or results or arises from, the entry onto the Property by MWRD pursuant to this Agreement. By entering into this Agreement, MWRD and Landowner are relying on, and do not waive or intend to waive the monetary limitations or any other rights, immunities, conditions and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended ("CGIA"), or any other statutory or common law immunities or defenses otherwise available to them, their officers, board members and employees.

The grant of access given by this Agreement will terminate by Landowner's provision of written notice of such termination by first class mail to Metro Wastewater Reclamation District at the address or by e-mail at the e-mail address given below. Upon termination of such access, MWRD shall be granted limited access to conduct all remediation or repair work required by this Agreement.

This Agreement is subject to all liens, encumbrances, covenants, conditions, restrictions, reservations, contracts, leases and licenses, easements, and rights of way pertaining to the Property, whether or not of record. The use of the word "grant" shall not imply any warranty on the part of Landowner with respect to the Agreement or the Property. MWRD is solely responsible for satisfying any limitations on the use or ownership of the Property.

The parties hereto agree that: 1) nothing herein shall make the Landowner responsible for the payment of any professional fees or contractor charges for any work undertaken on the Property by or for MWRD pursuant to this Agreement; and 2) MWRD shall not permit any mechanic's liens to be recorded against the Property by its contractors performing work on the Property pursuant to this Agreement.

MWRD shall notify the Landowner at the phone number or email address listed below at least forty-eight (48) hours prior to the first requested entry to the Property.

MWRD enters the Property at its own risk and assumes all responsibility relating to its presence and activities on the Property. MWRD waives and releases Landowner from any responsibility for any damage

or injury sustained by MWRD whatsoever except to the extent resulting from Landowner's gross negligence or willful misconduct. For the purposes of this Agreement, MWRD shall be considered a licensee for purposes of landowner liability under C.R.S. § 13-21-115, to the extent applicable and subject to all limitations and protections of the CGIA and any other statutory or common law immunities or defenses otherwise available to Landowner.

To the extent MWRD is assigned responsibility for any obligation, such obligation shall bind jointly and severally any entity included in the definition of "MWRD" above.

The benefits, burdens, terms, and obligations of this Agreement shall extend to and be binding upon the successors or assigns of the parties. This Agreement represents the entire agreement between the Parties and there are no oral or collateral agreements or understanding. Landowner represents and warrants as to his ability to enter into this Agreement and to grant the access described herein. If there is a tenant or lessee on the Property, Landowner has provided this Agreement to the tenant and obtained its consent, as revealed by tenant's signature below.

Agreed to by Landowner:

Signature (Property Owner or Authorized Representative)

Date

Mailing Address

Email Address

City, State, Zip

Phone

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Agreed to by Metro Wastewater Reclamation District:

Signature

Date

Print Name

Email Address

Title

Phone