

CITY OF WHEAT RIDGE, COLORADO
RESOLUTION NO. 43
Series of 2016

TITLE: A RESOLUTION BETWEEN THE CITY OF WHEAT RIDGE AND THE WEST METRO FIRE PROTECTION DISTRICT APPROVING A REVOCABLE LICENSE AGREEMENT CONCERNING AN EMERGENCY SIREN LOCATION

WHEREAS, the City of Wheat Ridge, Colorado (the "City"), acting through its City Council is a home rule municipality with statutory and constitutional authority to enact ordinances and enter into agreements for the protection of the public health, safety and welfare; and

WHEREAS, pursuant to C.R.S. § 29-1-203 and Section 14.2 of the Wheat Ridge Home Rule Charter the City is authorized to enter into agreements with other governmental units or special districts for the joint use of buildings, equipment, or facilities, or for furnishing or receiving commodities or services; and

WHEREAS, in connection with its public safety services, the City owns an emergency siren system within the City, maintained and operated by the Wheat Ridge Police Department (WRPD), to warn citizens of potential dangers and hazards; and

WHEREAS, the West Metro Fire Protection District owns and controls a fire station facility in the City at 3880 Upham Street, upon which the WRPD would like to locate one of the City's emergency sirens, to which the District has agreed; and

WHEREAS, the Council wishes to act by resolution to approve the terms and conditions of a revocable license agreement to permit one of the City's emergency sirens to be located at the District station at 3880 Upham Street, as required by Charter Section 14.2.

NOW, THEREFORE, BE IT RESOLVED by the Wheat Ridge City Council, that:

Section 1. The attached Revocable License Agreement Concerning an Emergency Siren Location between the City and the District is hereby approved and the Mayor and City Clerk are authorized to execute the same.

Section 2. This Resolution shall be effective immediately.

DONE AND RESOLVED this 24th day of October, 2016.

ATTEST:

Janelle Shaver
Janelle Shaver, City Clerk

Joyce Jay
Joyce Jay, Mayor



**REVOCABLE LICENSE AGREEMENT
CONCERNING AN EMERGENCY SIREN LOCATION**

1.0 **PARTIES.** This Revocable License Agreement (“Agreement”) is entered into as of this ___ day of _____, 2016, by and between the City of Wheat Ridge, Colorado (“City”) and the West Metro Fire Protection District (“District”) (“Parties” collectively or “Party” individually).

2.0 **RECITALS.**

2.1 As governmental entities, the Parties are authorized to cooperate and contract with one another for the performance of governmental functions;

2.2 The Parties hereto are each authorized to perform public safety services;

2.3 In connection with its public safety services, the City owns an emergency siren system within the City, maintained and operated by the Wheat Ridge Police Department (“Wheat Ridge PD”) to warn citizens of potential dangers and hazards;

2.4 In connection with its public safety services, the District owns and controls a fire station facility at 3880 Upham Street, Wheat Ridge, Colorado (“Station”), upon which Wheat Ridge PD would like to install, operate and maintain one of the City’s emergency sirens and associated equipment, more specifically described on **Exhibit A** attached hereto and incorporated herein by this reference (“Emergency Siren”); and

2.5 The District wishes to grant the City an exclusive, revocable license to locate and maintain the Emergency Siren on the Station (“License”) under the terms and conditions of this Agreement.

3.0 **CITY OBLIGATIONS.** In the performance of this Agreement, the City, acting through the duly-authorized employees and agents of the Wheat Ridge PD, shall:

3.1 Perform all work necessary to install the Emergency Siren at the Station at the Proposed Signal Relocation site, located near the intersection of the southern lot line of the Station property and Upham Street, and as more particularly illustrated on the attached **Exhibit B** attached hereto and incorporated herein by this reference.

3.2 Maintain the Emergency Siren at all times in good repair.

3.3 Operate the Emergency Siren in compliance with all applicable laws, rules and regulations, and in such a manner as not to interfere with the District’s use of the Station for its public safety purposes.

3.4 Not interfere with the District’s business, operations, or services at the Station.

4.0 DISTRICT OBLIGATIONS. In the performance of this Agreement , the District shall:

4.1. Grant the City an exclusive, revocable license to locate and maintain the Emergency Siren on the Station (“License”).

4.2 Provide Wheat Ridge PD with access to the Emergency Siren and other Station areas necessary to perform its obligations under this Agreement upon reasonable notice. Reasonable notice shall mean at least three (3) business days. In the event access to the Emergency Siren is required sooner by emergency circumstances, Wheat Ridge PD shall use its best efforts to give the District as much notice as possible and the District shall use its best efforts to give Wheat Ridge PD access as quickly as possible.

4.3. Notify Wheat Ridge PD of any known damage to the Emergency Siren or other known condition upon or around the Station that could affect the Emergency Siren’s functionality. The District is under no obligation to inspect the Emergency Siren or to otherwise actively undertake any investigation or evaluation of its functionality.

5.0 **TERM.** This Agreement and the License granted hereby shall be for an initial term of ten (10) years unless earlier terminated as provided herein. This Agreement and the License may be renewed for any number of subsequent five (5) year terms upon written agreement executed by both Parties.

6.0 **TERMINATION.** Either Party may terminate this Agreement and the License, with or without cause, upon sixty (60) days written notice to the other Party. In the event of termination, District shall provide Wheat Ridge PD with reasonable access to the Station to remove the Emergency Siren.

9.0 MISCELLANEOUS.

9.1 Neither Party waives the rights, limitations, and defenses of the Colorado Governmental Immunity Act or other rights or protections as otherwise provided by law.

9.2 This Agreement may be executed by Parties with separate signature pages, each of which shall constitute an original and together which shall constitute one and the same agreement.

10.0 **NOTICE.** When notice is required by this Agreement, notice shall be deemed validly given at the time the notice is delivered in person, *received* by first class or registered mail, or transmitted by electronic mail to the following addresses:

West Metro F.P.D.
ATTN: _____
433 S. Allison Pkwy.
Lakewood , CO 80226
E-mail: _____

City of Wheat Ridge
Wheat Ridge PD
ATTN: Chief Brennan
7500 W. 29th Avenue
Wheat Ridge, CO 80033
E-mail: dbrennan@ci.wheatridge.co.us

11.0 **PARAGRAPH CAPTIONS.** The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit or describe the scope or intent of this Agreement or the License.

12.0 **INTEGRATION AND AMENDMENT.** This Agreement represents the entire agreement between the Parties with regards 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 the Parties. 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.

13.0 **GOVERNING LAW.** This Agreement shall be governed by the laws of the State of Colorado without regard to its conflicts of law principles.

14.0 **RESPONSIBILITY.** Each Party shall remain responsible for the acts and omissions of its own officials, employees and agents and shall not be responsible for the acts or omissions of the officials, employees or agents of the other Parties.

15.0 **NON-APPROPRIATION/TABOR.** The Parties understand and acknowledge that the City and the District are subject to Article X, § 20 of the Colorado Constitution ("TABOR"). The Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, any payment obligation of either Party is expressly dependent and conditioned upon the continuing availability of funds beyond the term of the current fiscal period ending upon the next succeeding December 31. Financial obligations payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of the District or the City, as applicable, and other applicable law. Notwithstanding any other provision of this Agreement concerning termination, upon either Party's failure to appropriate such funds, this Agreement shall automatically terminate.

16.0 **INSURANCE.** Each Party shall maintain insurance or self-insurance sufficiently adequate to protect such Party from any liability arising from or relating to such Party's obligations under this Agreement. Wheat Ridge PD is responsible for procuring and maintaining insurance covering the Emergency Siren; District is responsible for procuring and maintaining insurance covering the Station. Each Party shall maintain insurance adequate to cover all activities of its employees and agents in connection with this Agreement. Each Party shall be responsible for its own acts and omissions and the acts and omissions of its respective employees and agents.

17.0 **RELATIONSHIP OF THE PARTIES.** Each Party is an independent contractor, and this Agreement and the transactions contemplated hereunder shall not create between the Parties a relationship of agency, joint venture, partnership or employment. Each Party acknowledges that the performance of its obligations under this Agreement shall not result

in any change in the employment status of such Party's employees, and such Party's employees shall remain solely the employees of such Party.

18.0 NO THIRD PARTY BENEFICIARIES. Enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other person or entity not a party to this MOU.


19.0 FURTHER ASSURANCES. The Parties shall execute any other documents and to take any other action necessary to carry out the intent of this Agreement.

The Parties have executed this Revocable License Agreement Concerning an Emergency Siren Location as of the date set forth above.

WEST METRO FIRE PROTECTION DISTRICT

_____, [title]
433 S. Allison Pkwy.
Lakewood, CO 80226

CITY OF WHEAT RIDGE



Joyce Jay, Mayor 7500 W. 29th Avenue
Wheat Ridge, CO 80033

ATTEST:



Janelle Shaver, City Clerk



EXHIBIT A

EMERGENCY SIREN SYSTEM

One (1) "Outdoor Warning Siren," manufactured by Whelen Corp., including a pole, radio, antenna, cabling, and a grounding kit.

EXHIBIT B

[ATTACH ILLUSTRATION OF SITE RELOCATION AREA – AERIAL PHOTO]



Existing Signal Location

Proposed Signal Relocation