

**AGREEMENT ON ACQUISITION OF ARROW TUNNEL PROPERTY**

Action by Consent

Action

Information

Denver Water has occupied property and operated facilities at both ends of the Arrow Tunnel near Winter Park since the 1930's, pursuant to a 1922 right-of-way from the federal government and a 1945 deed that was determined to be defective several decades later. In August 2008, the Board adopted a resolution to acquire 17 acres of Arrow Tunnel property by condemnation, quiet title action, or other appropriate legal proceeding. In July 2010, the Denver Water filed a lawsuit seeking to acquire the property by quiet title, prescriptive easement and adverse possession. Both Denver Water and the current holder of legal title to the property, Arrowhead Winter Park Investments, LLC, wanted to avoid the costs of litigation.

The parties have reached a settlement agreement under which Denver Water will pay \$246,500.00 for all of Arrowhead's interest in the 17 acres. Denver Water will support Arrowhead's efforts to exchange property with the U. S. Forest Service. If the land exchange is not successful, Denver Water will provide one crossing of the "Water Board Road" or "Forest Service Road 128-inch for vehicles and utilities. In addition, Denver Water will convey to Arrowhead a non-exclusive easement for access across the northwest corner of its property near the old Arrow Township, if access is needed for Arrowhead's development. The parties will file a stipulated motion to dismiss the quiet title lawsuit with prejudice.

The 2011 Capital Improvement Plan (CIP) (MPC 1AK0021) does not include sufficient funds to acquire the Arrow property and will require a variance.

**RECOMMENDATION:**

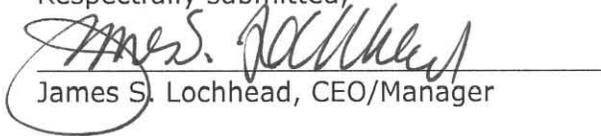
It is recommended that the Board approve the payment of \$246,500.00 to Arrowhead Winter Park Investors, LLC to acquire the property described in the settlement agreement, depicted in the attached map.

Approvals:

Respectfully submitted,



Patti Wells  
General Counsel



James S. Lochhead, CEO/Manager



Robert J. Mahoney  
Director of Engineering