

AGREEMENT ON ACQUISITION OF ARROW TUNNEL PROPERTY

 Action by Consent

 Action

 Information

Denver Water has occupied property at both ends of the Arrow Tunnel, which delivers Ranch Creek water to the Moffat Tunnel, since the 1930s, pursuant to a 1922 Federal Right-of-Way and a defective 1945 Deed. In August 2008 the Board adopted a resolution to acquire the Arrow Tunnel property by condemnation, quiet title action, or other appropriate legal proceeding. In July 2010 Denver Water filed a lawsuit seeking to acquire the property by quiet title, asserting as the basis for its claims the 1922 Federal Right-of-Way, adverse possession and prescriptive easement rights. Both Denver Water and the current holder of paper title to the property, Arrowhead Winter Park Investments, LLC (Arrowhead) 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 Arrow Tunnel property. 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" for vehicles and utilities. 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:

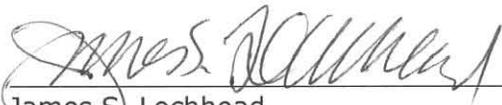
It is recommended that the Board approve the payment of \$246,500.00 to Arrowhead Winter Park Investors, LLC to acquire the property described in the settlement agreement and indicated by yellow and diagonal hatching on the attached map.

Approvals:

Respectfully submitted,



 Patricia Wells
 General Counsel



 James S. Lochhead
 CEO/Manager



 Robert J. Mahoney
 Director of Engineering