

# STATE OF COLORADO

John W. Hickenlooper, Governor  
Christopher E. Urbina, MD, MPH  
Executive Director and Chief Medical Officer

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.      Laboratory Services Division  
Denver, Colorado 80246-1530      8100 Lowry Blvd.  
Phone (303) 692-2000      Denver, Colorado 80230-6928  
Located in Glendale, Colorado      (303) 692-3090

<http://www.cdphe.state.co.us>



Colorado Department  
of Public Health  
and Environment

## Covenant Information:

**Covenant ID**      **HMCOV00108**

**Covenant Date**      2/20/2014

**Self Reporting**     

### **Media of Concern:**

**Surface Water:**     

**Ground Water:**     

**Air:**     

**Soil:**     

**Other:**     

### **Site Contact Information:**

**Owner Corp:**      Denver Parks and Recreation

**Contact Name:**      Lauri Dannemiller

**Contact Address:**      201 W Colfax Ave, Dept 601

**Contact City:**      Denver

**Contact State:**      CO

**Contact Zip:**      80202

**Contact Phone:**      720-913-0738

## **Contaminants of Concern:**

Asbestos contaminated soil, Solid waste

## **Property Restrictions:**

1: No tilling, excavation, grading, construction or any other activity that disturbs the ground surface or sub-surface is permitted unless done...

2:

3:

4:

5:

## **Site Information:**

**ID:**      N/A

**Name:**      Pavilion Area of Ruby Hill Park

**Address:**      1200 W Florida Ave

**City:**      Denver

**State:**      CO

**Zip:**      80223

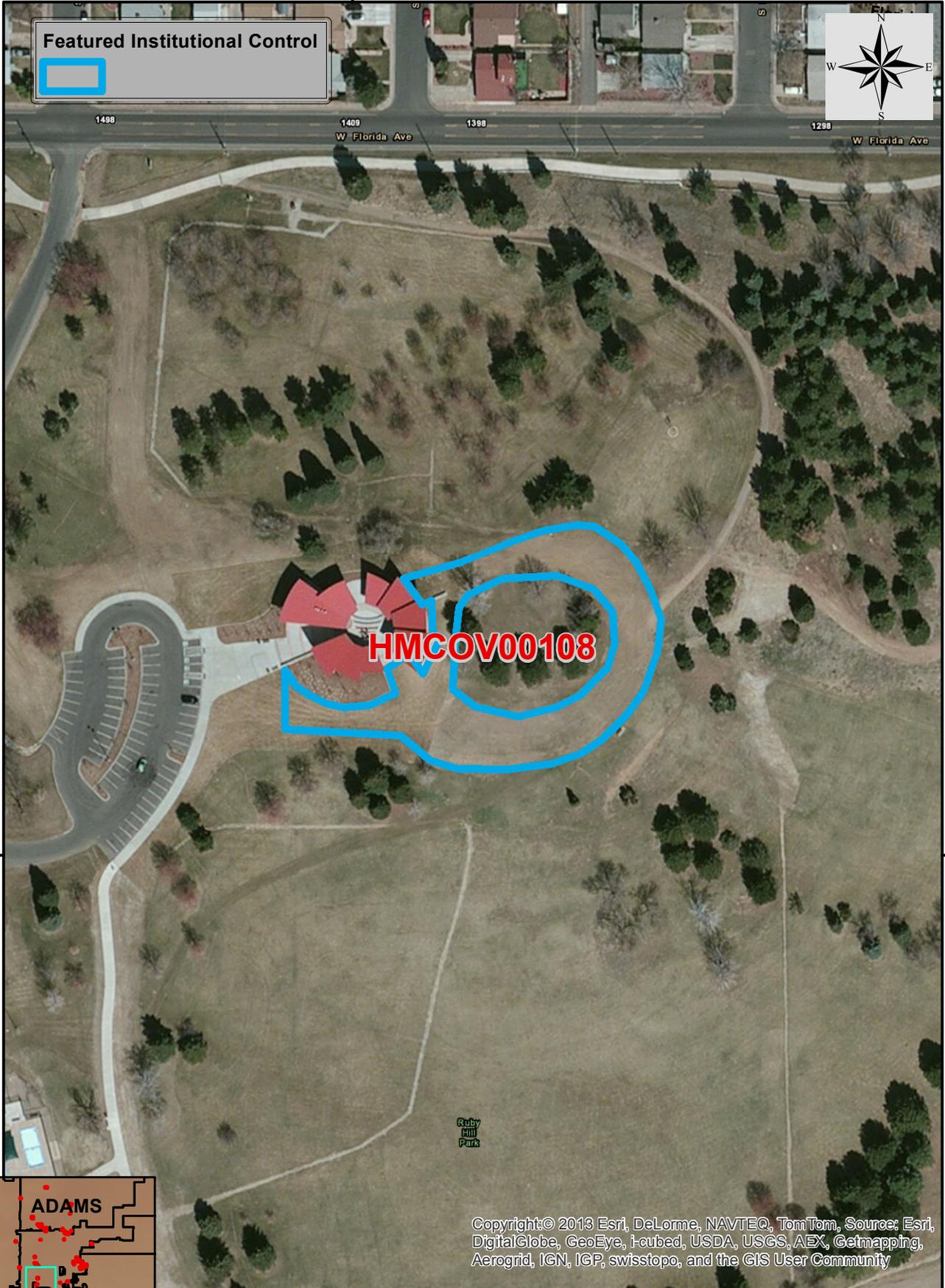
### **Legal Description:**

See Institutional Control

# RUBY HILL PARK

105°0'15"W

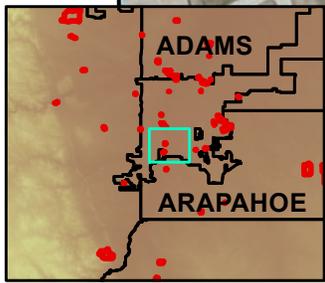
Featured Institutional Control  

**HMC OV00108**

39°41'15"N

39°41'15"N



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105°0'15"W

## HMC OV00108





**This property is subject to an Environmental Covenant held by the Colorado Department of Public Health and Environment pursuant to section 25-15-321, C.R.S.**

**ENVIRONMENTAL COVENANT**  
**(Pavilion Area of the Ruby Hill Park, City and County of Denver)**

The City and County of Denver ("Denver") grants an Environmental Covenant ("Covenant") this 20<sup>th</sup> day of February, 2014 to the Hazardous Materials and Waste Management Division of the Colorado Department of Public Health and the Environment ("the Department") pursuant to C.R.S. § 25-15-321 of the Colorado Hazardous Waste Act, C.R.S. § 25-15-101, *et seq.* The Department's address is 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530.

WHEREAS, Denver is the owner of certain property commonly referred to as Ruby Hill Park, located at 1200 W. Florida Avenue in Denver, Colorado, more particularly described in **Attachment A**, attached hereto and incorporated herein by reference as though fully set forth (hereinafter referred to as "Ruby Hill Park"); and

WHEREAS, Ruby Hill Park has been designated a "park" under Section 2.4.5 of the Charter of the City and County of Denver ("Charter") which provides in pertinent part that: "Without the approval of a majority of those registered electors voting in an election held by the City and County of Denver, no park or portion of any park belonging to the City as of December 31, 1955, shall be sold or leased at any time, and no land acquired by the City after December 31, 1955, that is designated a park by ordinance shall be sold or leased at any time, provided, however, that property in parks may be leased for park purposes to concessionaires, to charitable or nonprofit organizations, or to governmental jurisdictions."

WHEREAS, pursuant to Compliance Order on Consent No. 13-00-00-01, certain portions of Ruby Hill Park are the subject of enforcement and remedial action pursuant to the Solid Waste Disposal Sites and Facilities Act, C.R.S. § 30-20-100.5, *et seq.*; and

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by establishing use restrictions on that portion of Ruby Hill Park where asbestos contaminated soil ("ACS"), suspect ACS, asbestos containing material ("ACM"), or suspect ACM was reused as fill material during the Ruby Hill Park Phase I construction project (hereinafter referred to as the "ACS reuse area"). The location of the ACS reuse area within Ruby Hill Park (hereinafter referred to as "the Property", also known as the Pavilion Area) is more particularly described in **Attachment B**, attached hereto and incorporated herein by reference as though fully set forth, listing the Decimal Degrees North American Datum 83.

WHEREAS, Denver desires to subject the Property to certain covenants and restrictions as provided in Article 15 of Title 25, Colorado Revised Statutes, which covenants and restrictions shall burden the Property and bind Denver and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and any persons using the land, as described herein, for the benefit of the Department and OWNER.

NOW, THEREFORE, Denver hereby grants this Environmental Covenant to the Department, and declares that the Property as described in Attachment B shall hereinafter be bound by, held, sold, and conveyed subject to the following requirements set forth in paragraphs 1 through 11 below, which shall run with the Property in perpetuity and be binding on Denver and all parties now or subsequently having any right, title or interest in the Property, or any part thereof, and as described herein. Any persons using the Property shall comply with the use restrictions described below and contained in Denver's Department of Parks and Recreation Facility Use Permit Application and Park Use Rules and Regulations Part III, section 4.0. As used in this Environmental Covenant, the term OWNER means the then current record owner of the Property and, if any, any other person or entity otherwise legally authorized to make decisions regarding the transfer of the Property or placement of encumbrances on the Property, other than by the exercise of eminent domain.

- 1) Use restrictions. The Property will continue to be used as a public park, unless a different use is allowed in accordance with the Charter. No tilling, excavation, grading, construction, or any other activity that disturbs the ground surface or sub-surface is permitted on the Property unless done in accordance with an approved Asbestos-Contaminated Soil Management Plan or Standard Operating Procedure, or standard requirements of the Colorado Regulations pertaining to management of asbestos-contaminated soil, 6 C.C.R. 1007-2 § 5.5.
- 2) Modifications. This Covenant runs with the land and is perpetual, unless modified or terminated pursuant to this paragraph. OWNER may request that the Department approve a modification or termination of the Covenant. The request shall contain information showing that the proposed modification or termination shall, if implemented, ensure protection of human health and the environment. The Department shall review any submitted information, and may request additional information. If the Department determines that the proposal to modify or terminate the Covenant will ensure protection of human health and the environment, it shall approve the proposal. No modification or termination of this Covenant shall be effective unless the Department has approved such modification or termination in writing. Information to support a request for modification or termination may include one or more of the following:
  - a) a proposal to perform additional remedial work;
  - b) new information regarding the risks posed by the residual contamination;
  - c) information demonstrating that residual contamination has diminished;
  - d) information demonstrating that an engineered feature or structure is no longer necessary;
  - e) information demonstrating that the proposed modification would not adversely impact the remedy and is protective of human health and the environment; and
  - f) other appropriate supporting information.

- 3) Conveyances. OWNER shall notify the Department at least fifteen (15) days in advance of the closing on any proposed sale or other conveyance of an ownership or leasehold interest in any or all of the Property.
- 4) Notice to Lessees. OWNER agrees to incorporate either in full or by reference the restrictions of this Covenant in any leases, licenses, or other instruments granting a right to use the Property. Recreation Facility Use Permits issued by Denver's Department of Parks and Recreation are excepted from this requirement so long as the Permits recite that it is unlawful for any person, other than authorized personnel, to injure, damage, or deface trees, shrubs, plants, turf or any of the buildings, fence, bridges, monuments, fountains, backstops, dugouts, goal posts or other structures or property within the Pavilion Area.
- 5) Notification for proposed construction and land use. OWNER shall notify the Department simultaneously when submitting any application to a local government for a building permit or when proposing to schedule an election concerning a change in land use of the Property.
- 6) Inspections. The Department shall have the right of entry to the Property at reasonable times with prior notice for the purpose of determining compliance with the terms of this Covenant. Nothing in this Covenant shall impair any other authority the Department may otherwise have to enter and inspect the Property.
- 7) Third Party Beneficiary. The OWNER of the Property is a third party beneficiary with the right to enforce the provisions of this Covenant as provided in C.R.S. § 25-15-322.
- 8) No Liability. The Department does not acquire any liability under State law by virtue of accepting this Covenant.
- 9) Enforcement. The Department may enforce the terms of this Covenant pursuant to C.R.S. § 25-15-322. Denver may file suit in district court to enjoin actual or threatened violations of this Covenant.
- 10) Owner's Compliance Certification. OWNER shall execute and return a certification form provided by the Department, on an annual basis, detailing OWNER's compliance, and any lack of compliance, with the terms of this Covenant.
- 11) Notices. Any document or communication required under this Covenant shall be sent or directed to:

Brian Long, Environmental Protection Specialist  
Hazardous Materials and Waste Management Division  
Colorado Department of Public Health and the Environment  
4300 Cherry Creek Drive South  
Denver, Colorado 80246-1530

Attachment A – Legal Description of Ruby Hill Park

Attachment B – Legal Description of the Property a/k/a the Pavilion Area of Ruby Hill Park



Accepted by the Colorado Department of Public Health and Environment this 21<sup>st</sup> day of

April, 2014

By: Gary W. Baugman

Title: Director, HHS/MD

STATE OF COLORADO )  
 ) ss:  
COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 21 day of APRIL,  
2014

by GARY W BAUGMAN on behalf of the Colorado Department of Public Health and Environment.

Claudette M. Ferris  
Notary Public

4300 Cherry Creek Dr S  
Address

Denver, CO 80246

My commission expires: October 21, 2015

## Ruby Hill Park

### Legal Description

A parcel of land being Blocks 17 through 32, inclusive, MANCHESTER HEIGHTS, together with those vacated Streets, Avenues and Alleys as described in Ordinance No. 262, Series of 1966, recorded June 10, 1966 in Book 9609 at Page 456, and together with those vacated Alleys and Streets as described in Ordinance No. 500, Series of 1966, recorded November 29, 1966 in Book 9672 at Page 457, except that portion of Block 29 described in deed to the Colorado and Southern Railway Company recorded January 4, 1910 in Book 2087 at Page 106, together with a portion of the parcel of land described in deed to the City and County of Denver dated February 28, 1919 and recorded February 10, 1919 in Book 2548 at Page 236 of the City and County of Denver records which lies west of the right-of-way of the Colorado and Southern Railroad (currently BNSF Railroad), south of West Florida Avenue, situated in the Southeast Quarter of Section 21, Township 4 South, Range 68 West, of the 6<sup>th</sup> Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Commencing at the Center Quarter Section corner of said Section 21, whence the South Quarter corner of said Section 21 bears  $S00^{\circ}02'57''W$ ; Thence  $S44^{\circ}48'57''E$ , a distance of 42.53 feet to the northwest corner of Block 17 Manchester Heights, a subdivision recorded October 22, 1891 in the Arapahoe County records, and the Point of Beginning;

Thence  $S89^{\circ}22'29''E$ , along the south line of West Florida Avenue, a distance of 1291.42 feet to the northeast corner of the portion of vacated South Lipan Street lying within said Manchester Heights; Thence  $S89^{\circ}22'29''E$ , continuing along said line extended, a distance of 165.50 feet to the west line of the BNSF Railroad (formerly Colorado and Southern Railroad) right-of-way line; Thence along said west line the following eight (8) courses:

1.  $S02^{\circ}43'40''E$ , a distance of 449.15 feet to a point of curvature;
2. Along the arc of said curve to the right having a central angle of  $13^{\circ}00'00''$ , a radius of 1382.39 feet, and an arc length of 313.65 feet (chord bears  $S03^{\circ}46'20''W$ , 312.98 feet) to a point of compound curvature;
3. Along the arc of said compound curve to the right having a central angle of  $06^{\circ}00'00''$ , a radius of 1859.86 feet, and an arc length of 194.76 feet (chord bears  $S13^{\circ}16'20''W$ , 194.68 feet) to a point of reverse curvature;
4. Along the arc of said reverse curve to the left having a central angle of  $13^{\circ}30'00''$ , a radius of 1959.86 feet, and an arc length of 461.78 feet (chord bears  $S09^{\circ}31'20''W$ , 460.71 feet) to a point of reverse curvature;
5. Along the arc of said reverse curve to the right having a central angle of  $10^{\circ}30'00''$ , a radius of 1859.86 feet, and an arc length of 340.84 feet (chord bears  $S08^{\circ}01'20''W$ , 340.36 feet);
6.  $S13^{\circ}16'20''W$ , a distance of 20.32 feet;
7.  $S00^{\circ}13'16''W$ , a distance of 75.66 feet;
8.  $S13^{\circ}50'20''W$ , a distance of 755.21 feet to the north right-of-way line of West Jewell Avenue;

Thence N89°28'30"W, along said north line, a distance of 1105.86 feet to the east right-of-way line of South Pecos Street; Thence N00°02'57"E, along said east line, a distance of 1258.16 feet to the south right-of-way line of West Mexico Avenue; Thence along the south, east and north lines of said West Mexico Avenue the following three (3) courses:

1. S89°39'18"E, a distance of 128.93 feet;
2. N00°04'17"E, a distance of 60.00 feet;
3. N89°39'18"W, a distance of 128.95 feet to the east right-of-way line of said South Pecos Street;

Thence N00°02'57"E, along said east line, a distance of 1258.14 feet to the Point of Beginning.

**Ruby Hill Park**  
Soil Re-Use Area

**Legal Description**

A parcel of land lying in the Southeast Quarter of Section 21, Township 4 South, Range 68 West, of the 6<sup>th</sup> Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

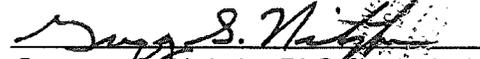
Commencing at the Center Quarter Section corner of said Section 21, from which the South Quarter corner of said Section 21 bears S00°02'57"W; Thence S42°25'38"E, a distance of 797.11 feet to the Point of Beginning; Thence N00°00'00"E, a distance of 58.00 feet; Thence S34°28'11"E, a distance of 19.00 feet; Thence S56°00'44"E, a distance of 16.00 feet; Thence S64°39'40"E, a distance of 19.00 feet; Thence S78°03'35"E, a distance of 16.00 feet; Thence N86°03'22"E, a distance of 26.00 feet; Thence N64°48'22"E, a distance of 28.00 feet; Thence N20°09'50"W, a distance of 26.00 feet; Thence N52°58'00"E, a distance of 20.00 feet; Thence S48°45'40"E, a distance of 26.00 feet; Thence N25°24'54"E, a distance of 40.00 feet; Thence N79°07'05"W, a distance of 8.00 feet; Thence N02°48'26"W, a distance of 34.00 feet; Thence S66°06'18"W, a distance of 10.00 feet; Thence N35°44'40"W, a distance of 31.00 feet; Thence N73°31'56"E, a distance of 58.00 feet; Thence N67°05'49"E, a distance of 55.00 feet; Thence N70°01'23"E, a distance of 32.00 feet; Thence N80°16'32"E, a distance of 32.00 feet; Thence S86°11'14"E, a distance of 18.00 feet; Thence S56°28'22"E, a distance of 31.00 feet; Thence S39°37'12"E, a distance of 23.00 feet; Thence S27°49'06"E, a distance of 31.00 feet; Thence S20°22'04"E, a distance of 31.00 feet; Thence S05°36'04"W, a distance of 31.00 feet; Thence S19°44'35"W, a distance of 42.00 feet; Thence S34°47'12"W, a distance of 26.00 feet; Thence S43°33'33"W, a distance of 34.00 feet; Thence S55°34'12"W, a distance of 26.00 feet; Thence S70°30'13"W, a distance of 31.00 feet; Thence S82°29'10"W, a distance of 44.00 feet; Thence N89°17'50"W, a distance of 49.00 feet; Thence N72°59'51"W, a distance of 27.00 feet; Thence N50°16'05"W, a distance of 38.00 feet; Thence N87°26'33"W, a distance of 113.00 feet to the Point of Beginning.

**Except the following parcel:**

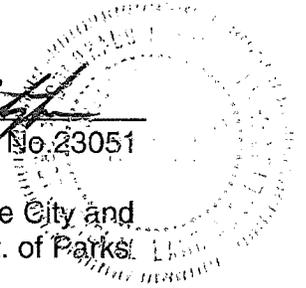
A parcel of land lying in the Southeast Quarter of Section 21, Township 4 South, Range 68 West, of the 6<sup>th</sup> Principal Meridian, City and County of Denver, State of Colorado, more particularly described as follows:

Commencing at the Center Quarter Section corner of said Section 21, from which the South Quarter corner of said Section 21 bears S00°02'57"W; Thence S52°00'50"E, a distance of 890.10 feet to the Point of Beginning;

Thence N02°26'42"E, a distance of 50.00 feet; Thence N06°20'32"E, a distance of 30.00 feet; Thence N37°06'07"E, a distance of 15.00 feet; Thence N63°51'38"E, a distance of 37.00 feet; Thence N87°05'24"E, a distance of 53.00 feet; Thence S70°59'42"E, a distance of 38.00 feet; Thence S41°15'03"E, a distance of 29.00 feet; Thence S03°24'03"E, a distance of 31.00 feet; Thence S15°15'36"W, a distance of 25.00 feet; Thence S45°18'46"W, a distance of 39.00 feet; Thence S62°49'36"W, a distance of 25.00 feet; Thence S76°11'22"W, a distance of 38.00 feet; Thence N77°37'38"W, a distance of 43.00 feet; Thence N52°03'22"W, a distance of 28.00 feet to the Point of Beginning.

  
Gregory S. Neitzke PLS No 23051  
2/14/13

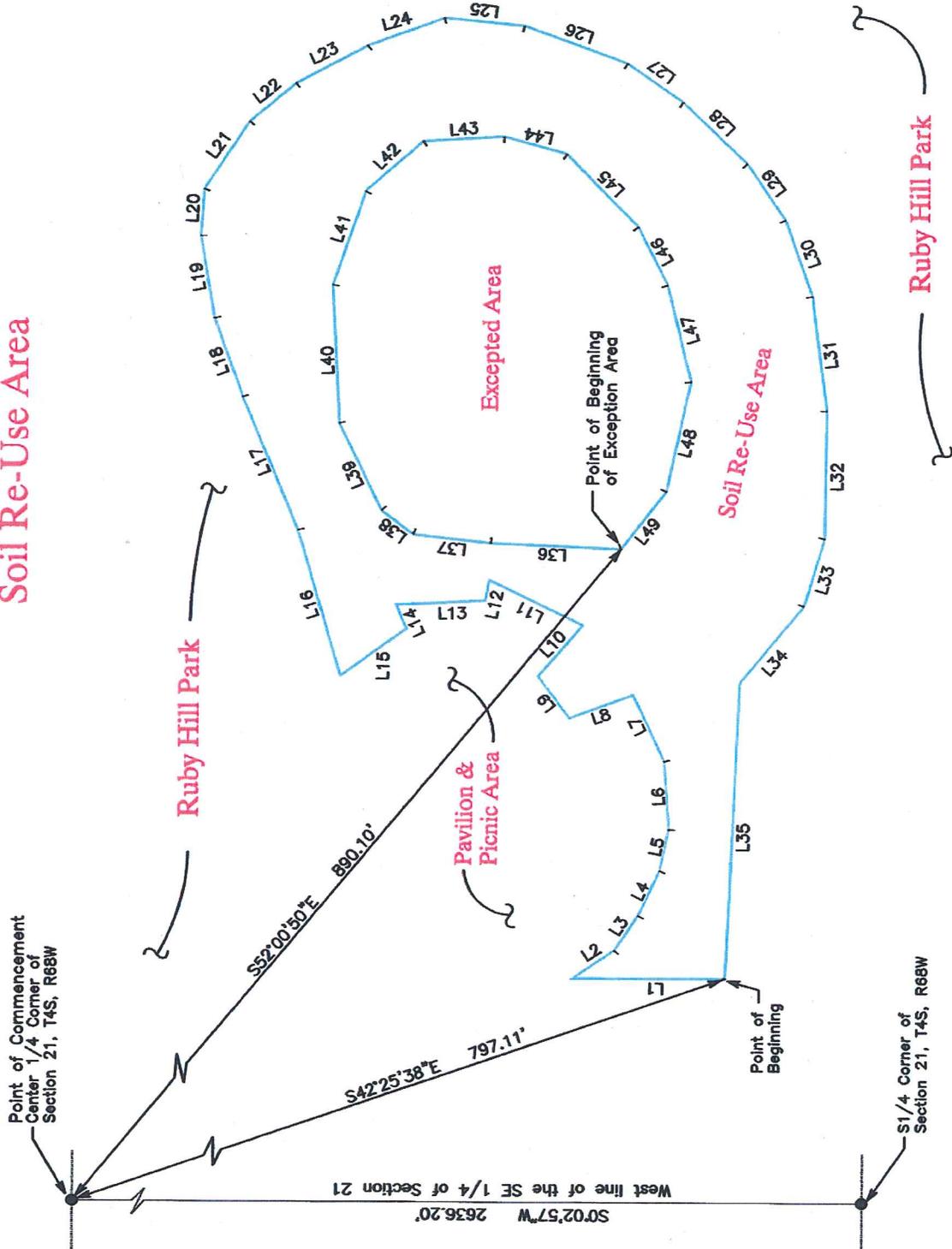
For and on behalf of the City and  
County of Denver Dept. of Parks  
and Recreation



Line Table

Line	Bearing	Distance
L1	N0°00'00"E	58.00'
L2	S34°28'11"E	19.00'
L3	S56°00'44"E	16.00'
L4	S64°39'40"E	19.00'
L5	S78°03'35"E	16.00'
L6	N86°03'22"E	26.00'
L7	N64°48'22"E	28.00'
L8	N20°09'50"W	26.00'
L9	N52°58'00"E	20.00'
L10	S48°45'40"E	26.00'
L11	N25°24'54"E	40.00'
L12	N79°07'05"W	8.00'
L13	N2°48'26"W	34.00'
L14	S66°06'18"W	10.00'
L15	N35°44'40"W	31.00'
L16	N73°31'56"E	58.00'
L17	N67°05'49"E	55.00'
L18	N70°01'23"E	32.00'
L19	N80°16'32"E	32.00'
L20	S86°11'14"E	18.00'
L21	S56°28'22"E	31.00'
L22	S39°37'12"E	23.00'
L23	S27°49'06"E	31.00'
L24	S20°22'04"E	31.00'
L25	S5°36'04"W	31.00'
L26	S19°44'35"W	42.00'
L27	S34°47'12"W	26.00'
L28	S43°33'33"W	34.00'
L29	S55°34'12"W	26.00'
L30	S70°30'13"W	31.00'
L31	S82°29'10"W	44.00'
L32	N89°17'50"W	49.00'
L33	N72°59'51"W	27.00'
L34	N50°16'05"W	38.00'
L35	N87°26'33"W	113.00'
L36	N2°26'42"E	50.00'
L37	N6°20'32"E	30.00'
L38	N37°06'07"E	15.00'
L39	N63°51'38"E	37.00'
L40	N87°05'24"E	53.00'
L41	S70°59'42"E	38.00'
L42	S41°15'03"E	29.00'
L43	S3°24'03"E	31.00'
L44	S15°15'36"W	25.00'
L45	S45°18'46"W	39.00'
L46	S62°49'36"W	25.00'
L47	S76°11'22"W	38.00'
L48	N77°37'38"W	43.00'
L49	N52°03'22"W	28.00'

**RUBY HILL PARK**  
Soil Re-Use Area



DRAWN BY: Gregory S. Neitzke PLS  
 DATE: February 14, 2013  
 PLOTTED: February 14, 2013



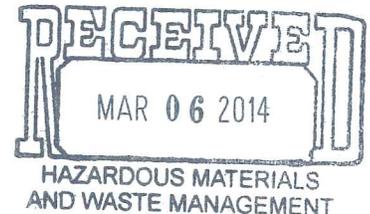


**Department of Law**  
**D. Scott Martinez, City Attorney**  
Municipal Operations Section

201 W Colfax Ave, Dept 1207  
Denver, CO 80202-5332  
p: 720.913.3275  
f: 720.913.3180  
[www.denvergov.org/city\\_attorney](http://www.denvergov.org/city_attorney)

March 5, 2014

Charles G. Johnson, Program Manager  
Solid Waste and Materials Management Program  
Hazardous Materials and Waste Management Division  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Dr. S.  
Denver, CO 80246-1530



Dear Mr. Johnson:

Enclosed are (2) two originals of the Environmental Covenant (Pavilion Area of the Ruby Hill Park, City and County of Denver) signed by the City and County of Denver.

Please have the Colorado Department of Public Health and Environment (CDPHE) sign and notarize the (2) two originals of the Environmental Covenant and send (1) one of the executed Environmental Covenant back to our agency.

If you have any questions please call.  
Thank you

Esther Vargas  
Legal Secretary for  
Jessica R. Brody, Esq.