

RESOLUTION NO. 139 - 22

A RESOLUTION AUTHORIZING THE USE OF EMINENT DOMAIN TO ACQUIRE TWO PERMANENT EASEMENTS ON PROPERTIES OWNED BY YOUNT GST IRREVOCABLE TRUST F/B/O LISA GAIL YOUNT U/A/D JULY 1, 2007, A NORTH CAROLINA TRUST NEEDED FOR THE HOMESTAKE WATER PROJECT

WHEREAS, the City of Colorado Springs ("City"), by and through its enterprise Colorado Springs Utilities ("Utilities"), currently provides utility systems, including water distribution systems, as authorized by Article 1, Section 1-20 of the Charter of the City of Colorado Springs; and

WHEREAS, pursuant to the provisions of Article XX, Section 1 of the Colorado Constitution and the City Charter, the City is empowered to acquire property interests within or without its territorial limits through institution of eminent domain proceedings, for all interests necessary for the City, including the interests of Utilities; and

WHEREAS, Yount GST Irrevocable Trust F/B/O Lisa Gail Yount u/a/d July 1, 2007, a North Carolina Trust ("Property Owner") is the fee owner of the real property in Chaffee County, with the address of 41200 N. Highway 24 and 62 Pt. Arkansas River Placer MC and also known as Chaffee County Tax Schedule Numbers 300909300826 and 300917100828 (the "Properties"); and

WHEREAS, as part of the Homestake Water Project (the "Project"), Utilities must repair and replace a water main that cross the Properties; and

WHEREAS, the Project, to repair and replace the water main in place, and the right to conduct ongoing maintenance on the water main are essential for the public health, safety and welfare of the City, which is a valid and necessary public purpose; and

WHEREAS, in order to complete the Project the City must acquire two permanent utility easements that will encumber the Properties and which are further described and depicted on Exhibit 1 and Exhibit 2 attached hereto (the "Permanent Easements"); and

WHEREAS, despite attempts to negotiate the acquisition of the Permanent Easements with the Property Owner, Utilities has been unable to reach an agreement for the acquisition of the Permanent Easements; and

WHEREAS, negotiations with the Property Owner have reached an impasse and Utilities has an imminent need to acquire the Permanent Easements in order to allow the work on the water main to avoid a failure due to age, which could have a significant adverse impact on the Properties, the surrounding properties, ratepayers, Utilities, and the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. City Council hereby finds it to be in the interest of the public health, safety, and welfare, and that the City has a need to, and it is necessary to, acquire the Permanent Easements from the Property Owner for the public purpose of constructing and maintaining the Project.

Section 2. The City Attorney is hereby authorized to take all action necessary to acquire the Permanent Easements and to seek immediate relief by a voluntary Possession and Use Agreement, eminent domain, or other appropriate proceedings.

Section 3. This Resolution shall be in full force and effect immediately upon its adoption.

DATED at Colorado Springs, Colorado, this 27th day of September 2022.

ATTEST:


Sarah B. Johnson, City Clerk



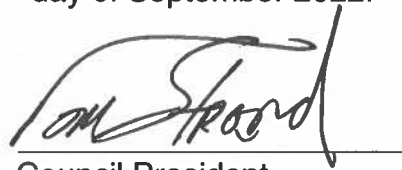
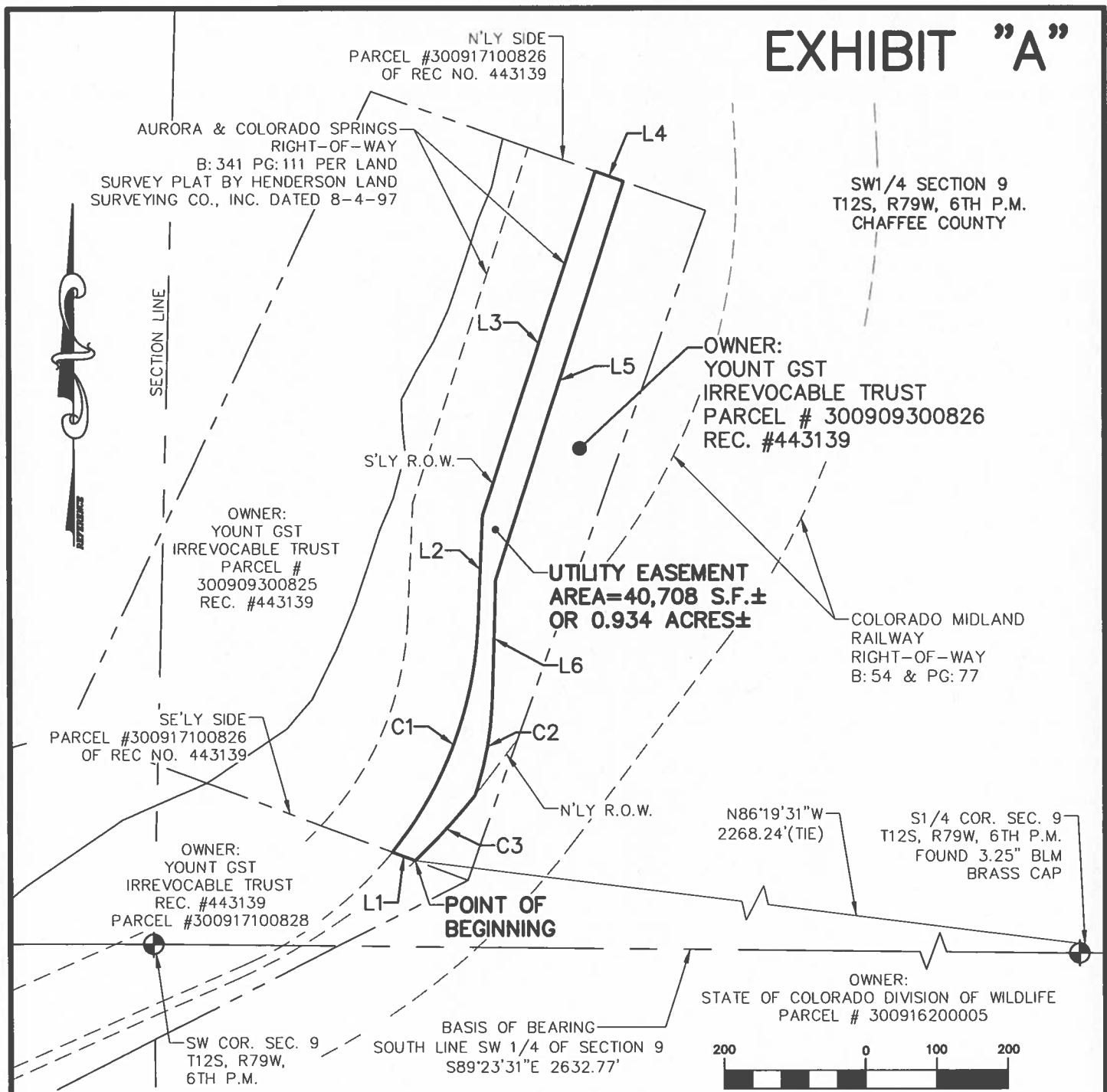

Council President

Exhibit 1
Description of Property

EXHIBIT "A"



- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
- 2.) ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS AFTER THE DATE OF THE CERTIFICATION SHOWN HEREON.
- 3.) THE ONLY PURPOSE OF THIS EXHIBIT IS TO SHOW THE LOCATION OF THE EASEMENT(S).
- 4.) THIS DOCUMENT SHALL BE CONSIDERED NULL AND VOID IF IT DOES NOT BEAR THE ORIGINAL SIGNATURE AND SEAL OF THE PROFESSIONAL LAND SURVEYOR OR IF ALTERED IN ANY WAY.

PRECISION SURVEY & MAPPING
PROFESSIONAL LAND SURVEYING CONSULTANTS

9025 E. Kenyon Ave., Suite 150, Denver, CO 80237
Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: M.C.
CHKD. BY: J.L.
DATE: 05/10/21
SCALE: 1" = 200'

FILE: R13125
SHEET: 1 OF 3
W/O #: _____

UTILITY EASEMENT

LINE TABLES

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	N69°33'58"W	34.17
L2	N02°31'15"E	152.43
L3	N18°10'53"E	511.56
L4	S70°20'04"E	42.18
L5	S17°51'06"W	590.87
L6	S01°40'23"W	164.84

CURVE TABLE					
CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	350.36	550.00	36°29'56"	N20°46'13"E	344.47
C2	141.54	451.13	17°58'32"	S10°05'53"W	140.96
C3	125.83	904.93	7°58'01"	S42°51'38"W	125.73

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN SOUTHWEST QUARTER OF SECTION 9, TOWNSHIP 12 SOUTH, RANGE 79 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF CHAFFEE, STATE OF COLORADO, ALSO BEING A PORTION OF LANDS DESCRIBED AT RECEPTION NO. 443139, FILED IN THE CHAFFEE COUNTY CLERK AND RECORDER'S OFFICE, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

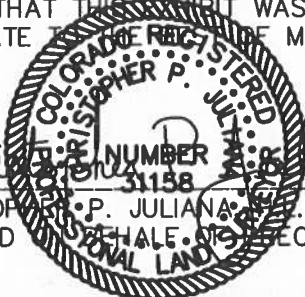
BASIS OF BEARING OF THIS DESCRIPTION IS ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 9, ASSUMED TO BEAR S89°23'31"E A DISTANCE OF 2632.77 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 9 TO A 3.5" BLM BRASS CAP FOUND AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

BEGINNING AT A POINT ON THE SOUTHEASTERLY SIDE OF PARCEL NO. 300917100826 OF SAID RECEPTION NO. 443139, SAID POINT BEARS N86°19'31"W A DISTANCE OF 2268.24 FEET FROM SAID SOUTH QUARTER CORNER OF SECTION 9;

THENCE N69°33'58"W ALONG SAID SOUTHEASTERLY SIDE A DISTANCE OF 34.17 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF AURORA & COLORADO SPRINGS PER BOOK 341 PAGE 111 OF SAID CLERK AND RECORDER'S OFFICE THE FOLLOWING THREE (3) COURSES; (1) THENCE ALONG A NON-TANGENT CURVE TO THE LEFT AN ARC LENGTH OF 350.36 FEET, HAVING A RADIUS OF 550.00 FEET, THROUGH A CENTRAL ANGLE OF 36°29'56" AND A CHORD WHICH BEARS N20°46'13"E A DISTANCE OF 344.47 FEET; (2) THENCE N02°31'15"E A DISTANCE OF 152.43 FEET; (3) THENCE N18°10'53"E A DISTANCE OF 511.56 FEET TO THE NORTHERLY SIDE OF PARCEL NO. 300917100826 OF SAID RECEPTION NO. 443139; THENCE S70°20'04"E ALONG SAID NORTHERLY SIDE A DISTANCE OF 42.18 FEET; THENCE S17°51'06"W A DISTANCE OF 590.87 FEET; THENCE S01°40'23"W A DISTANCE OF 164.84 FEET; THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT AN ARC LENGTH OF 141.54 FEET, HAVING A RADIUS OF 451.13 FEET, THROUGH A CENTRAL ANGLE OF 17°58'32" AND A CHORD WHICH BEARS S10°05'53"W A DISTANCE OF 140.96 FEET TO THE NORTHERLY RIGHT-OF-WAY OF COLORADO MIDLAND RAILWAY PER BOOK 54 PAGE 77 OF SAID CLERK AND RECORDER'S OFFICE; THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY A NON-TANGENT CURVE TO THE RIGHT AN ARC LENGTH OF 125.83 FEET, HAVING A RADIUS OF 904.93 FEET, THROUGH A CENTRAL ANGLE OF 07°58'01" AND A CHORD WHICH BEARS S42°51'38"W A DISTANCE OF 125.73 FEET TO THE POINT OF BEGINNING; WHENCE SAID SOUTHWEST CORNER BEARS S72°20'49"W A DISTANCE OF 387.27 FEET.

SAID PARCEL CONTAINS 40,708 SQUARE FEET OF LAND OR 0.934 ACRES, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS INSTRUMENT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.



Christopher P. Juliana 05/10/21
CHRISTOPHER P. JULIANA, S. 31158 DATE
FOR AND BY: CHAFFEE COUNTY PRECISION SURVEY & MAPPING, INC.

 PRECISION SURVEY & MAPPING
PROFESSIONAL LAND SURVEYING CONSULTANTS

9025 E. Kenyon Ave., Suite 150, Denver, CO 80237
Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: M.C.
CHKD. BY: J.L.
DATE: 05/10/21
SCALE: 1" = 200'

FILE: R13125
SHEET: 3 OF 3
W/O #:

UTILITY EASEMENT

Exhibit 2
Description of Property

EXHIBIT "A"

SE1/4 SECTION 8
T12S, R79W, 6TH P.M.
CHAFFEE COUNTY

OWNER:
YOUNT GST
IRREVOCABLE TRUST
PARCEL #
300909300825
REC. #443139

SW1/4 SECTION 9
T12S, R79W, 6TH P.M.
CHAFFEE COUNTY

NE'LY SIDE
PARCEL #300917100828
OF REC NO. 443139

POINT OF
BEGINNING

N86°04'47"W
2300.99'(TIE)

AURORA & COLORADO SPRINGS
RIGHT-OF-WAY
B: 341 PG: 111 PER LAND
SURVEY PLAT BY HENDERSON LAND
SURVEYING CO., INC. DATED 8-4-97

SW COR. SEC. 9
T12S, R79W,
6TH P.M.

SECTION LINE

OWNER:
YOUNT GST
IRREVOCABLE TRUST
REC. #443139
PARCEL #300917100828

S'LY R.O.W.

BASIS OF BEARING
SOUTH LINE SW 1/4 OF SECTION 9
S89°23'31"E 2632.77'

COLORADO MIDLAND
RAILWAY
RIGHT-OF-WAY
B: 54 & PG: 77

S1/4 COR. SEC. 9
T12S, R79W, 6TH P.M.
FOUND 3.25" BLM
BRASS CAP

UTILITY EASEMENT
AREA=22,657 S.F.±
OR 0.520 ACRES±

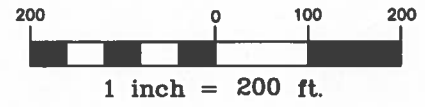
NW1/4 SECTION 16
T12S, R79W, 6TH P.M.
CHAFFEE COUNTY

OWNER:
STATE OF COLORADO DIVISION OF WILDLIFE
PARCEL # 300916200005

OWNER:
UNITED STATES BUREAU OF LAND MANAGEMENT
PARCEL # 300917100820
REC. #293893

OWNER:
D&M RESORT MINISTRY, LLC
PARCEL # 300917100827
REC. #345752

NE1/4 SECTION 17
T12S, R79W, 6TH P.M.
CHAFFEE COUNTY



- 1.) PARCEL OWNERSHIP IS BASED ON THE RECORDS OF THE COUNTY ASSESSOR.
- 2.) ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS AFTER THE DATE OF THE CERTIFICATION SHOWN HEREON.
- 3.) THE ONLY PURPOSE OF THIS EXHIBIT IS TO SHOW THE LOCATION OF THE EASEMENT(S).
- 4.) THIS DOCUMENT SHALL BE CONSIDERED NULL AND VOID IF IT DOES NOT BEAR THE ORIGINAL SIGNATURE AND SEAL OF THE PROFESSIONAL LAND SURVEYOR OR IF ALTERED IN ANY WAY.

PRECISION SURVEY & MAPPING
PROFESSIONAL LAND SURVEYING CONSULTANTS

9025 E. Kenyon Ave., Suite 150, Denver, CO 80237
Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: M.C.
CHKD. BY: J.L.
DATE: 05/10/21
SCALE: 1" = 200'

FILE: R13125
SHEET: 1 OF 3
W/O #:

UTILITY EASEMENT

LINE TABLES

LINE TABLE		
LINE #	BEARING	DISTANCE
L1	S69°33'58"E	34.17
L2	S66°12'50"W	695.00
L3	S63°09'39"W	1.21
L4	N06°02'05"E	42.13
L5	N66°20'24"E	779.07

CURVE TABLE					
CURVE #	ARC LENGTH	RADIUS	DELTA ANGLE	CHORD BEARING	CHORD LENGTH
C1	305.93	904.93	19°22'12"	S56°31'45"W	304.47
C2	311.34	622.96	28°38'05"	S51°53'48"W	308.11
C3	227.21	450.00	28°55'47"	N51°52'30"E	224.81
C4	262.26	550.00	27°19'14"	N52°40'48"E	259.78



PRECISION SURVEY & MAPPING
PROFESSIONAL LAND SURVEYING CONSULTANTS

9025 E. Kenyon Ave., Suite 150, Denver, CO 80237
Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: M.C.
CHKD. BY: J.L.
DATE: 05/10/21
SCALE: 1" = 200'

FILE: R13125
SHEET: 2 OF 3
W/O #: _____

UTILITY EASEMENT

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN SECTIONS 9, 16, AND 17, TOWNSHIP 12 SOUTH, RANGE 79 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF CHAFFEE, STATE OF COLORADO, ALSO BEING A PORTION OF LANDS DESCRIBED AT RECEPTION NO. 443139, FILED IN THE CHAFFEE COUNTY CLERK AND RECORDER'S OFFICE, SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

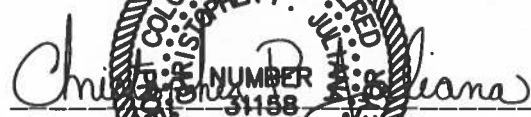
BASIS OF BEARING OF THIS DESCRIPTION IS ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 9, ASSUMED TO BEAR S89°23'31"E A DISTANCE OF 2632.77 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 9 TO A 3.5" BLM BRASS CAP FOUND AT THE SOUTH QUARTER CORNER OF SAID SECTION 9;

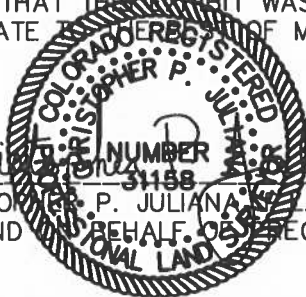
BEGINNING AT A POINT ON THE NORTHEASTERLY SIDE OF PARCEL NO. 300917100828 OF SAID RECEPTION NO. 443139, SAID POINT BEARS N86°04'47"W A DISTANCE OF 2300.99 FEET FROM SAID SOUTH QUARTER CORNER OF SAID SECTION 9;

THENCE S69°33'58"E ALONG SAID NORTHEASTERLY SIDE A DISTANCE OF 34.17 FEET TO THE NORTHERLY RIGHT-OF-WAY OF COLORADO MIDLAND RAILWAY PER BOOK 54 PAGE 77 OF SAID CLERK AND RECORDER'S OFFICE, THE FOLLOWING THREE (3) COURSES; (1) THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT AN ARC LENGTH OF 305.93 FEET, HAVING A RADIUS OF 904.93 FEET, THROUGH A CENTRAL ANGLE OF 19°22'12" AND A CHORD WHICH BEARS S56°31'45"W A DISTANCE OF 304.47 FEET; (2) THENCE S66°12'50"W A DISTANCE OF 695.00 FEET; (3) THENCE ALONG A CURVE TO THE LEFT AN ARC LENGTH OF 311.34 FEET, HAVING A RADIUS OF 622.96 FEET, THROUGH A CENTRAL ANGLE OF 28°38'05" AND A CHORD WHICH BEARS S51°53'48"W A DISTANCE OF 308.11 FEET TO THE NORTHERLY SIDE OF RECEPTION NO. 293893; THENCE S63°09'39"W ALONG THE NORTHERLY SIDE A DISTANCE OF 1.21 FEET TO THE EASTERLY SIDE OF RECEPTION NO. 345752; THENCE N06°02'05"E ALONG SAID EASTERLY SIDE A DISTANCE OF 42.13 FEET TO THE NORTHERLY RIGHT-OF-WAY OF AURORA & COLORADO SPRINGS PER BOOK 341 PAGE 111 OF SAID CLERK AND RECORDER'S OFFICE THE FOLLOWING THREE (3) COURSES; (1) THENCE ALONG A NON-TANGENT CURVE TO THE RIGHT AN ARC LENGTH OF 227.21 FEET, HAVING A RADIUS OF 450.00 FEET, THROUGH A CENTRAL ANGLE OF 28°55'47" AND A CHORD WHICH BEARS N51°52'30"E A DISTANCE OF 224.81 FEET; (2) THENCE N66°20'24"E A DISTANCE OF 779.07 FEET; (3) THENCE ALONG A CURVE TO THE LEFT AN ARC LENGTH OF 262.26 FEET, HAVING A RADIUS OF 550.00 FEET, THROUGH A CENTRAL ANGLE OF 27°19'14" AND A CHORD WHICH BEARS N52°40'48"E A DISTANCE OF 259.78 FEET TO THE POINT OF BEGINNING; WHENCE SAID SOUTHWEST CORNER BEARS S68°59'58"W A DISTANCE OF 360.99 FEET.

SAID PARCEL CONTAINS 22,657 SQUARE FEET OF LAND OR 0.520 ACRES, MORE OR LESS.

I, THE UNDERSIGNED, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THIS EXHIBIT WAS PREPARED BY ME OR UNDER MY SUPERVISION AND IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE.


CHRISTOPHER P. JULIANA, S. 31158 DATE 05/10/21
FOR AND BEHALF OF PRECISION SURVEY & MAPPING, INC.



9025 E. Kenyon Ave., Suite 150, Denver, CO 80237
Tel:(303) 753-9799 Fax:(303) 753-4044

DRN. BY: M.C.
CHKD. BY: J.L.
DATE: 05/10/21
SCALE: 1" = 200'

FILE: R13125
SHEET: 2 OF 3
W/O #:

UTILITY EASEMENT