

ORDINANCE NO. 19-17

AN ORDINANCE ANNEXING TO THE CITY OF COLORADO
SPRINGS THAT AREA KNOWN AS THE USAFA ADDITION
NO. 2 ANNEXATION CONSISTING OF 97.90 ACRES

WHEREAS, pursuant to Article II, Section 30 of the Colorado Constitution and Section 31-12-101, *et seq.*, C.R.S., known as the Municipal Annexation Act of 1965, as amended (the "Annexation Act"), persons comprising one hundred percent (100%) of the landowners and owning one hundred percent (100%) of that certain territory known as the USAFA Addition No. 2 Annexation, more specifically described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property") filed a Petition for Annexation with the City Clerk of the City of Colorado Springs; and

WHEREAS, the City Council of the City of Colorado Springs, after proper notice as required by Section 31-12-108 C.R.S., held a hearing on February 26, 2019 pertaining to the annexation of the Property in accord with Section 31-12-109; and

WHEREAS, in accord with Section 31-12-110 of the Annexation Act, the City Council determined, by resolution, that the applicable provisions of Section 30 of Article II of the Colorado Constitution and Section 31-12-104 and 105 of the Annexation Act have been met, an election is not required under Section 31-12-107(2) of the Annexation Act, and no additional terms and conditions are to be imposed on the annexation of the Property; and

WHEREAS, the City Council has determined that said area should be annexed forthwith as part of the City of Colorado Springs.

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

Section 1. The Property, known as the USAFA Addition No. 2 Annexation and more specifically described on the attached Exhibit "A", is hereby annexed to the City of Colorado Springs.


Section 2. When this annexation is complete, the Property shall become a part of the City of Colorado Springs for all intents and purposes on the effective date of this ordinance, provided that the conditions of Section 31-12-113(2) C.R.S.

are satisfied, with the exception of general taxation, in which respect said annexation shall not be effective until on or after January 1 next ensuing.

Section 3. This ordinance shall be in full force and effect from and after its passage and publication as provided by the City Charter.

Introduced, read, passed on first reading and ordered published this 26th day of February, 2019.

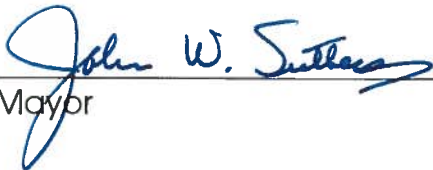
Finally passed: March 12th, 2018



Council President

Mayor's Action:

- Approved on March 15, 2019.
- Disapproved on _____, based on the following objections:



Mayor

Council Action After Disapproval:

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of _____, on _____.
- Council action on _____ failed to override the Mayor's veto.

Council President

ATTEST:




Sarah B. Johnson, City Clerk



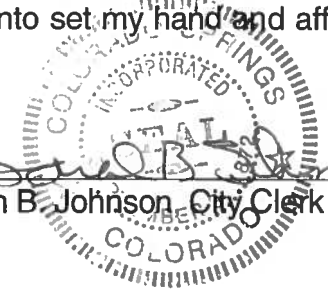
CAO: 
COS: _____

I HEREBY CERTIFY, that the foregoing ordinance entitled **“AN ORDINANCE ANNEXING TO THE CITY OF COLORADO SPRINGS THAT AREA KNOWN AS THE USAFA ADDITION NO. 2 ANNEXATION CONSISTING OF 97.90 ACRES”** was introduced and read at a regular meeting of the City Council of the City of Colorado Springs, held on February 26th, 2019; that said ordinance was finally passed at a regular meeting of the City Council of said City, held on the 12th day of March, 2019, and that the same was published by title and summary, in accordance with Section 3-80 of Article III of the Charter, in the Transcript, a newspaper published and in general circulation in said City, at least ten days before its passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City, this 15th day of March, 2019.



Sarah B. Johnson, City Clerk



1st Publication Date: March 1st, 2019
2nd Publication Date: March 20th, 2019

Effective Date: March 25th, 2019

Initial: SBJ
City Clerk

**LEGAL DESCRIPTION
(ANNEXATION PARCEL)**

A PARCEL OF LAND LOCATED IN THE SOUTH ONE-HALF OF SECTION 1 AND THE NORTH ONE-HALF OF SECTION 12, TOWNSHIP 12 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF EL PASO, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF SECTION 1, TOWNSHIP 12 SOUTH, RANGE 67 WEST BEING MONUMENTED ON THE NORTH END BY A FOUND 6 INCH CONCRETE MONUMENT EMBEDDED WITH A 3-1/2 INCH METAL DISC STAMPED WITH SYMBOLOGY INDICATING IT BEING THE NORTH ONE-QUARTER CORNER OF SECTION 1 AND "1970 U.S. AIR FORCE 6786 BDY 47" AND ON THE SOUTH END BY FOUND REBAR CAPPED WITH A 3-1/4 INCH METAL AND 6 INCH CONCRETE MONUMENT EMBEDDED WITH A BRASS DISC STAMPED WITH SYMBOLOGY INDICATING IT BEING THE CENTER OF SECTION 1 AND "U.S. DEPT. OF INTERIOR - BUREAU OF LAND MANAGEMENT 1966" - BEARING SOUTH 0°12'17" EAST A DISTANCE OF 2674.46 FEET

COMMENCE AT THE CENTER OF SAID SECTION 1; THENCE SOUTH 40°07'17" EAST A DISTANCE OF 4,501.50 FEET TO AN ANGLE POINT ON THE EXTERIOR OF THE UNITED STATES AIR FORCE ACADEMY PROPERTY BEING MONUMENTED BY A 6 INCH CONCRETE MONUMENT EMBEDDED WITH A 3-1/2 INCH METAL DISC STAMPED "1970 U.S. AIR FORCE 6786 BDY 38"; THENCE SOUTH 25°23'28" EAST, ALONG SAID THE EXTERIOR A DISTANCE OF 2,877.81 FEET; THENCE SOUTH 66°17'28" WEST A DISTANCE OF 1,184.56 FEET TO THE EASTERLY RIGHT-OF-WAY OF THE FORMER ATCHISON TOPEKA AND SANTA FE RAILROAD AS DEPICTED IN THAT CERTAIN BOUNDARY SURVEY OF THE UNITED STATES AIR FORCE ACADEMY RECORDED DECEMBER 3, 1970 IN THE OFFICE OF THE EL PASO COUNTY CLERK AND RECORDERS IN PLAT BOOK O2 PAGE 84 (RECEPTION NUMBER 768143) ALSO BEING THE WESTERLY LINE OF THAT CERTAIN EASEMENT GRANTED BY THE UNITED STATES AIR FORCE ACADEMY FOR ROAD, STREET AND HIGHWAY RECORDED AUGUST 11, 1958 IN THE OFFICE OF THE EL PASO COUNTY CLERK AND RECORDER IN BOOK 1691 PAGE 594 SAID POINT ALSO BEING THE **POINT OF BEGINNING**;

THENCE CONTINUE SOUTH 66°17'28" WEST A DISTANCE OF 300.00 FEET TO THE WESTERLY LINE OF SAID RAILROAD RIGHT OF WAY;

THENCE NORTHWESTERLY, ALONG SAID WESTERLY RIGHT-OF-WAY LINE, THE FOLLOWING SEVEN (7) COURSES;

1. THENCE NORTH 23°42'32" WEST A DISTANCE OF 336.78 FEET;
2. THENCE NORTH 66°17'28" EAST A DISTANCE OF 50.00 FEET;
3. THENCE NORTH 23°42'32" WEST A DISTANCE OF 854.90 FEET TO A TANGENT 1,810.08 FOOT RADIUS CURVE WHOSE CENTER BEARS SOUTHWESTERLY;
4. THENCE NORTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 19°00'57" AN ARC DISTANCE OF 600.75 FEET;
5. THENCE NORTH 42°43'29" WEST A DISTANCE OF 1,023.31 FEET;
6. THENCE NORTH 47°16'31" EAST A DISTANCE OF 50.00 FEET;
7. THENCE NORTH 42°43'29" WEST A DISTANCE OF 343.87 FEET TO A 80.00 RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS SOUTH 42°07'25" EAST;

THENCE SOUTHWESTERLY, ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 47°52'38" AN ARC DISTANCE OF 66.85 FEET;

LEGAL DESCRIPTION
ANNEXATION PARCEL

THENCE SOUTH 00°00'03" EAST A DISTANCE OF 140.37 FEET TO A 175.00 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS SOUTH 23°10'30" WEST;

THENCE WESTERLY, ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 83°30'14" AN ARC DISTANCE OF 255.05 FEET;

THENCE SOUTH 29°40'16" WEST A DISTANCE OF 37.92 FEET TO A TANGENT 650.00 FOOT RADIUS CURVE WHOSE CENTER BEARS SOUTH 60°19'44" EAST;

THENCE SOUTHERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 19°20'36" AN ARC DISTANCE OF 219.44 FEET;

THENCE SOUTH 10°19'41" WEST A DISTANCE OF 132.87 FEET;

THENCE SOUTH 73°39'41" WEST A DISTANCE OF 229.00 FEET TO A 400.00 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS SOUTH 42°55'43" WEST;

THENCE WESTERLY, ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 52°11'39" AN ARC DISTANCE OF 364.38 FEET;

THENCE SOUTH 80°44'03" WEST A DISTANCE OF 155.40 FEET TO A TANGENT 250.00 FOOT RADIUS CURVE WHOSE CENTER BEARS SOUTH 09°15'57" EAST;

THENCE SOUTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 55°38'16" AN ARC DISTANCE OF 242.77 FEET;

THENCE NORTH 84°11'55" WEST A DISTANCE OF 248.27 FEET TO A 190.00 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 61°24'42" WEST;

THENCE NORTHWESTERLY, ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 104°37'40" AN ARC DISTANCE OF 346.96 FEET;

THENCE NORTH 04°36'41" WEST A DISTANCE OF 679.72 FEET;

THENCE NORTH 00°09'17" EAST A DISTANCE OF 248.27 FEET;

THENCE NORTH 25°23'30" EAST A DISTANCE OF 961.56 FEET TO A 1,030.26 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 78°39'45" WEST;

THENCE NORTHERLY, ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 18°03'07" AN ARC DISTANCE OF 324.60 FEET;

THENCE NORTH 06°02'06" WEST A DISTANCE OF 315.66 FEET TO A 445.00 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS SOUTH 59°36'21" WEST;

THENCE NORTHWESTERLY, ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 66°46'46" AN ARC DISTANCE OF 518.66 FEET;

THENCE NORTH 75°12'03" WEST A DISTANCE OF 194.56 FEET;

THENCE NORTH 03°34'03" WEST A DISTANCE OF 290.66 FEET;

THENCE NORTH 30°07'25" EAST A DISTANCE OF 404.21 FEET TO A 435.00 FOOT RADIUS NON-TANGENT CURVE WHOSE CENTER BEARS NORTH 08°07'17" WEST;

LEGAL DESCRIPTION
ANNEXATION PARCEL

THENCE NORTHEASTERLY, ALONG SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 71°29'15" AN ARC DISTANCE OF 542.75 FEET;

THENCE SOUTH 89°03'22" EAST A DISTANCE OF 256.21 FEET TO THE EASTERLY LINE OF THE PREVIOUSLY CITED RAILROAD RIGHT-OF-WAY;

THENCE SOUTHEASTERLY, ALONG SAID RIGHT-OF-WAY, THE FOLLOWING FOUR (4) COURSES;

1. THENCE SOUTH 12°37'36" EAST A DISTANCE OF 2,150.77 FEET TO A TANGENT 1,382.69 FOOT RADIUS CURVE WHOSE CENTER BEARS NORTH 77°22'24" EAST;
2. THENCE SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 30°05'53" AN ARC DISTANCE OF 726.34 FEET;
3. THENCE SOUTH 42°43'29" EAST A DISTANCE OF 904.60 FEET;
4. THENCE NORTH 47°16'31" EAST A DISTANCE OF 30.00 FEET TO THE PREVIOUSLY CITED WESTERLY LINE OF THAT CERTAIN EASEMENT GRANTED BY THE UNITED STATES AIR FORCE ACADEMY FOR ROAD, STREET AND HIGHWAY RECORDED AUGUST 11, 1958 IN THE OFFICE OF THE EL PASO COUNTY CLERK AND RECORDER IN BOOK 1691 PAGE 594;

THENCE SOUTHEASTERLY, ALONG SAID HIGHWAY EASEMENT, THE FOLLOWING FOUR (4) COURSES;

1. THENCE SOUTH 42°43'29" EAST A DISTANCE OF 1,023.31 FEET TO A TANGENT 1,990.08 FOOT RADIUS CURVE WHOSE CENTER BEARS SOUTHWESTERLY;
2. THENCE SOUTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 19°00'57" AN ARC DISTANCE OF 660.49 FEET;
3. THENCE SOUTH 23°42'32" EAST A DISTANCE OF 886.71 FEET;
4. THENCE NORTH 66°17'28" EAST A DISTANCE OF 70.00 FEET TO THE PREVIOUSLY CITED RAILROAD RIGHT-OF-WAY;

THENCE SOUTH 23°42'32" EAST, ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 304.96 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIPTION PRODUCES A CALCULATED AREA OF 4,264,574 SQUARE FEET (97.90091 ACRES), MORE OR LESS.

**US AIR FORCE ACADEMY ADDITION NO. 2
ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT ("Agreement") dated this 12th day of March, 2019 (the "Effective Date"), is between the City of Colorado Springs, a home rule city and Colorado municipal corporation ("City"), and The United States of America acting by and through the Secretary of the Air Force ("Owner"). The City and the Owner are each a "Party" and together, the "Parties."

I.
INTRODUCTION

The Owner owns all of the real property located in El Paso County, Colorado, identified and described on the legal description attached as Exhibit A (the "Property"). The Property is federal land held by the United States Government. The Property is the second of two serial annexations involving land owned by the Owner.

The growth of the Colorado Springs metropolitan area makes it likely that the Property will experience development in the future. This agreement intends to clarify obligations for the installation of or payment for any infrastructure or improvements with regard to the development and City's agreement with respect to provision of services to the Property.

Section 2667 of Title 10 U.S.C. grants authority to the Secretary of the Air Force to use the Enhanced Use Lease ("EUL") program to lease non-excess underutilized land to third parties at or above fair market value. The selected third party enters into a lease agreement compatible with the terms of the land use and operates with full responsibility to pay for any costs or fees incurred from the direct use of the land and all liabilities associated with that use and operation, at no cost to the United States Government.

The Property is subject to the EUL program and is planned for development by an Owner-selected private third-party developer pursuant to a Site Development Lease ("SDL") and other applicable documents and agreements between Owner and the third-party developer. The Owner does not intend to have the Property developed unless a SDL is agreed to with a third-party developer. The Parties acknowledge and understand that under the SDL, the third-party developer will assume responsibility for performance related to installation of, payment for any infrastructure or utility improvements contemplated under this Agreement.

Subject to the terms and conditions set forth in this Agreement, both the City and Owner wish to annex the Property into the City to ensure its orderly development. In consideration of the mutual covenants contained in this Agreement, the receipt and sufficiency of which are acknowledged by each of the Parties, the City and Owner agree as follows.

II.
ANNEXATION

The Owner has petitioned the City for annexation of the Property. The annexation will become effective upon final approval by the City Council and the recording of this Agreement, the annexation plat, and the annexation ordinance with the El Paso County Clerk and Recorder.

All references to the Property are to the Property described in Exhibit A except as otherwise indicated.

III.
LAND USE

A Master Plan and Concept Plan for the Property has been proposed and submitted to the City for approval. The City shall not be obligated to issue Land Entitlements for any development that does not comply with the approved Master Plan and Concept Plan or an amended Master Plan or Concept Plan approved in accord with applicable provisions of the Code of the City of Colorado Springs 2001, as amended or recodified ("City Code").

IV.
ZONING

A. Zoning. The Planning and Development Department of the City has recommended that the initial zone for the Owners' Property shall be PUD (Planned Unit Development; Commercial, Office, Retail, Institutional, Hospitality and Open Space; maximum building height and dimensional controls per CPC MP 18-00138) upon annexation. While zoned PUD, a development plan shall be required for any use. Owner acknowledges and understands that the City Council determines what an appropriate zone is for the Property, and this recommendation does not bind the Planning Commission or City Council to adopt the recommended zone for the Property.

B. Change of Zoning. Any future change of zone request shall conform to the Master Plan, as approved or as amended by the City. Rezoning in accord with the zones reflected on the Master Plan will occur prior to actual development of any site on the Property.

C. Avigation Easement. The City may require an avigation easement as a requirement of issuing or approving any entitlement on the Property, including but not limited to zoning ordinances, concept plans, master plans, development plans, plats, building permits or certificates of occupancy, or any similar entitlement (collectively, "Land Entitlements").

V.
PUBLIC FACILITIES

A. General. In consideration of the development of annexed land, the City requires public facilities and improvements to be designed, extended, installed, constructed, dedicated and conveyed as part of the land development review and construction process. Public facilities and improvements are those improvements to property which, after being accepted by the City, shall be maintained by the City or another public entity. Generally, the required public facilities and improvements and their plan and review process, design criteria, construction standards, dedication, conveyance, cost recovery and reimbursement, assurances and guaranties, and

special and specific provisions are addressed in Chapter 7, Article 7 of the City Code (the "Subdivision Code"). Public facilities and improvements include but are not necessarily limited to: 1.) Utility facilities and extensions for water, wastewater, fire hydrants, electric, gas, streetlights, telephone and telecommunications (For water, wastewater, gas and electric utility service, refer to Chapter 12 of the City Code and Section VI. "Utilities Services" and Section VII. "Water Rights" of this Agreement.); 2.) Streets, alleys, traffic control, sidewalks, curbs and gutters, trails and bicycle paths; 3.) Drainage facilities for the best management practice to control, retain, detain and convey flood and surface waters; 4.) Arterial roadway bridges; 5.) Parks; 6.) Schools; and 7.) Other facilities and improvements warranted by a specific land development proposal.

Owner shall cause its third-party developer to execute any development agreement required by the City, in the City's discretion, obligating the third-party developer to assume the obligation to pay for or construct improvements required by the City. The City may require the Owner's third-party developer to provide a bond(s) or to execute a Revenue Guarantee Contract or other City-approved guarantee for the fees, costs, performance and compliance obligations contained in this Article V, and the Owner will require that the third-party developer agree to execute such requirements or contracts in the SDL.

It is understood that all public facilities and improvements shall be subject to the provisions of the Chapter 7, Article 7 of the Subdivision Code, unless otherwise specifically provided for under the terms and provisions of this Agreement. Those specifically modified public facilities and improvements provisions are as follows:

B. Streets, bridge and Traffic Control. Unless agreed to elsewhere in this Agreement, the Owner shall cause the third-party developer to construct, at no cost to the City, those street, bridge and/or traffic improvements adjacent to or within the Property pursuant to the approved development plan. These improvements shall also include easements that are mutually acceptable to the City and Owner. The provisions of City Code §§ 7.7.706 (Reimbursements) and 7.7.1001-1006 (Arterial Roadway Bridges) are excluded. City participation or reimbursement for Arterial Streets and Arterial Bridges within the Property will not be allowed.

1. On-Site or Adjacent Streets: Owner shall cause the third-party developer to comply with timing and phasing of construction responsibilities outlined specifically on the Master Plan, CPC MP 18-00138 and any subsequent amendments.

2. Traffic Control Devices. Owner shall cause the third-party developer shall pay for installation of traffic and street signs, striping, and traffic control devices, and permanent barriers, together with all associated conduit for all streets within or contiguous to the Property as determined necessary by the City and in accord with uniformly applied criteria set forth by the City. Improvement to North Gate Boulevard shall include the construction of a new full movement intersection with a new traffic control device. Intersection improvements include the construction of a new westbound left turn lane and a new westbound right turn lane along North Gate Boulevard. Owner shall ensure that the third-party developer assumes all responsibility for construction and maintenance of all improvements.

C. Drainage. Owner shall cause the third-party developer to prepare and submit a Master Development Drainage Plan to the City for review and approval by the City Engineer. Final Drainage Reports and Plans shall be prepared and submitted by the third-party developer to the

City and approved by the City Engineer, prior to any approval of a development plan. The third-party developer shall comply with all drainage criteria, standards, policies and ordinances in effect at the time of development, including but not limited to the payment of any drainage, arterial bridge and detention pond fees which will be collected prior to approval of any development plan; and the reimbursement for drainage facilities constructed. The third-party developer shall provide detention and water quality treatment facilities for all developed areas; to be maintained by the third-party developer. The Property is currently located within the coverage area of the National Pollutant Discharge Elimination System Permit No COR042007. This permit covers all areas of the municipal separate storm sewer system (MS4) within the exterior boundary of the grounds of the US Air Force Academy ("USAFA"). This Agreement will not change the exterior boundary of USAFA and will therefore not change the coverage of Permit No COR042007. A Memorandum of Understanding (MOU) between the City and USAFA stating that the Property will remain under the coverage of COR042007 and will not be covered under the City's MS4 Permit (COS-00004) will be required prior to the approval of any development plans within the Property.

D. School and Park Fees and Improvements related to Schools and Parks: City shall have no obligation to issue any Land Entitlements for residential development within the Property unless all School and Park land dedication requirements (or fees in lieu of dedication) are fulfilled or a binding agreement is entered into to fulfill such requirements, including construction of required public improvements adjacent to any park or school lands dedicated within the Property without reimbursement by the City or School District.

E. The City shall have no obligation to approve or issue Land Entitlements unless all obligations of Owner or its third-party developer under this Article V and under the Code are complied with to the satisfaction of the City.

VI. UTILITY SERVICES

A. Colorado Springs Utilities' (CSU) Services: As the City's utility enterprise, CSU's water, non-potable water, wastewater, electric, streetlight, and natural gas services (each, a "Utility Service" or together the "Utility Services") are available to eligible customers upon connection to CSU's facilities or utility systems on a "first-come, first-served" basis, provided that (among other things) the City and CSU determine that the applicant meets all applicable requirements of the City Code and CSU Tariffs, Utilities Rules and Regulations ("URRs"), and Line Extension and Service Standards ("Standards") for each application for Utility Service. In addition, the availability of Utility Services is contingent upon the terms detailed herein and the dedication of real and personal property, public rights-of-way, private rights-of-way, or easements that CSU determines are required for the extension of any proposed Utility Service from CSU utility system facilities that currently exist or that may exist at the time of the proposed extension. Owner shall cause its third-party developer to enter into an agreement with the City providing additional terms for payment of development costs and obligations by the third-party developer.

Owner shall cause its third-party developer to execute any development agreement required by the City obligating the third-party developer to assume the obligation to pay for or construct improvements required by the City. Owner shall ensure that its third-party developer ensures that the connections and/or extensions of Utility Services to the Property are in accordance with this Agreement and with the requirements of City Code and CSU's Tariffs, URRs, and Standards, and Pikes Peak Regional Building Department codes and Department of Defense

building regulations, if applicable, in effect at the time Utility Service connections and/or extensions are made. Owner shall cause its third-party developer to assume all the costs of any extensions or utility system improvements that are necessary to provide Utility Services to the Property or to ensure timely development of integrated utility systems serving the Property and areas outside the Property as determined by CSU.

B. Dedications and Easements: Owner shall dedicate by recorded document and at the sole expense of the third-party developer, all property (real and personal) and easements that CSU determines are required for any utility-system facilities necessary to serve the Property or to ensure development of an integrated utility system. CSU shall determine the location and size of all property necessary to be dedicated.

Owner shall provide CSU all written, executed dedications and easements prior to platting or prior to the development of the Property as determined by CSU, using an easement agreement mutually agreed to in writing.

Further, all dedications and easements of real property must comply with the City Code, the City Charter, and CSU Tariffs, URRs, and Standards, and shall be subject to CSU's environmental review and, as applicable, any other federal review requirements and federal law. Neither the City nor CSU has any obligation to accept any real property interests.

If the Owner's third-party developer, with prior written approval by CSU, relocates, requires relocation, or alters any existing utility facilities within the Property, then the relocation or alteration of these facilities shall be at the third-party developer's sole cost and expense. If CSU determines that the utility's relocation or alteration requires new or updated easements, then Owner agrees to convey those easements prior to the third-party developer relocating or altering the existing utility facilities using an easement agreement mutually agreed to in writing. CSU will only relocate existing gas or electric facilities during time frames and in a manner that CSU determines will minimize outages and loss of service.

C. Extension of Utility Facilities by CSU:

1. Electric and Natural Gas Facilities: Subject to the provisions of this Article, City Code, and CSU Tariffs, URRs, and Standards, CSU will extend electric and gas service to the Property if CSU, in its sole discretion, determines there will be no adverse effect to any Utility Service or utility easement.

2. Water and Wastewater Facilities: In accordance with City Code, CSU shall be responsible for the construction of centralized water and wastewater treatment facilities needed to serve the Property.

D. Water and Wastewater System Extensions by Owners: Owner shall require its third-party developer to extend, design, and construct all potable and non-potable water system facilities and appurtenances, and all wastewater collection system facilities, wastewater pump stations, and any water or wastewater service lines to and within the Property at no cost to the City in accordance with City Code and CSU's Tariffs, URRs, and Standards in effect at the time of each specific request for water or wastewater service. Consistent with City Code § 7.7.1102 (B), CSU may require completion of the design and installation, and preliminary acceptance of such utility facilities, prior to CSU's approval of water and wastewater service requests serving the Property. CSU may enter into cost-sharing agreements with Owner's third-party developer for water and wastewater system expansions based on a determination of benefit to CSU, in

CSU's sole discretion, and Owner shall cause its third-party developer to accept such cost-sharing agreements.

E. Limitation of Applicability: The provisions of this Agreement set forth the requirements of the City and CSU in effect at the time of the annexation of the Property. These provisions shall not be construed as a limitation upon the authority of the City or CSU to adopt different ordinances, rules, regulations, resolutions, policies or codes which change any of the provisions set forth in this Agreement so long as these provisions apply to the City generally and are in accord with the then-current tariffs, rates, regulations and policies of CSU. City Code and CSU's Tariffs, URRs, and Standards, as may be modified from time to time, shall govern the use of all Utilities Services.

F. Southeastern Colorado Water Conservancy District: Notice is hereby provided that upon annexation, and as a condition of receiving water service from CSU, the Property must be included into the boundaries of the Southeastern Colorado Water Conservancy District ("District") pursuant to C.R.S. § 37-45-136 (3.6) as may be amended, and the rules and procedures of the District. Further, notice is hereby provided that, after inclusion of the Property into the boundaries of the District, the Property may be subject to a property tax mill levy or other payment in lieu of taxes for the purposes of meeting the financial obligations of the District. Owner shall cause its third-party developer to pay any such property tax or payment in lieu of taxes. The Owner acknowledges that water service for the Property will not be made available by CSU until such time as the Property is formally included within the boundaries of the District. District inclusion requires consent by the Bureau of Reclamation ("Reclamation"). The Owner agrees to cooperate with the third-party developer in taking all actions necessary for inclusion of the Property into the boundaries of the District, including but not limited to, any action required to obtain Reclamation's consent to include the Property into the District.

G. CSU shall have no obligation to provide any Utility Services to the Property, and the City shall have no obligation to approve or issue Land Entitlements, unless all obligations of Owner or its third-party developer under this Article VI and under the URRs and Standards are complied with to the satisfaction of CSU.

VII. WATER RIGHTS

Owner shall not be required to convey to the City any groundwater underlying the Property. City Council approval of the annexation ordinance consenting to the terms of this paragraph is a condition precedent to annexation of the Property.

VIII. FIRE PROTECTION

The City and Owner have entered into a Mutual Aid Agreement in order to coordinate emergency responses.

IX. FIRE PROTECTION FEE

The Owner shall cause its third-party developer to pay a fee of \$1,631.00 per gross acre for 57.8 developable acres of the Property as its share of the capital cost of a new fire station and the initial apparatus purchase required to service this annexation as well as adjacent areas of

future annexation. The Fire Protection Fee will be due prior to approval of any building permit within the annexed area and calculated based on the gross acreage of the entire lot on which the building permit is issued. The City shall not be required to issue Land Entitlements for any portion of the remaining 40.1 annexed acres of the Property, unless the then-current Fire Protection Fees are paid per developed acre at the time of platting.

X.
POLICE SERVICE FEE

The Owner shall cause its third-party developer to pay a fee of \$677.00 per gross acre for 57.8 developable acres of the as its share of the capital cost of a new police station and the initial equipment purchase required to service this annexation as well as adjacent areas of future annexation. The Police Service Fee will be due prior to approval of any building permit within the annexed area and calculated based on the gross acreage of the entire lot on which the building permit is issued. The City shall not be required to issue Land Entitlements for any portion of the remaining 40.1 annexed acres of the Property, unless the then-current Police Service Fees are paid per developed acre at the time of platting.

XI.
PUBLIC LAND DEDICATION

The Parties acknowledge that the land associated with this annexation will be annexed into the City of Colorado Springs but will remain federally owned land. Roadways on the Property are to remain private and will not be dedicated to the City. Public easements for utility purposes will be established and dedicated to the City for applicable utility development.

XII.
SPECIAL PROVISIONS

Owner currently contemplates development of the property solely through the mechanism of Owner entering into an SDL with a third-party developer under the EUL program. Owner shall provide the City with copies of the SDL and other related documents with the third-party developer. Owner shall reasonably cooperate with any effort of the City to enforce applicable terms of this Agreement against the third-party developer. In order for the City to be obligated under the terms of this Article XII (Special Provisions), any SDL or similar agreement between the Owner and a third-party developer must give notice of this Agreement and commit the third-party developer to fulfill the obligations of the third-party developer under this Agreement. Nothing in this Agreement shall require the City to delay filing any claim against the Owner beyond ten (10) days before the expiration of the earliest applicable statute of limitations.

XIII.
ORDINANCE COMPLIANCE

Except to the extent preempted by Federal law and regulations including, but not limited to, those laws governing the EUL program, Owner will comply with all utilities requirements, policies, rules, regulations, ordinances, resolutions and codes of the City which now exist or are amended or adopted in the future, including those related to the subdivision and zoning of land, except as expressly modified by this Agreement or as superseded by operation of Federal law or regulation. This Agreement shall not be construed as a limitation upon the authority of the City to adopt different utilities requirements, policies, rules, regulations, ordinances, resolutions

and codes which change any of the provisions set forth in this Agreement so long as these apply to the City generally.

XIV.
ASSIGNS AND DEED OF TRUST HOLDERS

Where used in this Agreement, the term "Owner" shall also mean any of the transferees or assigns of the Owner who shall have the right to enforce and be enforced under the terms of this Agreement as if they were the original Parties hereto.

Owner affirmatively states that there exist no outstanding deeds of trust or other similar liens or encumbrances against the Property.

XV.
RECORDING

This Agreement shall be recorded with the Clerk and Recorder of El Paso County, Colorado, and constitute a covenant running with the land. This Agreement shall be binding on future assigns of the Owner and all other persons who may purchase land within the Property from the Owner or any persons later acquiring an interest in the Property.

XVI.
AMENDMENTS

Amendments to this Agreement shall not be valid unless agreed to in writing by both Parties. In the event that any part of the Property is sold and owned by separate ownership, the City and each individual property owner may amend this Agreement as it pertains to such property owner's portion of the Property, without the agreement of other owners of any other portion of the Property.

Any amendment shall be recorded in the records of El Paso County, shall be a covenant running with the land, and shall be binding on all persons or entities presently possessing or later acquiring an interest in the property subject to the amendment unless otherwise specified in the amendment.

XVII.
HEADINGS

The article and sections headings set forth in this Agreement are for reference only and shall not be construed as an enlargement or abridgement of the language of the Agreement.

XVIII.
DEFAULT AND REMEDIES

A. If either Owner or City fails to perform any material obligation under this Agreement, and fails to cure the default within thirty (30) days following notice from the non-defaulting Party of that default, or an extended cure period agreed to by the Parties in writing, then a breach of this Agreement will be deemed to have occurred and the non-defaulting Party will be entitled, at its election, to either cure the default and recover the cost thereof from the defaulting Party, or to pursue and obtain against the defaulting Party an order for specific performance of the

obligations under this Agreement and, in either instance, recover any actual damages incurred by the non-defaulting Party as a result of that breach, including recovery of its costs and reasonable attorneys' fees incurred in the enforcement of this Agreement, as well as any other remedies provided by law, except that if such action is pursued against the United States, in which case, specific performance shall not be an available remedy for the non-defaulting Party. Prior to filing any lawsuit, the non-defaulting Party shall pursue the dispute remedies provided for below, except that in no case shall a Party be obligated to delay filing beyond ten (10) days before the expiration of the earliest applicable statute of limitations.

B. In the event of default of any of Owner's material obligations under this Agreement that is not cured within thirty (30) days, or such extended cure period agreed to by the Parties in writing, Owner shall cause the third-party developer to make available to the City or its designee the proceeds of any payment and performance bond(s), Revenue Guarantee Contract or other City or CSU approved guarantee, as the case may be, for purposes of completing obligations outlined in this Agreement.

C. If allegations of a breach should arise, the Parties agree to first attempt to resolve the alleged breach using unassisted negotiation techniques (i.e., without the assistance of a neutral third party). Either Party may request in writing that unassisted negotiations commence. As part of the unassisted negotiation, the Parties shall consider employing joint fact-finding, if material factual disputes are involved, and shall use other early resolution techniques appropriate to the circumstances. If the alleged breach involves material issues of fact, the Parties may employ a neutral third party to provide a confidential evaluation of the issues of fact.

D. Alternative Dispute Resolution. If the alleged breach is not resolved within thirty (30) days after the request for unassisted negotiations, and the Parties do not mutually agree to continue the unassisted negotiations, the Parties shall employ alternative dispute resolution ("ADR") procedures involving nonbinding mediation of the dispute by a neutral third party. The ADR procedures employed shall include a confidential evaluation of both the facts and the law and the issuance of confidential recommendations by the neutral third party.

F. Government Obligations. Consistent with the Anti-Deficiency Act, any requirement for the payment or obligation of funds by the Government in connection with this Agreement shall be subject to the availability of appropriated funds, and nothing herein shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, and nothing in this Agreement is intended to bind the Government to commit, obligate, appropriate or spend funds in violation of the Anti-Deficiency Act and other applicable law respecting Federal funding.

G. If allegations of breach cannot be resolved through the procedures and provisions provided in Sections C and D in this Article XVIII, involving the United States as a party shall be exclusively cognizable in the United States District Court for the District of Colorado and corresponding appellate courts.

XIX. GENERAL

Except as specifically provided in this Agreement, City agrees to treat Owner and the Property in a non-discriminatory manner relative to the rest of the City. In addition, any consent or

approval required in accord with this Agreement from the City shall not be unreasonably withheld, conditioned or delayed. City agrees not to impose any fee, levy or tax or impose any conditions upon the approval of development requests, platting, zoning or issuance of any building permits for the Property, or make any assessment on the Property that is not uniformly applied throughout the City, except as specifically provided in this Agreement or the City Code. If the annexation of the Property or any portion of the Property is challenged by a referendum, all provisions of this Agreement, together with the duties and obligations of each Party, shall be suspended, pending the outcome of the referendum election. If the referendum challenge to the annexation results in the disconnection of the Property from the City, then this Agreement and all its provisions shall be null and void and of no further effect. If the referendum challenge fails, then Owner and City shall continue to be bound by all terms and provisions of this Agreement.

XX.
SEVERABILITY

If any provision of this Agreement is for any reason and to any extent held to be invalid or unenforceable, then neither the remainder of the document nor the application of the provisions to other entities, persons or circumstances shall be affected.

[SIGNATURE PAGES TO FOLLOW]

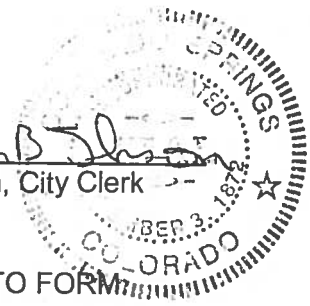
IN WITNESS WHEREOF, the Parties hereto have set their hands and seals effective as of the Effective Date.

CITY OF COLORADO SPRINGS

BY: John Sumners
John Sumners, Mayor

ATTEST:

BY: Sarah B. Johnson
Sarah B. Johnson, City Clerk



APPROVED AS TO FORM

BY: Benjamin J. Bollinger
Benjamin J. Bollinger, Senior Attorney

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF COLORADO §
COUNTY OF EL PASO §

On _____, 2019 before me,
_____, personally appeared
_____, who proved to me on the basis of satisfactory
evidence to be the person whose name is subscribed to the within instrument and
acknowledged to me that he/she executed the same in his/her authorized capacity, and
that by he/her signature on the instrument the entity upon behalf of which he/she acted
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the COLORADO that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(Signature of Notary Public) (Seal)

OWNER:
UNITED STATES OF AMERICA, acting by and
through the Secretary of the Air Force

By: *Carol Ann Beda*
CAROL ANNY/BEDA
Acting Deputy Assistant Secretary of the Air Force
(Installations)

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF VIRGINIA §
COUNTY OF ARLINGTON §

On 12 month, 2019 before me,
Heather Patman, personally appeared
Carol Ann Beda, who proved to me on the basis of satisfactory
evidence to be the person whose name is subscribed to the within instrument and
acknowledged to me that he/she executed the same in his/her authorized capacity, and
that by he/her signature on the instrument the entity upon behalf of which he/she acted
executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the VIRGINIA that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal

[Signature] (Seal)
(Signature of Notary Public)
Reg 7636395

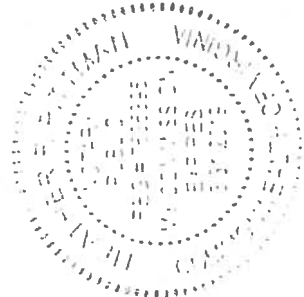


EXHIBIT A

[Exhibit A of the Annexation Agreement No. 2]

LEGAL DESCRIPTION

[ADD LEGAL DESCRIPTION]

