

CROSS REFERENCE: RECEPTION NO. 210114261

**AMENDMENT TO  
DEED OF CONSERVATION EASEMENT  
(El Paso County)**

THIS AMENDMENT TO DEED OF CONSERVATION EASEMENT (“Amendment”) is made this \_\_\_ day of \_\_\_\_\_, 2015, by and between the CITY OF COLORADO SPRINGS, Colorado, a home rule city and Colorado municipal corporation, having an address at 30 South Nevada Avenue, Colorado Springs, Colorado, 80903, (“Grantor”) and EL PASO COUNTY, COLORADO, acting by and through the BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO, having an address at 200 South Cascade Avenue, Suite 100, Colorado Springs, CO 80903, (“Grantee”).

**RECITALS**

WHEREAS, Grantor’s predecessor-in-interest, FIRSTBANK, a Colorado corporation as successor by merger to FirstBank of El Paso County, having an address at 2 North Cascade Avenue, Suite 130, Colorado Springs, CO 80903, (“FIRSTBANK”) and Grantee entered into that certain Deed of Conservation Easement dated November 10, 2010, and recorded with the El Paso County, Colorado, Clerk and Recorder as reception number 210114261 on November 10, 2010 (“Conservation Easement”) affecting certain real property consisting of approximately 9.46 acres which is more particularly described in Exhibit A, attached hereto and incorporated herein by this reference (the “Property”).

WHEREAS, pursuant to a certain Real Estate Donation of Property Agreement, dated of even date herewith, executed by and between FIRSTBANK and Grantor (“Donation Agreement”), FIRSTBANK conveyed to Grantor an interest in the Property which is subject to the Conservation Easement.

WHEREAS, Grantor acknowledges that, as owner of the Property in fee, it is bound by the Conservation Easement.

WHEREAS, Grantee acknowledges that Grantor cannot accept certain terms of the Conservation Easement and agrees to a modification of such terms in accordance with this Amendment.

WHEREAS, Grantee will benefit from the modifications to the Conservation Easement provided for in this Amendment.

WHEREAS, Grantee and Grantor expressly acknowledge that the perpetual term and duration of this Conservation Easement is not affected by and continues following the execution of this Amendment.

WHEREAS, pursuant to Section 25(j) of the Conservation Easement, the Grantor and Grantee may amend the Conservation Easement subject to the terms and conditions stated therein.

**TERMS**

NOW THEREFORE, in consideration of the above recitals and the mutual covenants, terms, conditions, and restrictions contained herein, the sufficiency of which are hereby acknowledged and pursuant to the laws of the State of Colorado, and in particular Colorado Revised Statutes §§ 38-30.5-101, *et seq.*, the parties hereby agree to modify the Conservation Easement as follows:

**1. Paragraph 10 of the Conservation Easement is hereby completely amended, modified and replaced by the following new Paragraph 10:**

10. **Costs of Enforcement.** Grantor and Grantee both agree, respectively, to be responsible for its own costs of enforcement pursuant to this Conservation Easement. Nothing in this Conservation Easement is intended to create any multi-fiscal year obligation for either Grantor or Grantee.

**2. Paragraph 14 of the Conservation Easement is hereby completely amended, modified and replaced by the following new Paragraph 14:**

14. **Costs and Liabilities.** Grantor retains all responsibilities and shall bear all costs related to the ownership, operation, upkeep, and maintenance of the Property. Each party agrees to be responsible for its own liability incurred as a result of its participation in this Conservation Easement. In the event any claim is litigated, each party will be responsible for its own expenses of litigation or other costs associated with enforcing this Conservation Easement. No provision of this Conservation Easement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to the Grantor or the Grantee by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et. seq.* and Article XI of the Colorado Constitution.

**3. Paragraph 23 of the Conservation Easement is hereby completely amended, modified and replaced by the following new Paragraph 23:**

23. **Notices.** Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

City of Colorado Springs  
30 S. Nevada Avenue

Suite 502  
Colorado Springs, CO 80903

with a copy to:

City Attorney's Office  
City of Colorado Springs  
30 S. Nevada Avenue  
Suite 501  
Colorado Springs, CO 80903

To Grantee:

The Board of County Commissioners of El Paso County, Colorado  
200 South Cascade  
Suite 100  
Colorado Springs, CO 80903

with a copy to:

El Paso County Community Services Department  
Parks Division  
2002 Creek Crossing  
Colorado Springs, CO 80906

or to such other address as either party from time to time shall designate by written notice to the other.

**4. Ratification.** Except as amended by this Amendment, all other terms and conditions, including the perpetual term, of the Conservation Easement are hereby ratified and shall remain in full force and effect.

**5. Counterparts.** This Amendment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall be considered one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this instrument on the day and year first written above.

**GRANTOR:**

\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_

STATE OF COLORADO    )  
  )  
COUNTY OF EL PASO    )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_,  
2015 by \_\_\_\_\_ as \_\_\_\_\_ of the City of  
Colorado Springs, Colorado, as Grantor and attested to by \_\_\_\_\_, City Clerk.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

**GRANTEE:**

\_\_\_\_\_

**ATTEST:**

\_\_\_\_\_

STATE OF COLORADO    )  
  )  
COUNTY OF EL PASO    )

The foregoing instrument was acknowledged before me this \_\_ day of \_\_\_\_\_,  
2015 by \_\_\_\_\_ as \_\_\_\_\_ of the Board of  
County Commissioners of El Paso County, Colorado, as Grantee and attested to by  
\_\_\_\_\_, County Clerk and Recorder.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_