

RESOLUTION NO. 93-16

A RESOLUTION AUTHORIZING THE DONATION OF
REAL PROPERTY FOR A PUBLIC PURPOSE TO THE
STRATMOOR HILLS SANITATION DISTRICT

WHEREAS, Stratmoor Hills Sanitation District (“Stratmoor”), is a Colorado statutory district providing wastewater collection services for an unincorporated area of El Paso County, Colorado; and

WHEREAS, Stratmoor’s wastewater collection system (“Stratmoor’s System”) is connected to Colorado Springs Utilities (“Utilities”) wastewater collection and treatment system (“Utilities’ System”); and

WHEREAS, pursuant to a proposed agreement with Utilities Stratmoor will acquire ownership of a wastewater main (“Existing Main”) from Utilities, which is located outside of Utilities’ Wastewater Service Area and within Stratmoor’s Service Area; and

WHEREAS, Utilities receives daily wastewater flows from Stratmoor’s System and provides wastewater treatment related services for Stratmoor pursuant to a Sewage Treatment and Disposal Agreement dated November 13, 2015; and

WHEREAS, the daily wastewater flows from Stratmoor’s System are measured at the point of connection between Utilities’ System and Stratmoor’s System (the “Wastewater Redelivery Point”); and

WHEREAS, historically wastewater flows generated by Utilities’ customers that are connected to Stratmoor’s System were conveyed to Utilities’ System through the Existing Main; and

WHEREAS, Stratmoor has agreed to accept the daily wastewater flows from any Utilities’ customer connected to Stratmoor’s System upstream of the Existing Main, and redeliver such flows to the Wastewater Redelivery Point at no cost to Utilities; and

WHEREAS, the City of Colorado Springs (“City”), on behalf of Utilities, owns a perpetual Right of Way and Easement for construction, operation and maintenance of the Existing Main that is recorded at Reception No. 207983 of the records of the El Paso County Clerk and Recorder (the “Easement”); and

WHEREAS, Utilities desires to dispose of a portion of the Easement to Stratmoor free of cost subject to appropriate terms, conditions and restrictions; and

WHEREAS, the subject portion of the Easement is surplus property with limited operational use; and

WHEREAS, no City department or enterprise is interested in acquisition or receipt of the subject portion of the Easement; and

WHEREAS, *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* (“RES Manual”) authorizes the disposal of properties for less than fair market value upon a finding of a public purpose and for the transfer of ownership of property to an appropriate single, logical purchaser/donee; and

WHEREAS, City Council finds that the transfer of the subject portion of the Easement to Stratmoor for continued public purpose of operating and maintaining Stratmoor’s System free of cost provides benefits for the health, safety and welfare of the residents of the City; and

WHEREAS, evidence has been presented to the City Council that Stratmoor is the appropriate and one logical, potential purchaser/donee of the subject portion of the Easement; and

WHEREAS, the disposal of the subject portion of the Easement will reduce Utilities’ ongoing expenses and will be recognized as a contribution towards Stratmoor’s continued public purpose to the community; and

WHEREAS, upon and after transfer Stratmoor will hold title to the subject portion of the Easement and assume all associated costs and liabilities; and

WHEREAS, Utilities will continue to hold title to the portions of the Easement not conveyed to Stratmoor; and

WHEREAS, a donation of the subject portion of the Easement to Stratmoor for the purpose of public wastewater line operation and maintenance, subject to appropriate terms, conditions and restrictions, will serve a public purpose and is consistent with applicable laws and regulations; and

WHEREAS, Utilities’ staff recommends authorization and approval for the City’s Real Estate Services Manager to transfer the subject portion of the Easement to Stratmoor as the one logical, potential purchaser/donee.

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

Section 1. City Council finds that the portion of the Easement, as legally described on Exhibit A and depicted on Exhibit B, is surplus property that is not necessary for the operations of the City or Utilities, is unneeded for the proper conduct of any other City or Utilities’ affairs, and its disposal is in compliance with the RES Manual.

Section 2. Subject to the imposition of the appropriate terms, conditions and restrictions and in accord with RES Manual, Chapter 1, Section 1.1(b), and Chapter 5, City Council hereby finds, for the reasons set forth in the recitals above, a public purpose is served by the transfer of ownership of the subject portion of the Easement to Stratmoor free of cost as the one logical, potential purchaser/donee upon the condition

that Stratmoor uses the subject portion of the Easement for the public purpose of operating and maintaining a wastewater collection main.

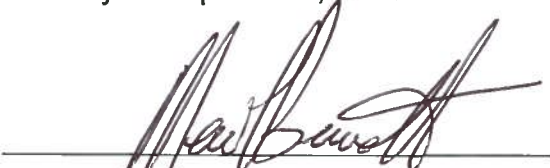
Section 3. Pursuant to the RES Manual, Chapter 2.11, the City's Real Estate Services Manager is authorized to execute all documents necessary to complete the transfer of ownership of the subject portion of the Easement and is authorized to obtain the Mayor's signature on the documents necessary to donate the subject portion of the Easement to Stratmoor.

DATED at Colorado Springs, Colorado, this 27th day of September, 2016.

ATTEST:


Sarah B. Johnson, City Clerk





City Council President

**WASTEWATER FACILITIES TRANSFER
AND
WASTEWATER CONVEYANCE AGREEMENT**

THIS AGREEMENT ("Agreement") is made and entered into this 17th day of October, 2016, by and between Colorado Springs Utilities ("Utilities"), an enterprise of the City of Colorado Springs ("City"), a home rule City and Colorado municipal corporation, and Stratmoor Hills Sanitation District ("Stratmoor"), located at 1811 B Street, Colorado Springs, CO 80906. In this document, Utilities and Stratmoor are referred to individually as "Party" and collectively as "Parties."

Recitals

- A. Stratmoor is a Colorado statutory district providing wastewater collection services for an unincorporated area of El Paso County, Colorado.
- B. Stratmoor's wastewater collection system ("Stratmoor's Wastewater Collection System") is connected to Utilities' wastewater collection and treatment system ("Utilities Wastewater System") whereby Utilities receives daily wastewater flows from Stratmoor's Wastewater Collection System and provides wastewater treatment related services for Stratmoor pursuant to the Sewage Treatment and Disposal Agreement dated November 13, 2015 ("Wastewater Agreement") and any subsequent agreements for sewage treatment and disposal between Stratmoor and Utilities.
- C. Stratmoor's Service Area, as defined in the Wastewater Agreement, includes the "South Academy Highlands" area as depicted on Exhibit A, which is attached hereto and incorporated by reference.
- D. To accommodate incremental wastewater flows from the South Academy Highlands area, a new wastewater main ("New Main") has been constructed by third parties within Stratmoor's Service Area. The New Main was installed per Utilities' Project Nos. 2013-S069 and 2013-S070 and is identified in Exhibit A. The third parties have conveyed the New Main, which is now part of Stratmoor's Wastewater Collection System, to Stratmoor.
- E. Utilities owns and operates an existing eight-inch wastewater collector main ("Existing Main 1") that is located outside of Stratmoor's Service Area and upstream of the New Main. Existing Main 1, which collects wastewater flow from an existing Utilities' customer, is connected to the New Main; and wastewater flow from upstream of the New Main is to be measured at the point identified in Exhibit A as the Wastewater Conveyance Delivery Point into Stratmoor's Wastewater Collection System. Existing Main 1 was installed per Utilities' Project No. 1977-S037.
- F. Utilities owns and operates another wastewater collector main ("Existing Main 2") that is located within Stratmoor's Service Area. Existing Main 2 is connected to Utilities' Wastewater System and wastewater flow from Stratmoor's Wastewater Collection System to Utilities' Wastewater System is measured at the point identified in Exhibit A as the Wastewater Conveyance Redelivery Point into Utilities' Wastewater System. Existing Main 2 was installed per Utilities' Project Nos. 1977-S037 and 1994-S004.
- G. Due to property development within Stratmoor's Service Area, the Parties believe that it is reasonable and desirable: (1) for Stratmoor to own and maintain Existing Main 2; (2) for Utilities to continue to have the right to convey the daily wastewater flows from any Utilities'

customer connected to Existing Main 1 through Existing Main 2 or the New Main; and (3) for Stratmoor to redeliver such flows to the Wastewater Conveyance Redelivery Point at no cost to Utilities. Utilities' right to continue using Existing Main 2 and the New Main for conveyance of Utilities' customers' daily wastewater flows shall hereinafter be referred to as "Wastewater Conveyance".

- H. The Parties also believe that it is reasonable and desirable for Utilities to transfer ownership of Existing Main 2 and associated easements to Stratmoor in exchange for Wastewater Conveyance as provided herein.
- I. Utilities and Stratmoor recognize that the points of connection of Stratmoor's Wastewater Collection System to Utilities' Wastewater System under the Wastewater Agreement will be changed after Stratmoor takes ownership of Existing Main 2.

**NOW, THEREFORE, FOR GOOD AND VALUABLE CONSIDERATION,
INCLUDING THE FOREGOING REPRESENTATIONS, IT IS AGREED AS FOLLOWS:**

1. **Effective Date.** This Agreement shall become effective upon the date of Stratmoor's acceptance of Existing Main 2 from Utilities via the Parties' execution of a bill of sale substantially in the form of Exhibit B and an assignment of easement for a portion of the City's existing easement associated with Existing Main 2, recorded at Book 2806, Page 518 of the El Paso County Clerk and Recorder's Office (the "Easement"), substantially in the form of Exhibit C, which are attached hereto and incorporated herein by reference ("Effective Date"). This Agreement shall commence on the Effective Date and shall remain in effect for an initial period of fifty (50) years following the Effective Date. The Agreement shall be automatically renewed without any action or notice by either Party for one (1) additional fifty (50) year term unless notice is given by either Party of its intent not to renew the Agreement. Such notice of a Party's intent not to renew the Agreement shall be sent at least ninety (90) days before the expiration of the then current term.
2. **Existing Main 2.** Subject to the terms of this Agreement, Utilities shall transfer "as is" the ownership of Existing Main 2 and Stratmoor agrees to accept ownership of Existing Main 2 and Easement "as is" and shall accept sole responsibility for the operation and maintenance of Existing Main 2 and the Easement. Upon Stratmoor's execution of the bill of sale for Existing Main 2, substantially in the form of Exhibit B and an assignment of the Easement, substantially in the form of Exhibit C, Utilities shall be relieved of any obligations regarding Existing Main 2 or the Easement including, but not limited to, operating, maintaining or performing any abandonment process for Existing Main 2. The transfer of the Easement and the transfer of Existing Main 2 are expressly conditioned upon Stratmoor providing Wastewater Conveyance in accordance with this Agreement.
3. **New Main.** Ownership of the New Main has been transferred from a third party to Stratmoor. Stratmoor hereby agrees that it accepted ownership of the New Main "as is" and agrees that it has the sole obligation to operate and maintain the New Main and that Utilities has no obligations with regard to the New Main including, but not limited to, operation or maintenance of the New Main. Stratmoor shall be solely responsible for obtaining any property rights necessary to own, maintain, and operate the New Main.
4. **Wastewater Conveyance.** Stratmoor and Utilities agree that after Stratmoor obtains ownership of Existing Main 2, Utilities shall continue to have the right to use Existing Main 2 and the New Main for Wastewater Conveyance by Stratmoor. To that end Stratmoor shall

without charge to Utilities during the term or any renewal of this Agreement, receive and convey the daily wastewater flows from any Utilities' customers connected to Existing Main 1 into Stratmoor's Wastewater Collection System and redeliver such flows to Utilities' Wastewater System at the Wastewater Conveyance Redelivery Point. Wastewater Conveyance shall continue until this Agreement or Utilities, in its sole discretion, provides written notice to Stratmoor that Utilities no longer needs or desires to continue to have the right to use Existing Main 2 and the New Main for Wastewater Conveyance. In the event the Wastewater Agreement is terminated and/or Stratmoor determines to no longer contract with Utilities for sewage treatment and disposal during the term or any renewal of this Agreement, then Stratmoor shall continue to recognize Utilities' right to use Existing Main 2 and the New Main to provide Wastewater Conveyance and ensure that Wastewater Conveyance is available at no cost to Utilities.

5. **Utilities' Responsibilities.** Utilities shall cause all wastewater flows discharged directly or indirectly into Existing Main 1 by a Utilities' customer to comply with Utilities' rules and regulations, including Utilities' Industrial Pretreatment Program requirements.
6. **Metering of Wastewater Conveyance.** All receipt and redelivery of wastewater flows associated with Wastewater Conveyance shall be metered. The proposed locations of the delivery and redelivery meters are shown on Exhibit A. Utilities shall install, read, operate, maintain and replace the receipt and redelivery meters at Utilities' cost. Any wastewater flows that originate from a Utilities' customer shall be metered and Stratmoor shall not be responsible under the Wastewater Agreement or any subsequent agreements for sewage treatment and disposal between Stratmoor and Utilities for paying Utilities for the treatment and disposal of any wastewater flows that originate from a Utilities' customer.
7. **Future Annexation.** In the event that the areas of Stratmoor's service area which are served by Existing Main 2 are annexed into the City and said areas are provided water and or wastewater service by Utilities, then Stratmoor agrees to transfer said main and convey any easements or other property rights deemed necessary by the City and Utilities for their operation and maintenance of said main to provide such service.
8. **Notice.** Notices required under this Agreement shall be given in writing, signed by an authorized representative of the Party giving notice. Telephonic or email notice is not acceptable. Notices shall be delivered by courier service delivery (such as Federal Express), or by first-class mail to the people specified below at the following addresses and telephone numbers:

a. For UTILITIES

COLORADO SPRINGS UTILITIES
Business Account Management
111 S. Cascade Ave
Customer Care Center, 2nd Floor
Colorado Springs, CO 80903
Phone: (719) 668-3543

and

City Attorney's Office
ATTN: City Attorney's Office – Utilities Division

30 South Nevada Ave, Suite 501
P.O. Box 1575, Mail Code 510
Colorado Springs, CO 80901-1575

b. For STRATMOOR:
Stratmoor Hill Sanitation District
District Manager
1811 B Street
Colorado Springs, CO 80906

9. **Breach of Agreement.** Upon breach of this Agreement by Stratmoor, Utilities shall have the immediate right to: (a) seek specific performance or develop an alternate means of conveying the Utilities' wastewater, and the design and construction of the alternate means shall be at Stratmoor's expense; (b) be reimbursed for costs, including attorney's fees, associated with seeking specific performance or developing an alternate means of conveying the Utilities' wastewater; and (c) be entitled to money damages for the time period between the breach and the order for specific performance. Nothing in this paragraph shall prevent the Parties from pursuing an action for legal and/or equitable relief to remedy any breach of this Agreement by the other Party.
10. **Termination.** Stratmoor acknowledges and agrees that only Utilities has a right to terminate this Agreement upon written notice to Stratmoor. Such termination notice shall occur if Utilities has developed an alternate means for conveying the Utilities' wastewater or Utilities has determined it no longer requires Wastewater Conveyance from Stratmoor.
11. **Enforcement of Rights.** Nothing herein shall prevent either Party from enforcing its rights under this Agreement by an appropriate legal or equitable action.
12. **Remedies Cumulative.** Remedies herein are cumulative and may be used individually, sequentially, concurrently, or in any order.
13. **Waiver.** No waiver by either Party of any terms or conditions of this Agreement shall be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of this Agreement.
14. **No Third-Party Beneficiaries.** Enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to Stratmoor and Utilities, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. It is the express intention of Stratmoor and Utilities that any person other than Stratmoor or Utilities receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
15. **Severability.** If any provision of this Agreement shall be found to be illegal or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect, and such term or provision shall be deemed stricken for as long as it remains illegal or unenforceable.
16. **Assignment.** There shall be no assignment of the rights or obligations contained in this Agreement by either Party without the prior written consent by the other Party, and any such assignment shall be null and void. Nothing herein contained, however, shall be construed as preventing the reorganization of any Party hereto nor as preventing any other body corporate

and politic succeeding to the rights, privileges, powers, immunities, liabilities, disabilities and duties of either Party hereto, as may be authorized by law, in the absence of any prejudicial impairment of any obligation of contract hereby imposed.

17. **Compliance with Laws and Regulations.** This Agreement and the rights and obligations of the Parties hereunder shall be subject to all applicable laws, orders, court decisions, directives, rules and regulations of any duly constituted governmental body or official having jurisdiction. Nothing contained in the Agreement, however, shall require either Party hereto to comply with any law, the validity of applicability of which shall be contested in good faith and, if necessary or desirable, by appropriate legal proceedings.
18. **Party Responsible for Own Negligence.** Each Party shall be responsible for its own negligence. Neither Party waives the benefits and obligations afforded it by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*
19. **Indemnification.** Each Party agrees to be responsible for its own liability incurred as a result of its participation in this Agreement. In the event any claim is litigated, each party will be responsible for its expenses of litigation or other costs associated with enforcing this Agreement. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability, protections, and defenses provided to the Parties by the Colorado Governmental Immunity Act, C.R.S. 24-10-101, *et seq.* and Article XI of the Colorado Constitution.
20. **Governing Law, Jurisdiction and Venue.** This Agreement shall be construed in accordance with the laws of the State of Colorado (except for its conflict of law provisions) as well as the Colorado Springs City Charter and the City Code. The place of performance and transaction of business shall be deemed to be in the County of El Paso, State of Colorado. In the event of litigation, the exclusive venue and place of jurisdiction shall be the State of Colorado and, more specifically, El Paso County, Colorado and, if necessary for exclusive federal questions, the United States District Court for the District of Colorado.
21. **Force Majeure.** Neither Party shall be liable for delays in performing its obligations to the extent the delay is caused by unforeseeable conditions beyond its reasonable control without fault or negligence including strikes, riots, wars, floods, fires, explosions, acts of nature, acts of government, or labor disturbance.
22. **Appropriation of Funds.** In accord with the Colorado Springs City Charter, performance of Utilities' obligations under this Agreement is expressly subject to appropriation of funds by the City Council. In the event funds are not appropriated in whole or in part sufficient for performance of Utilities' obligations under this Agreement, or appropriated funds may not be expended due to City Charter spending limitations, then this Agreement will thereafter become null and void by operation of law, and Utilities will thereafter have no liability for compensation or damages to Stratmoor in excess of Utilities' authorized appropriation for this Agreement or the applicable spending limit, whichever is less. Utilities will notify Stratmoor as soon as reasonably practicable in the event of non-appropriation or in the event a spending limit becomes applicable.
23. **Entire Agreement; Modifications to be in Writing.** This Agreement, including any and all appendices and exhibits attached hereto, contains the entire understanding of the subject matter herein between the Parties. No modification, amendment, notation, or other alteration to this Agreement shall be valid or of any force in effect unless mutually agreed to by the

Parties in writing as an addendum to this Agreement. At the time of the execution of this Agreement, there are no other terms, conditions, requirements, or obligations affecting this Agreement which are not specifically set forth herein. Email and all other electronic (including voice) communications from Utilities, except as otherwise specifically provided herein, in connection with this Agreement, are for informational purposes only. No such communication is intended by Utilities to constitute either an electronic record or an electronic signature or to constitute any agreement by Utilities to conduct a transaction by electronic means. Any such intention or agreement is hereby expressly disclaimed.

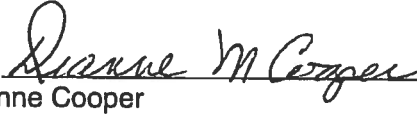
24. **No Precedent; Severability.** The Parties agree that neither of them intends that this Agreement shall in any way constitute a precedent or standard for any future Agreement, nor vest any rights in either Party or any third party for novation, renewal, modification, or addition of any other rights or services on account of this Agreement's existence, as it is based solely on unique conditions currently existing at the time of execution. Any provision or part of this Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be binding upon the Parties who agree that this Agreement shall be reformed to replace such stricken provision with a new provision that comes as close as possible to expressing the intention of the stricken provision.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 17th day of October, 2016.

COLORADO SPRINGS UTILITIES

By: 
Daniel J. Higgins
Chief Water Services Officer

STRATMOOR HILLS SANITATION DISTRICT

By: 
Dianne Cooper
President

APPROVED AS TO FORM:

By: 
Michael J. Gustafson
City Attorney's Office – Utilities Division

Exhibit A – Area Map
Exhibit B – Bill of Sale
Exhibit C – Assignment of Perpetual Right of Way and Easement

ASSIGNMENT OF PERPETUAL RIGHT OF WAY AND EASEMENT

This Assignment of Perpetual Right of Way and Easement ("Assignment") is entered into by and between the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation ("Assignor"), on behalf of its enterprise Colorado Springs Utilities ("Utilities"), and Stratmoor Hills Sanitation District ("Assignee"), located at 1811 B Street, Colorado Springs, CO 80906. In this document, Assignor and Assignee are referred to individually as "Party" and collectively as "Parties".

WHEREAS, Assignee is a Colorado statutory district providing wastewater collection services for an unincorporated area of El Paso County, Colorado.

WHEREAS, Assignee's wastewater collection system ("Stratmoor's Wastewater Collection System") is connected to Utilities' wastewater treatment system ("Utilities Wastewater Treatment System"). Utilities receives daily wastewater flows from Stratmoor's Wastewater Collection System and provides wastewater treatment related services for Assignee pursuant to the Sewage Treatment and Disposal Agreement dated November 13, 2015 ("Wastewater Agreement").

WHEREAS, Assignee's Service Area, as defined in the Wastewater Agreement, includes the "South Academy Highlands" area as depicted on Exhibit A, which is attached hereto and incorporated by reference.

WHEREAS, to accommodate incremental wastewater flows from the South Academy Highlands area a new wastewater main ("New Main"), identified in Exhibit A, has been constructed by third parties within Assignee's Service Area. The New Main was installed per Utilities' Project Nos. 2013-S069 and 2013-S070 and has been conveyed to Assignee.

WHEREAS, Utilities owns and operates an existing eight-inch wastewater collector main ("Existing Main 1") that is located outside of Assignee's Service Area. Existing Main 1 is connected to the New Main and wastewater flow from upstream of the New Main is to be measured at the point identified in Exhibit A as the Wastewater Conveyance Delivery Point into Stratmoor's Wastewater Collection System.

WHEREAS, Utilities owned and operated another wastewater collector main ("Existing Main 2") that is located within Assignee's Service Area. Existing Main 2 is connected to Utilities' Wastewater Treatment System and wastewater flow from Stratmoor's Wastewater Collection System to Utilities' Wastewater System is measured at the point identified in Exhibit A as the Wastewater Conveyance Redelivery Point into Utilities' Wastewater Treatment System. Existing Main 2 has been conveyed to Stratmoor.

WHEREAS, the City of Colorado Springs, on behalf of Utilities, owns a perpetual Right of Way and Easement for construction, operation and maintenance of Existing Main 2 that is recorded at Reception No. 207983 of the records of the El Paso County Clerk and Recorder (the "Existing Main 2 Easement"). A copy of the Existing Main 2 Easement is attached hereto as Exhibit B.

WHEREAS, due to property development within Stratmoor's Service Area, Stratmoor and Utilities have entered into an agreement under which: (1) Assignee has obtained ownership and the responsibility to operate and maintain Existing Main 2 from Assignor; (2) Utilities continues to have the right to convey the daily wastewater flows from any of its customers

connected to Existing Main 1 through Existing Main 2 or the New Main; and (3) Assignee will redeliver such flows to the Wastewater Conveyance Redelivery Point at no cost to Utilities.

WHEREAS, Utilities has obtained Colorado Springs City Council approval to transfer ownership of a portion of the Existing Main 2 Easement to Assignee.

WHEREAS, the portion of the Existing Main 2 Easement Utilities is transferring to Assignee is described and depicted in Exhibit C hereto.

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and agreements contained herein, together for \$10.00 and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

1. Assignor hereby quit claims, conveys and assigns unto Assignee, its successors and assigns, all right, title and interest of Assignor, if any, in that portion of the Existing Main 2 Easement described in Exhibit C hereto; provided, however, that Assignor makes no additional representation or warranty herein regarding the Existing Main 2 Easement. Assignor retains all of its right, title and interest in the portions of the Existing Main 2 Easement that are not conveyed herein.

2. Assignee hereby accepts the transfer and assignment of the portion of the Existing Main 2 Easement as set forth in Paragraph 1 herein, and assumes the performance, obligations, duties and liabilities of Assignor under such portion of Existing Main 2 Easement as of the date hereof. As of the date of this Assignment, Assignor's and Utilities' obligations and responsibilities to act under such portion of the Existing Main 2 Easement shall cease and terminate. Assignor and Utilities shall have no liability or obligation with respect to the subject portion of the Existing Main 2 Easement after the date hereof. Assignee shall indemnify and hold Assignor and Utilities harmless from and against any loss, claims, costs and expenses arising in connection with the subject portion of the Existing Main 2 Easement upon and after the date hereof to the extent permitted by law without waiver of sovereign immunity.

3. Assignor covenants and agrees with Assignee and its successors and assigns that Assignor will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered any and all such further acts, instruments, papers and documents, as may be necessary, proper or convenient to carry out and effectuate the intent and purposes of this Assignment.

4. This Assignment shall inure to the benefit of Assignee, its successors and permitted assigns, and shall bind Assignor and its successors and permitted assigns. This Assignment is not intended to confer upon any person other than the parties hereto any rights or remedies hereunder.

5. This Assignment shall be governed in all respects, whether as to validity, construction, capacity, performance or otherwise, by the laws of the State of Colorado applicable to contracts made and to be performed within that state. Nothing herein shall be construed to waive any defense of governmental immunity that Assignor may be lawfully entitled to assert under applicable Colorado law.

6. If any term or provision of this Assignment shall, to any extent or for any reason, be held to be invalid or unenforceable, the remainder of this Assignment shall not be affected thereby

and shall be construed as if such invalid or unenforceable provision had never been contained herein or been applicable in such circumstances.

7. This Assignment may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which shall constitute one and the same Assignment.


IN WITNESS WHEREOF, Assignor and Assignee have executed this Assignment by the respective authorized officers as set forth below to be effective as of the date executed by Assignor.

Assignor

City of Colorado Springs, Colorado
a home rule city and Colorado municipal

Assignee

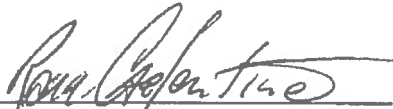
Stratmoor Hills Sanitation District

By: 
John W. Suthers
Mayor
Colorado Springs, CO 80901-1575

By: 
Dianne Cooper
President


Date: 10-20-2016

Date: 10-5-16

By: 
Ron Carlentine
Real Estate Services ~~Manager~~
Colorado Springs, CO 80901-1575

Date: 10.18.16

APPROVED AS TO FORM:

By: 
Michael J. Gustafson
Senior Attorney
Office of the City Attorney

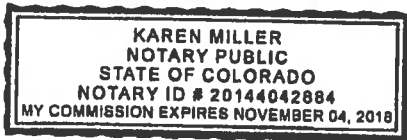
ASSIGNMENT OF PERPETUAL RIGHT OF WAY AND EASEMENT
(Acknowledgment)

State of Colorado)
) ss.
County of El Paso)

The foregoing instrument was acknowledged before me this 20th day of October,
2016, by John W. Suthers, as Assignor.

Witness my hand and official seal

My commission expires: Nov. 4, 2018



K. Miller
Notary Public

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that the City of Colorado Springs, a Colorado home rule city and municipal corporation, on behalf of its enterprise Colorado Springs Utilities ("Utilities" or "Seller"), for the sum of One and No/100 Dollars (\$1.00) and other good and valuable consideration, paid by Stratmoor Hills Sanitation District, ("Stratmoor Hills" or "Buyer"), the receipt of which is hereby acknowledged, hereby grants, sells, assigns and conveys to Buyer all right, title, and interest in and to the tangible personal property more particularly described in Attachment "A" attached hereto and incorporated herein by reference ("Property").

The Parties agree that the Property is being conveyed "AS IS" and "WITH ALL FAULTS".

Seller represents and warrants that it is providing all of its ownership interest in and to the Property and that the Property is free of all liens, security interests, or encumbrances.

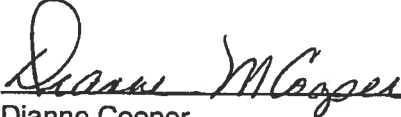
IN WITNESS WHEREOF, this instrument shall be effective as of the 17th day of October, 2016.

COLORADO SPRINGS UTILITIES

**Accepted by: STRATMOOR HILLS
SANITATION DISTRICT**



Daniel J. Higgins (Date) 10-17-16
Chief Water Services Officer



Dianne Cooper (Date) 10-5-16
President

City Attorney's Office - Utilities Division
Approved As To Form:



Michael J. Gustafson (Date) 10/3/16
Senior Attorney

Exhibit A — Wastewater Facilities Transfer and Wastewater Conveyance Agreement



GRANT OF RIGHT OF WAY

RECEIVED of the CITY OF COLORADO SPRINGS, STATE OF COLORADO, the sum of One dollar (\$1.00), in consideration of which the undersigned, hereinafter called "Grantor", hereby grants to the CITY OF COLORADO SPRINGS, hereinafter called "Grantee", do hereby grant, sell, and convey unto Grantee, its successors and assigns, a perpetual Right of Way and Easement for construction, maintenance and operation of electrical, gas, water and sewer lines, including necessary poles, pipes, steel towers, wires, guy anchors, together with necessary fixtures and attachments, said Right of Way and Easement being described as follows, to wit:

See attached Exhibit A, for legal description.

together with the right of ingress and egress to and from said Right of Way and Easement in the exercising of rights herein granted. That no building or structures shall be constructed on said Right of Way and Easement by Grantor (or property owner) without Grantee's written consent. Grantee shall have the right to trim or remove any trees and undergrowth, within Right of Way, which may interfere with construction, maintenance or operation of said lines, where necessary. Also the right to permit attachment of wires, cables and fixtures of any other company to said poles for telephone service.

It is understood that the Grantee will reimburse the Grantor (or property owner) for any damages caused by entry upon the above described Right of Way and Easement for the purpose of construction, maintenance, and operations of said lines.



WITNESSES WHEREOF, the undersigned have hereunto set their hand and seal, this 23rd day of January, A.D. 1976.

STRATMOOR DEVELOPMENT CO., INC.

F. W. Ericson
F. W. Ericson, President (Seal)

J. P. Abrahamson
J. P. Abrahamson (Seal)

STATE OF COLORADO)
) ss
COUNTY OF EL PASO)



The foregoing instrument was acknowledged before me this 23rd day of January, 1976, by F. W. Ericson as President and J. P. Abrahamson as Secretary of Stratmoor Development Co., Inc. and J. P. Abrahamson.

J. P. Abrahamson
Notary Public

My Commission Expires: Sept 17, 1978

5629

EXHIBIT B TO ASSIGNMENT OF PERPETUAL RIGHT OF WAY AND EASEMENT

LEGAL DESCRIPTION

29) Sanitary Sewer easement
Sections 4 and 3, T15S, R6W

A 20 foot sanitary sewer easement for the purpose of construction and maintenance in Sections 4 and 3, Township 15 South, Range 6 West of the 6th P.M., El Paso County, Colorado, being 11 feet on each side of the following described center line:

Beginning at an existing manhole which is S. 14⁰ 07' 20" E. A bearing based on True North determined by Polaris observation and is relative to a previous survey of the Pyrris Stratton Home boundary and to a line bearing at right angles for the north line, a distance of 1063.40 feet at S. 89⁰ 25' 07" W. at right angles from the east line of the Northeast one-quarter (NE 1/4) of said Section 4, a distance of 2431.83 feet:

1. Thence S. 52⁰ 02' 15" E. along the extension of said center line a distance of 15.00 feet to the northerly terminus of said easement;
2. Thence returning S. 52⁰ 02' 15" W., a distance of 15.00 feet to said manhole and continuing S. 52⁰ 02' 15" W. along said center line, a distance of 25.00 feet;
3. Thence S. 32⁰ 02' 15" W. along said centerline, a distance of 110.00 feet;
4. Thence S. 14⁰ 25' 43" W. along said center line, a distance of 542.44 feet;
5. Thence S. 11⁰ 34' 31" E. along said center line, a distance of 432.26 feet;
6. Thence S. 32⁰ 01' 17" W. along said centerline, a distance of 31.07 feet to a corner of the east-west center one-quarter (1/4) section line at a right angle from the West one-quarter (1/4) section corner bears S. 49⁰ 25' 43" W. to the said one-quarter (1/4) line, a distance of 2542.28 feet;
7. Thence continuing S. 67⁰ 41' 17" W. along said center line, a distance of 1277.93 feet;
8. Thence S. 40⁰ 49' 41" W. along said centerline, a distance of 284.56 feet;
9. Thence S. 31⁰ 22' 25" E. along said center line, a distance of 95.44 feet;
10. Thence S. 00⁰ 16' 37" W. along said center line, a distance of 102.82 feet;
11. Thence S. 25⁰ 50' 00" E. along said center line, a distance of 470.41 feet;
12. Thence S. 26⁰ 10' 01" E. along said center line, a distance of 178.07 feet;
13. Thence S. 20⁰ 08' 14" E. along said center line, a distance of 717.96 feet;

Continued.

14. Thence S.40°57'02"E. along said center line, a distance of 162.11 feet to intersect the section line common to the southeast one-quarter (SE¹/₄) of said Section 4 and the Northwest one-quarter (NW¹/₄) of said Section 9, from whence the one-quarter (1/4) corner common to said Sections 4 and 9 bears N.89°52'45"E., a distance of 297.06 feet and from whence the corner West section corner bears S.89°52'45"W., a distance of 231.91 feet. Said common section line being also the north right of way line of Colorado State Highway "33" (Academy Boulevard);
15. Thence continuing S.40°57'02"E. along said center line, a distance of 138.73 feet;
16. Thence S.00°02'55"W. along said center line, a distance of 479.40 feet to a proposed manhole, as of this date;
17. Thence continuing S.00°02'55"W., a distance of 15 feet to the terminus of said easement.

5629 ;

**EXHIBIT "B" to the
WASTEWATER FACILITIES TRANSFER AND WASTEWATER CONVEYANCE AGREEMENT**

BILL OF SALE

KNOW ALL MEN BY THESE PRESENTS that the City of Colorado Springs, a Colorado home rule city and municipal corporation ("Utilities" or "Seller"), for the sum of One and No/100 Dollars (\$1.00) and other good and valuable consideration, paid by Stratmoor Hills Sanitation District, ("Stratmoor Hills" or "Buyer"), the receipt of which is hereby acknowledged, hereby grants, sells, assigns and conveys to Buyer all right, title, and interest in and to the tangible personal property more particularly described in Attachment "A" attached hereto and incorporated herein by reference ("Property").

The Parties agree that the Property is being conveyed "AS IS" and "WITH ALL FAULTS".

Seller represents and warrants that it is providing all of its ownership interest in and to the Property and that the Property is free of all liens, security interests, or encumbrances.

IN WITNESS WHEREOF, this instrument shall be effective as of the ____ day of _____, _____.

UTILITIES

**Accepted by: STRATMOOR HILLS
SANITATION DISTRICT**

(Signature) (Date)

Dianne M Cooper

(Signature) (Date)

(Print Name)

DIANNE M. COOPER

(Print Name)

(Title)

PRESIDENT

(Title)

City Attorney's Office - Utilities Division
Approved As To Form:

(Signature) (Date)

(Print Name)

**Exhibit C-1 to the
Assignment of Perpetual Right of Way and Easement**

A strip of land within Sections 4 and 9, Township 15 South, Range 66 West, 6th P.M., City of Colorado Springs, El Paso County, Colorado and being a portion of that 20' wide Easement granted to the City of Colorado Springs, in Book 2806, Page 518, of the El Paso County Clerk and Recorders Real Property records, and being more particularly described as follows:

A 20' wide strip of land lying 10' on either side of the following described centerline:

Commencing at the southwest corner of said Section 4, being monumented by a #6 rebar with a 2-1/2 inch cap aluminum cap stamped "CCES PLS 30118" as per the monument record filed March 2, 2009, from which the southeast corner of said Section 4, being monumented by a rebar with a 2-1/2 inch aluminum cap stamped "ASC PLS 28651" as per the monument record filed November 24, 2008, is assumed to bear North 89 Degrees 26 Minutes 03 Seconds East, a distance of 5265.06 feet;

Thence S 86 Degrees 05 Minutes 49 Seconds E, a distance of 2441.30 feet to the center of a Sanitary Sewer Manhole, also being the **Point of Beginning**;

Thence N 05 Degrees 31 Minutes 30 Seconds W, a distance of 85.16 feet to the center of a Sanitary Sewer Manhole;

Thence N 41 Degrees 24 Minutes 58 Seconds W, a distance of 305.82 feet to the center of a Sanitary Sewer Manhole;

Thence N 18 Degrees 26 Minutes 01 Seconds W, a distance of 200.88 feet to the center of a Sanitary Sewer Manhole;

Thence N 24 Degrees 33 Minutes 45 Seconds W, a distance of 95.77 feet to the center of a Sanitary Sewer Manhole;

Thence N 19 Degrees 50 Minutes 05 Seconds W, a distance of 110.30 feet to the center of a Sanitary Sewer Manhole;

Thence N 22 Degrees 25 Minutes 35 Seconds W, a distance of 426.65 feet to the center of a Sanitary Sewer Manhole;

Thence N 26 Degrees 26 Minutes 39 Seconds W, a distance of 266.71 feet to the center of a Sanitary Sewer Manhole;

Thence N 06 Degrees 23 Minutes 07 Seconds W, a distance of 401.95 feet to the center of a Sanitary Sewer Manhole;

Thence N 00 Degrees 16 Minutes 03 Seconds E, a distance of 103.11 feet to the center of a Sanitary Sewer Manhole;

Thence N 17 Degrees 01 Minutes 37 Seconds E, a distance of 326.04 feet to the center of a Sanitary Sewer Manhole;

Thence N 40 Degrees 16 Minutes 39 Seconds E, a distance of 383.13 feet to the center of a Sanitary Sewer Manhole;

Thence N 40 Degrees 20 Minutes 07 Seconds E, a distance of 405.98 feet to the center of a Sanitary Sewer Manhole;

Thence N 66 Degrees 24 Minutes 39 Seconds E, a distance of 123.18 feet to the center of a Sanitary Sewer Manhole;

Thence N 67 Degrees 57 Minutes 05 Seconds E, a distance of 195.50 feet to the center of a Sanitary Sewer Manhole;

Thence N 11 Degrees 46 Minutes 47 Seconds W, a distance of 321.19 feet to the center of a Sanitary Sewer Manhole;

Thence N 12 Degrees 00 Minutes 17 Seconds W, a distance of 143.43 feet to the center of a Sanitary Sewer Manhole;

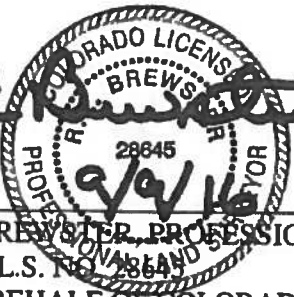
Thence N 12 Degrees 00 Minutes 15 Seconds W, a distance of 286.90 feet to the center of a Sanitary Sewer Manhole;

Thence N 11 Degrees 44 Minutes 39 Seconds W, a distance of 179.17 feet to the center of a Sanitary Sewer Manhole;

Thence N 13 Degrees 22 Minutes 17 Seconds E, a distance of 620.68 feet to the center of a Sanitary Sewer Manhole, also being the Point of Terminus.

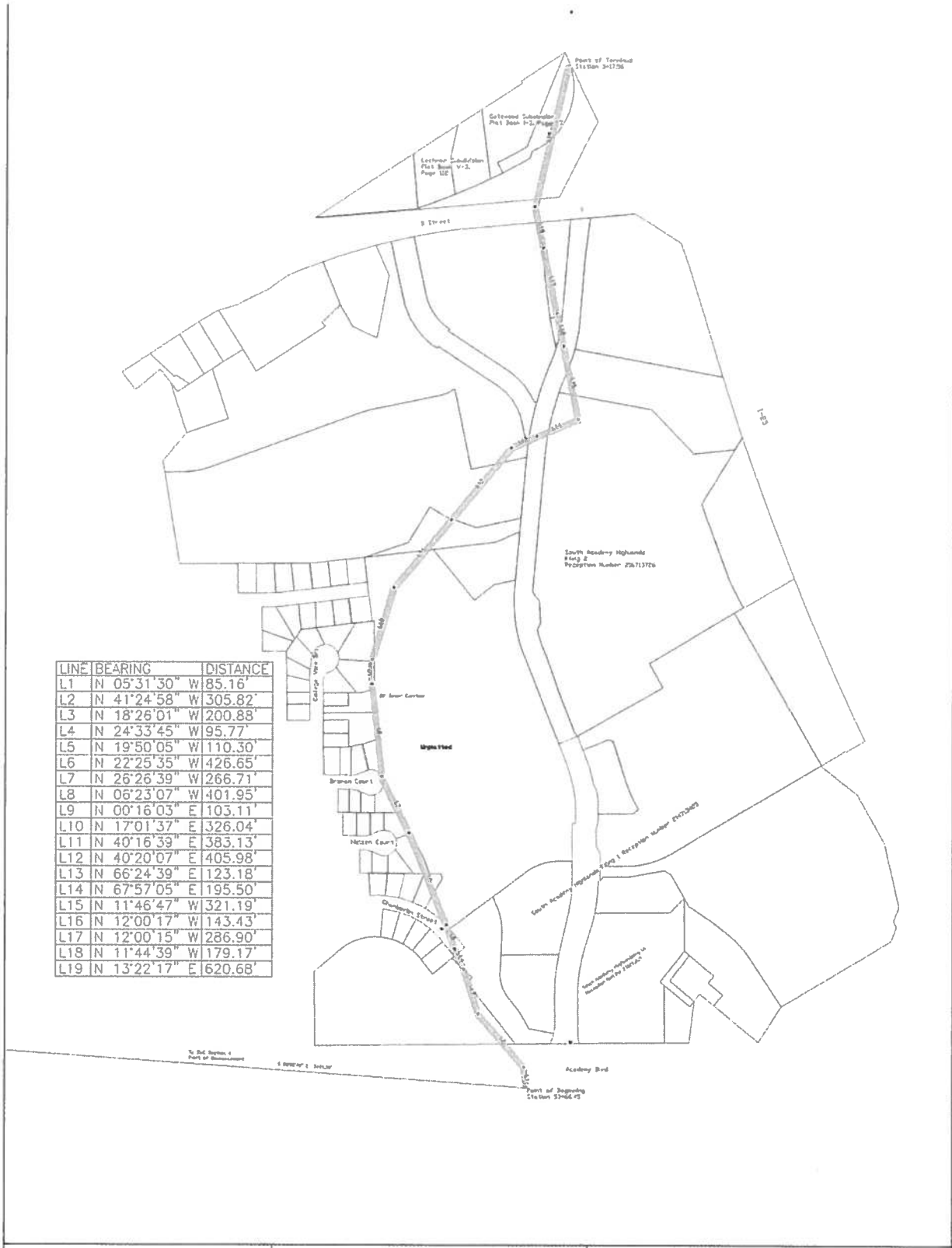
LEGAL DESCRIPTION STATEMENT:

I, RICHARD E. BREWSTER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF ARE CORRECT.



The seal is circular with a double-line border. The outer ring contains the text "COLORADO LICENSE" at the top and "PROFESSIONAL LAND SURVEYOR" at the bottom. The inner ring contains the name "BREWS" at the top and "RICHARD E. BREWSTER" at the bottom. In the center, the license number "29845" is printed, with a handwritten date "9/9/16" below it. A large, stylized signature "R.E. Brewster" is written across the seal.

RICHARD E. BREWSTER, PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. NO. 29845
FOR AND ON BEHALF OF COLORADO SPRINGS UTILITIES



LINE	BEARING	DISTANCE
L1	N 05°31'30" W	85.16'
L2	N 41°24'58" W	305.82'
L3	N 18°26'01" W	200.88'
L4	N 24°33'45" W	95.77'
L5	N 19°50'05" W	110.30'
L6	N 22°25'35" W	426.65'
L7	N 26°26'39" W	266.71'
L8	N 06°23'07" W	401.95'
L9	N 00°16'03" E	103.11'
L10	N 17°01'37" E	326.04'
L11	N 40°16'39" E	383.13'
L12	N 40°20'07" E	405.98'
L13	N 66°24'39" E	123.18'
L14	N 67°57'05" E	195.50'
L15	N 11°46'47" W	321.19'
L16	N 12°00'17" W	143.43'
L17	N 12°00'15" W	286.90'
L18	N 11°44'39" W	179.17'
L19	N 13°22'17" E	620.68'


Colorado Springs Utilities
It's how we're all connected
 Land Base Services
 1521 Hancock Expressway
 Colorado Springs, Colorado 80947

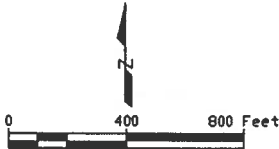
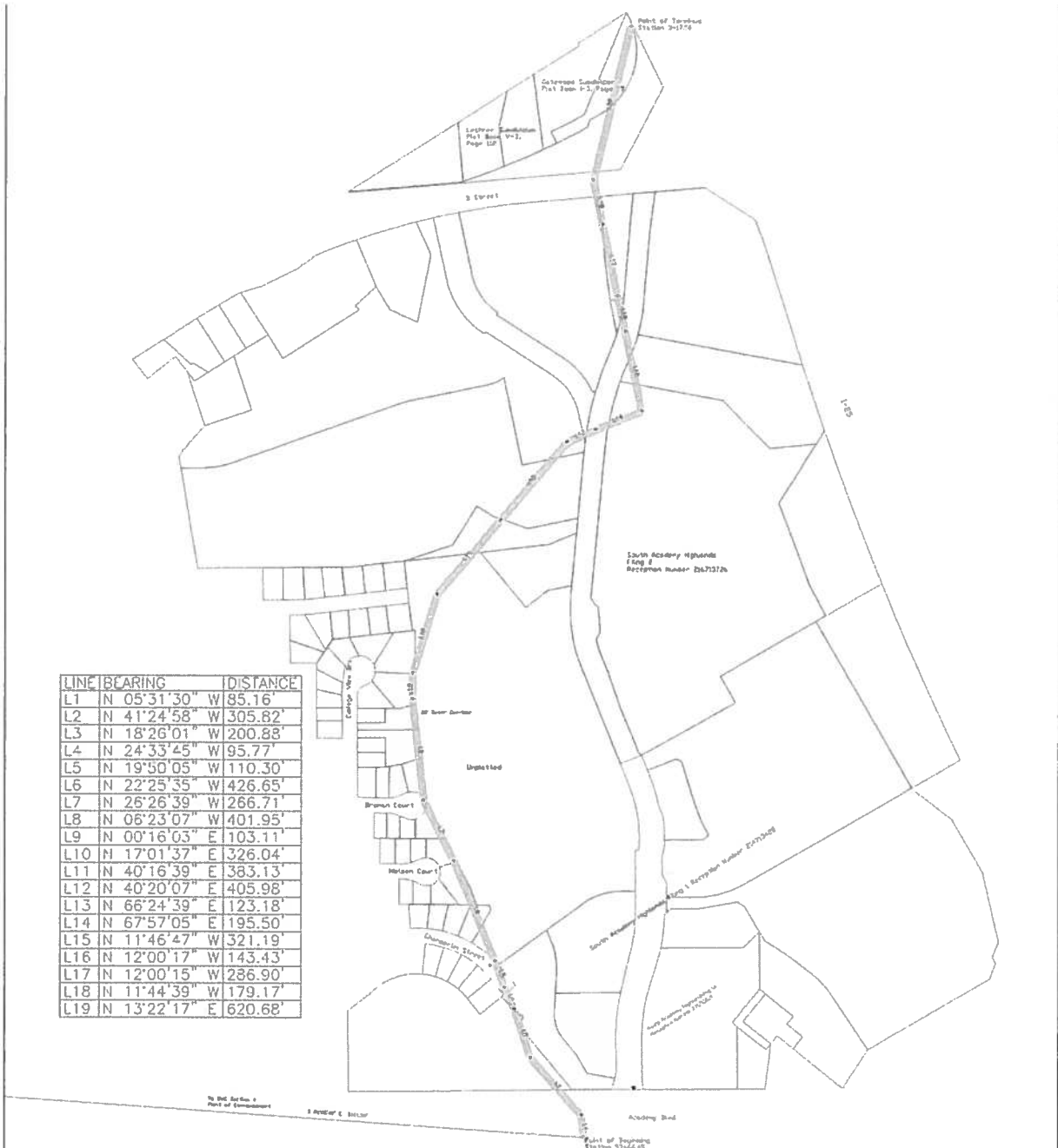

 0 400 800 Feet
1 Inch = 400 Feet
 Note: This sketch does not represent a monumented land survey. It is only

Exhibit C-2 to Assignment of Perpetual Right of Way and Easement
 Drawn By: Rick Brewster Date: Sept. 9, 2016

ATTACHMENT "A" To Bill of Sale
DESCRIPTION OF PROPERTY

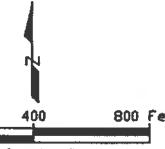
The Property to be conveyed and transferred by Utilities to Stratmoor is the portion of that certain wastewater collector main installed per Utilities' Project Nos. 1977-S037 and 1994-S004, that is located between manhole station no. 3+17.56 and manhole station no. 53+66.45 as depicted on attachment "B" to the Bill of Sale.

ATTACHMENT "B" To Bill of Sale DEPICTION OF PROPERTY




Colorado Springs Utilities
It's how we're all connected

Land Base Services
1521 Hancock Expressway
Colorado Springs, Colorado 80947



0 400 800 Feet

1 Inch = 400 Feet

Note: This sketch does not represent a monumented land survey. It is only

Attachment B to the Bill of Sale

Drawn By: Rick Brewster	Date: Sept. 9, 2016
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