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**CITY OF COLORADO SPRINGS**  
**AMENDMENT AND MODIFICATION TO**  
**DEED OF CONSERVATION EASEMENT**

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FOR THE PROPERTY KNOWN AS:

**SANTA FE DEPOT**

Granted by:

OGC RE1, LLC,  
a Colorado limited liability company

to

THE CITY OF COLORADO SPRINGS,  
a Home Rule City and Colorado Municipal Corporation

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RECORDING REQUESTED BY:  
WHEN RECORDED RETURN TO:  
City of Colorado Springs  
Office of the City Attorney  
30 South Nevada Avenue, 5th Floor  
Colorado Springs, CO 80903

**THIS AMENDED AND MODIFIED DEED OF CONSERVATION EASEMENT** (the “Easement”), made as of this 7<sup>th</sup> day of July, 2016, by and between **OGC RE1, LLC**, a Colorado limited liability company, 559 East Pikes Peak Avenue, Suite 101, Colorado Springs, Colorado 80903, (the “Grantor”), and the **CITY OF COLORADO SPRINGS**, a home rule city and Colorado municipal corporation, 30 South Nevada Avenue, Suite 105, Colorado Springs, Colorado 80903, (the “Grantee”);

**RECITALS:**

A. The Grantee, a Colorado home rule city and Colorado municipal corporation is a governmental entity, exempt from tax under the Internal Revenue Code;

B. The Grantee is authorized to accept easements to protect property significant in Colorado Springs’ history, architecture, and culture;

C. The Grantor is the fee simple owner of certain real property known as the **Santa Fe Depot** (the “*Property*”), said Property comprises an approximately 45,000 sq. ft. historic train station, known as the Atchison, Topeka, Santa Fe Railroad Passenger Station, (the “*Building*”), located at 555 East Pikes Peak Avenue, Colorado Springs, Colorado;

D. The Property has been listed with the National Register of Historic Places, and is therefore a certified historic structure as defined by Internal Revenue Service Regulation §1.170A-14(d)(5)(iii);

E. The Property has been designated for preservation by the City of Colorado Springs pursuant to that Conservation Easement In Gross, dated December 23, 1981 and recorded with the El Paso County Clerk and Recorder at Book 3515, Page 608-611 (the “Original Easement”), attached hereto as **Addendum 1**;

F. The Grantor and Grantee recognize the historical, architectural, cultural, and aesthetic value and significance of the Property, and have a common purpose of conserving and preserving the value and significance of the Property;

G. This Amendment and Modification of the Original Easement will assist in preserving and maintaining the historical, architectural, cultural, and aesthetic value and significance of the Property, and is intended to meet the changing needs by modifying the Original Easement’s legal description and amending the terms and conditions of the Original Easement;

H. To that end, Grantor desires to restate the grant to Grantee, and Grantee desires to restate the acceptance of this Easement on the Property, and the Parties hereby freely amend the Original Easement’s terms and conditions and modify the legal description, pursuant to Article 30.5 of Title 38, Colorado Revised Statutes (the “Act”).

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

## **ARTICLE 1. GRANT OF EASEMENT WITH MODIFIED LEGAL DESCRIPTION.**

**1.1. Grant.** Grantor does hereby restate and irrevocably grant and convey unto Grantee a conservation easement in gross, to have and to hold in perpetuity as outlined in the Original Easement, and as amended by this Easement, to constitute a binding servitude upon the Property and the exterior surfaces of the Building located thereon, owned by the Grantor, and more particularly described in the amended legal description ("*Legal Description*") attached hereto as **Exhibit A** and incorporated by this reference. Attached hereto as **Exhibit B** and incorporated herein by this reference is the Minor Improvement Plan administratively approved by the Grantee on March 17, 2016, illustrating the location of the Building on the Property.

**1.2. Amended Definition of Property.** Pursuant to the amended Legal Description, Paragraph 6 of the Original Easement shall be amended as follows:

(a) For purposes of this Conservation Easement and without limitation upon the ordinary usage of the words, the building, structure and improvements upon the Property of the Grantor shall include the ~~roads, driveways, parking lots and all other structures of any type placed upon the Property of the Grantor for permanent and semi permanent use~~ *Property and Building described on Exhibit A and depicted on Exhibit B only.*

**1.3. Photographs and Surveys.** In order to make more certain the full extent of Grantor's obligations and the restrictions on the Property (including the Building), and in order to document the exterior nature of the Building as of 1981, the date of the Original Easement, attached hereto as **Exhibit C** and incorporated herein by this reference is a set of photographs depicting the exterior surfaces of the Building and the surrounding property. It is stipulated by and between Grantor and Grantee that the external nature of the Building as shown in Exhibit C is deemed to be the external nature of the Building as of the date of the Original Easement as first recorded in the real property records of El Paso County, Colorado at Book 3515, Page 609. The external nature of the Building as shown in Exhibit C is hereinafter referred to as the "*Present Facades.*"

## **ARTICLE 2. AMENDED COVENANTS.**

Grantor hereby restates those specific covenants made in the Original Easement on behalf of itself, its successors and assigns, with Grantee, its successors and assigns, such covenants being deemed to run as a binding servitude, in perpetuity, with the land, to do upon the Property each of those covenants and stipulations as stated in the Original Easement and amended herein, which contribute to the conservation purposes of this Easement in that they aid significantly in the preservation of the historic structure, thereby contributing to the historical, architectural, and cultural integrity of the Building; with the following amendments:

**2.1 Maintenance and Repair.** Grantor shall at all times maintain the exterior of Building in a good and sound state of repair and shall maintain the Present Facades and the Building according to the Standards for Historic Preservation Projects, issued and as may from time to time be amended by the U.S. Department of Interior ("*Standards*"), so as to prevent deterioration of the Present Facades.

**2.2 Interior Maintenance.** The Grantor shall maintain the interior of the Building to ensure the structural soundness and the safety of the Building, but Grantor is not obligated to preserve or rehabilitate the interior of the Building in accordance with the Standards, nor shall Grantee have oversight over the interior of the Building.

**2.3 Historic Preservation Board.** Since the time of the Original Easement, Grantee has established a Historic Preservation Board which monitors and oversees the preservation, restoration and rehabilitation of the Grantee's historic property pursuant to §7.5.1601, *et seq.*, of the Code of the City of Colorado Springs 2001, as amended. The Historic Preservation Board shall hereinafter be designated as the "Representative" referenced in Paragraph 5 of the Original Easement.

**2.4 Recording.** Grantee, its successors or assigns, will do and perform at its cost all acts necessary to the prompt recording of this Easement among the land records of El Paso County, Colorado.

### **ARTICLE 3. MISCELLANEOUS.**

**3.1 Notices.** Any notice which either party hereto may desire or be required to give to the other party shall be in writing and shall be mailed postage prepaid by registered or certified mail with return receipt requested, or hand delivered, if to Grantor, to:

OGC RE1, LLC  
Ron Voss, Esq.  
559 East Pikes Peak Avenue, Suite 101  
Colorado Springs, CO 80903

with a copy to: Paramount Group, LLC  
Attn: Ingrid Richter or Julie Brooks  
559 East Pikes Peak Avenue, Suite 101  
Colorado Springs, CO 80903

and if to Grantee: City of Colorado Springs  
Historic Preservation Board  
30 South Nevada Avenue, Suite 105  
Colorado Springs, CO 80903  
Attn: Daniel Sexton

Each party may change its address set forth herein by a notice to such effect to the other party. Any notice, consent, approval, agreement, or amendment permitted or required of Grantee under this Easement may be given by any duly authorized representative of the Grantee.

**3.2 Effectiveness.** This Easement is effective only upon recording among the real property records of El Paso County, Colorado.

**3.3 Counterparts.** This Easement is executed in four (4) counterparts. In the event of any disparity between the counterparts produced, the recorded counterpart shall in all cases govern. Immediately after execution hereof, one (1) counterpart shall be held by each of

Grantor, Grantee, and two counterparts shall be recorded as provided above with one (1) returned to Grantor and one (1) returned to the Grantee.

**3.4 Venue.** Venue of any action brought pursuant to this Easement shall be in the El Paso County District Court, Colorado Springs, Colorado.

IN WITNESS WHEREOF, Grantor has executed, sealed, and delivered this Deed of Conservation Easement; and Grantee has caused these presents to be accepted.

**GRANTOR:**

OGC RE1, LLC,  
a Colorado limited liability company

By: \_\_\_\_\_  
Kevin O'Neil  
Member

**GRANTEE:**

CITY OF COLORADO SPRINGS,  
a Home Rule City and Colorado Municipal  
Corporation

By: \_\_\_\_\_  
Mayor John W. Suthers

ATTEST:

\_\_\_\_\_  
Secretary

[SEAL]

**ACKNOWLEDGMENT**

STATE OF COLORADO         )  
   ) ss.  
 EL PASO COUNTY            )

I, \_\_\_\_\_, a Notary Public in and for the State of Colorado, do hereby certify that Kevin O’Neil, whose name is subscribed to the foregoing instrument, personally appeared before me and acknowledged that he executed the same on behalf of OGC RE1, LLC.

Given under my hand and seal this \_\_\_\_ day of \_\_\_\_\_, 2016.

My commission expires: \_\_\_\_\_.

\_\_\_\_\_  
 Notary Public

[SEAL]

Schedule of Exhibits

Addendum 1 Original Conservation Easement

Exhibit A Legal Description of Property

Exhibit B Minor Improvement Plan

Exhibit C Photographs of Building (TBD)