

**SORPRESA EAST ADDITION NO. 1  
ANNEXATION AGREEMENT**

THIS ANNEXATION AGREEMENT "Agreement", dated this 11<sup>th</sup> day of May, 2020, is between the City of Colorado Springs, a home rule city and Colorado municipal corporation ("City"), and Challenger Communities LLC ("Owners" or "Property Owners").

I.  
INTRODUCTION

The Owners own 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 growth of the Colorado Springs metropolitan area makes it likely that the Property will experience development in the future. The Owner will be required to expend substantial amounts of funds for the installation of infrastructure needed to service the Property and, therefore, desires to clarify Owner's obligations for installation of or payment for any off-site infrastructure or improvements and with regard to the City's agreements with respect to provision of services to the Property and cost recoveries available to Owner. 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 Owners have petitioned the City for annexation of the Property as set forth in Exhibit A. The annexation will become effective upon final approval by the City Council and the recording of this annexation agreement, the annexation plat, the Sorpresa East Addition No. 1 Annexation special warranty deed and irrevocable consent to the appropriation, withdrawal, and use of groundwater as forth in Exhibit B and the annexation ordinance with the El Paso County Clerk and Recorder.

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

III.  
LAND USE

As provided in City Code, the Manager of the City Planning and Development Department has waived the requirement of submission of a land use master plan for this annexation because it meets the criteria in section 7.5.403B. The Sorpresa East Concept Plan for the Property, City file number CPC PUP 19-00139, (the "Concept Plan") has been proposed and submitted to the City for approval. Owners will comply with the approved Concept Plan or an amended 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 agrees to recommend that the initial zone for the Owners' Property shall be PUD/AO (Planned Unit Development: single-family detached, 8 dwelling units per acre, 35-foot maximum building height with Airport Overlay) upon annexation. While zoned PUD/AO (Planned Unit Development with Airport Overlay), a development plan shall be required for any use. Owners acknowledge the Property shall also be established with an Avigation Easement over the entire Property as part of the Airport Overlay. Owners acknowledge and understand 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 Sorpresa East Concept Plan, as approved or as amended by the City in the future. Rezoning in accord with the zones reflected on the Concept Plan will occur prior to actual development of the site.
- C. Platting Private Easements. When preparing a final plat, Owners shall be responsible for identifying and preserving, or for moving through agreements or lawful actions, any private easements which may exist on or across the Property by virtue of recorded instrument, by prescription or through other valid means of creating an easement.

V.  
PUBLIC FACILITIES

- A. General. As land is annexed into the City it is anticipated that land development will occur. In consideration of this land development, 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 constructed by the Owner and 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.

It is understood that all public facilities and improvements shall be subject to the provisions of the Chapter 7, Article 7 of the City 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. Metropolitan Districts. The Owners and City agree that the Property shall be subject to the requirements of the Woodmen Road Metropolitan District (Metro District) created to finance, design, extend, install and construct specific public facilities and improvements as identified as part of the Woodmen Road Metropolitan District Service Area which may include payment of fees and/or inclusion into the District. The Property will request inclusion into the Woodmen Heights Metropolitan District No. 2 prior to platting of the Property. Owners agree to improvements identified in the Concept Plan that will be the responsibility of the Owner to finance,

design extend, install and construct.

C. Streets, bridge and Traffic Control. Unless agreed to elsewhere in this Agreement the Owner agrees to construct, at the Owner' expense, those street, bridge and/or traffic improvements adjacent to or within the Property. These improvements shall also include mutually acceptable dedications of right-of-way and easements, and extension of streets and right-of-way. 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 agrees to comply with timing and phasing of construction responsibilities outlined specifically on the Concept Plan, CPC PUP 19-00139 and any subsequent amendments. The Owner will be responsible to build Sorpresa Lane with a pavement width of 36 feet from the west curb line of De Anza Trail to the property line (approximately 150') with curb, gutter and 5-foot sidewalk that shall be installed on this section of the street. Sorpresa Lane shall be paved by the Owner from Gilpin Peak Drive to the west curb line of De Anza Trail at a minimum width of 24 feet.

2. Off-Site Streets and Bridges: None

3. Traffic Control Devices. Owner 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.

D. Drainage. A Master Development Drainage Plan, or equivalent report as determined by the City Engineer, shall be prepared and submitted by the Owner to the City and approved by the City Engineer. Final Drainage Reports and Plans shall be prepared and submitted by the Owner to the City and approved by the City Engineer, prior to recording subdivision plats. Owner 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. Drainage, arterial bridge, and detention pond fees shall be determined with the then-current City Drainage, Bridge and Pond Fees Schedule at the time of Plat recordation. This annexation agreement shall not, in any way, supersede any requirements in current or future drainage criteria, standards, policies or ordinances. The Owner shall provide water quality and detention for all developed areas. Facilities constructed to provide water quality and detention will be owned and maintained by the Owner or other established private entity. A Maintenance Agreement between the City and current property owner will be required for each water quality or detention facility constructed. The Owner shall be responsible for conformance with the Cottonwood Creek Drainage Basin Planning Study in effect at the time of development.

E. Parks: All residential development proposals shall be subject to the requirements of the parkland dedication ordinance in effect at the time of plat.

F. Schools: Any residential uses are subject to school fees.

G. Improvements Adjacent to Park and School Lands. Streets and other required public improvements adjacent to park and school lands dedicated within the Property will be built by the Owner without reimbursement by the City or the School District.

## VI.

### UTILITY SERVICES

A. Colorado Springs Utilities' (UTILITIES) Services: UTILITIES's water, non-potable water, wastewater,

electric, streetlight, and natural gas services ("Utility Service" or together as "Utility Services") are available to eligible customers upon connection to UTILITIES's facilities or utility systems on a "first-come, first-served" basis, provided that (among other things) the City and UTILITIES determine that the applicant meets all applicable requirements of the City's Code of Ordinances ("City Code"), UTILITIES 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 or conveyance of real and personal property, public rights-of-way, private rights-of-way, or easements that UTILITIES determines are required for the extension of any proposed Utility Service from UTILITIES's utility system facilities that currently exist or that may exist at the time of the proposed extension or connection.

Owners shall ensure 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 UTILITIES's Tariffs, URRs, and Standards, and Pikes Peak Regional Building Department codes in effect at the time of Utility Service connection and/or extension. Owners acknowledge responsibility for 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 UTILITIES.

Owners acknowledge that UTILITIES' connection requirements shall include Owners' payment of all applicable development charges, recovery-agreement charges, advance recovery-agreement charges, aid-to-construction charges and other fees or charges applicable to the requested Utility Service. Because recovery agreement charges, advance recovery-agreement charges, and aid-to-construction charges may vary over time and by location, Owners are responsible for contacting UTILITIES's Customer Contract Administration at (719) 668-8111 to ascertain which fees or charges apply to the Property in advance of development of the Property.

B. Dedications and Easements: Notwithstanding anything contained in Article XI. of this Agreement to the contrary, Owners, at Owners' sole cost and expense, shall dedicate by plat and/or convey by recorded document, all property (real and personal) and easements that UTILITIES determines are required for any utility-system facilities necessary to serve the Property or to ensure development of an integrated utility system. UTILITIES shall determine the location and size of all property necessary to be dedicated or otherwise conveyed.

Owners shall provide UTILITIES all written, executed conveyances prior to or at the time of platting or prior to the development of the Property as determined by UTILITIES.

Further, all dedications and conveyances of real property must comply with the City Code, the City Charter, and UTILITIES Tariffs, URRs, and Standards, and shall be subject to UTILITIES's environmental review. Neither the City nor UTILITIES has any obligation to accept any real property interests. All easements by separate instrument shall be conveyed using UTILITIES's then-current Permanent Easement Agreement form without modification unless approved by UTILITIES.

If Owners, with prior written approval by UTILITIES, relocate, require relocation, or alter any existing utility facilities within the Property, then the relocation or alteration of these facilities shall be at the Owners' sole cost and expense. If UTILITIES determines that Owners' relocation or alteration requires new or updated easements, then Owners shall convey those easements prior to relocating or altering the existing utility facilities using UTILITIES's then-current Permanent Easement Agreement form without modification unless approved by UTILITIES. UTILITIES will only relocate existing gas or electric facilities during time frames and in a manner that UTILITIES determines will minimize outages and loss of service.

C. Extension of Utility Facilities by UTILITIES:

1. Natural Gas and Electric Facilities: Subject to the provisions of this Article, City Code, and UTILITIES Tariffs, URRs, and Standards, UTILITIES will extend electric and gas service to the Property if UTILITIES, in its sole discretion, determines there will be no adverse effect to any Utility Service or utility easement. Owners shall cooperate with UTILITIES to ensure that any extension of gas or electric facilities to serve the Property will be in accordance with City Code and UTILITIES Tariffs, URRs, and Standards. UTILITIES, in its sole discretion, may require Owners to enter into a Revenue Guarantee Contract for the extension of any electric service or facilities, including any necessary electric transmission or substation facilities. If any portion of the Property is located outside UTILITIES's electric service territory prior to annexation, then upon annexation:

1. Owners shall be solely responsible for providing the just compensation for electric distribution facilities and service rights specified in C.R.S. §§ 40-9.5-204 plus all costs and fees, including but not limited to, attorneys' fees that UTILITIES incurs as a result of or associated with the acquisition of such electric service territory; and
2. Owners shall be solely responsible for all costs: (1) to remove any existing electric distribution facilities within the Property that were previously installed by the then-current electric service provider ("Existing Facilities"); and (2) to convert any overhead electric lines to underground service lines ("Conversion") as determined by UTILITIES.
3. Within 30 days of Owners' receipt of an invoice for the following:
  1. Owners shall pay the former electric service provider, directly, for the just compensation specified in C.R.S. §§ 40-9.5-204 (1) (a) and 40-9.5-204 (1) (b); and
  2. If the former electric service provider removes the Existing Facilities, then Owners shall pay the former electric service provider directly for the removal of any Existing Facilities.
  4. Further, Owners shall pay UTILITIES the just compensation specified in C.R.S. §§ 40-9.5-204 (1) (c) and 40-9.5-204 (1) (d) within 30 days of Owners' receipt of an invoice for such costs.
  5. Owners shall also pay for any Conversion required by UTILITIES as a result of such annexation concurrent with the execution of a contract between the Owners and UTILITIES that specifies the terms of Conversion.

2. Water and Wastewater Facilities: In accordance with City Code, UTILITIES shall be responsible for the construction of centralized water and wastewater treatment facilities needed to serve the Property. In the event UTILITIES or other developers design and construct other water or wastewater system improvements UTILITIES determines are needed to ensure an integrated water or wastewater system is available to serve the Property, Owners shall be required to pay cost recovery for the engineering, materials, and installation costs incurred by UTILITIES or the other developer in its design, construction, upgrade, or improvement of any water pump stations, water suction storage facilities, water transmission and distribution pipelines, or other water system facilities and appurtenances and any wastewater pump stations, wastewater pipeline facilities, or other wastewater collection facilities and appurtenances.

D. Water and Wastewater System Extensions by Owners: Owners must 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 Owners' sole cost and expense in accordance with City Code and UTILITIES'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), Owners shall complete the design and installation, and obtain preliminary acceptance of such utility facilities, prior to UTILITIES's approval of Owners' water and wastewater service requests. Notwithstanding the above requirements, UTILITIES may enter into cost-sharing agreements with Owners for water and wastewater system expansions based on a determination of benefit to UTILITIES, in UTILITIES's sole discretion

E. Limitation of Applicability: The provisions of this Agreement set forth the requirements of the City

and UTILITIES 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 UTILITIES 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 UTILITIES. City Code, UTILITIES's Tariffs, URRs and Standards 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 UTILITIES, the Property must be included in 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 shall 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. The Owner acknowledges that water service for the Property will not be made available by UTILITIES until the Property is formally included within the boundaries of the District. District inclusion requires consent by the Bureau of Reclamation ("Reclamation"). The Owner shall be responsible for 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.

#### VII. WATER RIGHTS

As provided in the Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater ("Deed"), which is attached to this Agreement and hereby incorporated by reference, Owners grant to the City, all right, title and interest to any and all groundwater underlying or appurtenant to and used upon the Property, and any and all other water rights appurtenant to the Property (collectively referred to as "the Water Rights"), together with the sole and exclusive right to use the Water Rights and all rights of ingress and egress required by the City to appropriate, withdraw and use the Water Rights. The Deed conveying the Water Rights shall be executed by the Owners concurrently with this Agreement and shall be made effective upon the date of the City Council's final approval of the annexation of the Property. The Deed shall be recorded concurrent with the recording of the annexation agreement, annexation plat, and annexation ordinance at the El Paso County Clerk and Recorder's office.

Furthermore, pursuant to C.R.S. § 37-90-137(4), as now in effect or hereafter amended, on behalf of Owners and all successors in title, Owners irrevocably consent to the appropriation, withdrawal and use by the City of all groundwater underlying or appurtenant to and used upon the Property.

In the event the City chooses to use or further develop the Water Rights that have been conveyed, Owners agree to provide any and all easements required by the City prior to the construction and operation of any City well or water rights related infrastructure on the Property. Wells constructed by the City outside the Property may withdraw groundwater under Owners' Property without additional consent from Owners.

Upon annexation of the Property, any wells or groundwater developed by Owners prior to annexation will become subject to UTILITIES's applicable Tariffs, URRs, Standards, and rates as amended in the future. Upon annexation of the Property, Owner shall not use groundwater from the existing well on the Property. Owner shall plug and abandon such well in accord with Colorado Division of Water Resources regulations and provide Utilities with such abandonment documentation. No commingling of well and City water supply will be permitted.

#### VIII. FIRE PROTECTION

The Owner understands and acknowledges that the Property is located within the boundaries of the Black Forest Fire Protection District (the "Fire District") and may be excluded from the boundaries of the Fire District under the provisions applicable to special districts, Article 1 of Title 32 C.R.S., and as otherwise provided by law. Upon request by the City, the person who owns the Property at the time of the City's request agrees to apply to the Fire District for exclusion of the Property from the Fire District. The Owner understands and acknowledges that the Owner, its heirs, assigns and successors in title are responsible for seeking any exclusion from the Fire District and that the City has no obligation to seek exclusion of any portion of the Property from the Fire District.

IX.

FIRE PROTECTION FEE

The Owners agree to pay a fee of \$1,985.00 per gross acre of the entire annexed area as their 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 recordation of the annexation plat and this agreement. The City agrees as future annexations occur within the service area of the proposed fire station the owners of future annexations will be required to pay a per-acre fee to the City for the capital improvements to the fire station.

X.

POLICE SERVICE FEE

The Owner agrees to pay a fee of \$677.00 per gross acre of the entire annexed area as Owner's 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 recordation of the annexation plat and this agreement. The City agrees as future annexations occur within the service area of the proposed police station the owners of future annexations will be required to pay a per-acre fee to the City for the capital improvements to the police station.

XI.

PUBLIC LAND DEDICATION

Owner agrees that all land dedicated or deeded to the City for municipal or utility purposes, including park and school sites, shall be platted and all applicable development fee obligations paid.

Owner agrees that any land dedicated or deeded to the City for municipal or utility purposes, including park and school sites, shall be free and clear of liens and encumbrances. All fees that would be applicable to the platting of land that is to be dedicated to the City (including park and school land) shall be paid by Owner. Fees will be required on the gross acreage of land dedicated as of the date of the dedication in accord with the fee requirements in effect as of the date of the dedication. All dedications shall be platted by the Owner prior to conveyance, unless otherwise waived by the City.

In addition, any property dedicated by deed shall be subject to the following:

- A. All property deeded to the City shall be conveyed by General Warranty Deed.
- B. Owner shall convey the property to the City within 30 days of the City's written request.
- C. Any property conveyed to the City shall be free and clear of any liens and/or encumbrances.
- D. All property taxes levied against the property shall be paid by the Owner through the date of conveyance to the City.

E. An environmental assessment of the property must be provided to the City for review and approval, unless the City waives the requirement of an assessment. Approval or waiver of the assessment must be in writing and signed by an authorized representative or official of the City.

XII.  
SPECIAL PROVISIONS

Not applicable.

XIII.  
ORDINANCE COMPLIANCE

Owners will comply with all tariffs, 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. This Agreement shall not be construed as a limitation upon the authority of the City to adopt different tariffs, 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 as used in this Agreement, the term "the Owners" or "Property Owners," shall also mean any of the heirs, executors, personal representatives, transferees, or assigns of the Owners and all these parties shall have the right to enforce and be enforced under the terms of this Agreement as if they were the original parties hereto. Rights to specific refunds or payments contained in this Agreement shall always be to the Owners unless specifically assigned to another person.

Owners affirmatively state 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 Owners and all other persons who may purchase land within the Property from the Owners or any persons later acquiring an interest in the Property. Any refunds made under the terms of this Agreement shall be made to the Owners and not subsequent purchasers or assigns of the Property unless the purchase or assignment specifically provides for payment to the purchaser or assignee and a copy of that document is filed with the City.

XVI.  
AMENDMENTS

This Agreement may be amended by any party, including their respective successors, transferees, or assigns, and the City without the consent of any other party or its successors, transferees, or assigns so long as the amendment applies only to the property owned by the amending party. For the purposes of this article, an amendment shall be deemed to apply only to property owned by the amending party if this Agreement remains in full force and effect as to property owned by any non-amending party.

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 headings set forth in the Agreement for the different sections of the 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

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 breach, 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 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.

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.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the  
\_\_\_\_\_ day and \_\_\_\_\_ year first written above.

CITY OF COLORADO SPRINGS

BY: \_\_\_\_\_  
John Suthers, Mayor

ATTEST:

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

APPROVED AS TO FORM:

BY:  \_\_\_\_\_  
Office of the City Attorney

OWNER:

CHALLENGER COMMUNITIES LLC.

By: [Signature]

Name: James Byers

Title: V.P. Community Development  
(Owner)

ACKNOWLEDGMENT

JULIE K. EDMUNDS  
Notary Public  
State of Colorado  
Notary ID # 20134054579  
My Commission Expires 08-26-2021

STATE OF Colorado )

) ss.

COUNTY OF El Paso )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of May, 2020, by James Byers, as V.P. Community Development for and on behalf of CHALLENGER COMMUNITIES LLC.

Witness my hand and notarial seal.  
My commission expires: 8.26.21

[Signature]  
Notary Public

Address:  
8605 Explorer Dr. Suite 250  
Colo Spgs Co 80920

**EXHIBIT A**  
**LEGAL DESCRIPTION**

**PARCEL A:**

A portion of the Northwest quarter of the Southeast quarter of Section 6, Township 13 South, Range 65 West of the 6th P.M., whose locations and boundaries are more particularly described as follows:

Commencing at a point that is on a line drawn parallel with the North line of the Southwest quarter of the Northeast quarter of said Section 6, and 860 feet Southerly therefrom, said point being 211.8 feet West of the East line of said Southwest quarter of the Northeast quarter as measured on said parallel line;  
Thence Westerly on said parallel line a distance of 211.8 feet;  
Thence angle left  $88^{\circ}16'30''$  Southerly a distance of 1058.8 feet to the Point of Beginning and the Northeast corner of the tract of land to be described hereby;  
Thence angle right  $88^{\circ}16'30''$  Westerly a distance of 423.6 feet;  
Thence angle left  $88^{\circ}16'30''$  Southerly a distance of 663.78 feet more or less to a point of intersection with the South line of the Northwest quarter of the Southeast quarter of said Section 6, a distance of 843.85 feet Westerly from the Southeast corner thereof;  
Thence Easterly on said South line a distance of 423.81 feet  
Thence angle left  $87^{\circ}18'$  Northerly a distance of 656.56 feet more or less to the Point of Beginning, County of El Paso, State of Colorado.

**PARCEL B:**

A portion of the Northwest quarter of the Southeast quarter of Section 6, Township 13 South, Range 65 West of the 6th P.M., described as follows:

Commencing at the Northeast corner of the Southwest quarter of the Northeast quarter of said Section 6; thence Southerly 860 feet on the Easterly line thereof;  
Thence West parallel with the North line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 423.6 feet; Thence angle left  $88^{\circ} 16' 30''$  Southerly 1058.8 feet;  
Thence Westerly parallel with the North line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 423.6 feet; Thence angle left  $88^{\circ} 16' 30''$  Southerly parallel with the East line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 344.4 feet to the point of beginning of the tract to be described hereby;  
Thence angle right  $88^{\circ} 16' 30''$  Westerly parallel with the North line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 326.93 feet;  
Thence angle left  $88^{\circ} 16' 30''$  Southerly parallel with the East line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 324.92 feet, more or less, to intersect the South line of the Northwest quarter of the Southeast quarter of said Section 6; Thence angle left  $92^{\circ} 42'$  Easterly on said South line 327.16 feet to intersect a line drawn Southerly from the point of beginning and parallel with the East line of the Northwest quarter of the Southeast quarter of said Section 6;  
Thence Northerly on said parallel line 319.38 feet, more or less, to the point of beginning, except the Easterly 30.03 feet as measured on the Northerly line thereof.

Together with a non-exclusive right of way for ingress and egress to the above described tract over and across the right of way described in instrument recorded in Book 1587 at Page 149 under Reception No. 10735, in the County of El Paso, State of Colorado.

**PARCEL C:**

A portion of that parcel of land described in the Personal Representative's Deed recorded under Reception No. 207119516 of the El Paso County records, lying within the Northwest Quarter of the Southeast Quarter of Section 6, Township 13 South, Range 65 West of the 6th Principal Meridian, County of El Paso, State of Colorado, described as follows:

Bearings are based upon the East line of said Personal Representative's Deed, monumented at the Northeast corner with a #3 rebar and monumented at the Southeast corner with a #4 rebar and red plastic cap (stamping illegible), and assumed to bear S 00°12'01" E, a field measured distance of 663.78 feet.

BEGINNING at the Southeast corner of said Personal Representative's Deed;  
thence S 87°05'31" W along the South line of said Personal Representative's Deed coincident with the South line of the Northwest Quarter of the Southeast Quarter of said Section 6, a distance of 30.06 feet to the Southwest corner of said Personal Representative's Deed;  
thence N 00°12'01" W along the West line of said Personal Representative's Deed, a distance of 320.08 feet to a point of the South line of that parcel of land described under Reception No. 201168820;  
thence N 88°06'16" E along said South line of that parcel of land described under Reception No. 201168820, a distance of 30.04 feet to a point on said East line of said Personal Representative's Deed;  
thence S 00°12'01" E along said East line, a distance of 319.55 feet to the Point of Beginning.

NOTE: THE ABOVE LEGAL DESCRIPTION WAS PROVIDED IN A TITLE COMMITMENT ISSUED BY LEGACY TITLE GROUP, LLC, FILE NO. 22597LTG, DATED 3/09/2020  
TO THE BEST OF MY KNOWLEDGE AND BELIEF THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES THE LAND BEING ANNEXED.



VERNON P. TAYLOR, COLORADO PLS NO. 25966

5/18/2020

DATE



EXHIBIT B

SPECIAL WARRANTY DEED AND IRREVOCABLE CONSENT  
TO THE APPROPRIATION, WITHDRAWAL AND USE OF GROUNDWATER  
SORPRESA EAST ADDITION NO. 1 ANNEXATION

(Owner) ("Grantor(s)", whose address is 8605 Explorer Drive, Suite 250, Colorado Springs, Colorado, in consideration of the benefits received pursuant to the Sorpresa East Addition No. 1 Annexation Agreement dated May 11<sup>th</sup>, 2020 ("Annexation Agreement"), which is executed by Grantor(s) concurrently with this Special Warranty Deed, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, sell and convey to the City of Colorado Springs, Colorado ("Grantee"), whose address is 30 S. Nevada Avenue, Colorado Springs, CO 80903, all right, title, and interest in any and all groundwater underlying or appurtenant to and used upon the property described in Exhibit A ("Property") and any and all other water rights appurtenant to the Property collectively referred to as the "Water Rights", together with the sole and exclusive right to use the Water Rights and all rights of ingress and egress required by the Grantee to appropriate, withdraw and use the Water Rights; and Grantor(s) warrants title to the same against all claims arising by, through, or under said Grantor(s). The Water Rights include but are not limited to those described in Exhibit B.

Furthermore, pursuant to C.R.S. § 37-90-137(4) as now exists or may later be amended, Grantor(s), on behalf of Grantor(s) and any and all successors in title, hereby irrevocably consent in perpetuity to the appropriation, withdrawal and use by Grantee of all groundwater underlying or appurtenant to and used upon the Property.

This Special Warranty Deed and the consent granted herein shall be effective upon the date of the City of Colorado Springs-City Council's final approval of the Annexation Agreement.

Executed this 11<sup>th</sup> day of May, 2020.

GRANTOR(s):

By: 

Name: James Byers

Its: V.P. Community Development, Challenger Communities, LLC

STATE OF Colorado )

) ss.

COUNTY OF El Paso )

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of May, 2020  
by James Byers, Grantor.

Witness my hand and official seal.

My Commission Expires: 8-26-21

JULIE K. EDMUNDS  
Notary Public  
State of Colorado  
Notary ID # 20134054579  
My Commission Expires 08-26-2021

  
(SEAL) Notary Public

Accepted by the City of Colorado Springs

By:  this 20 day of May, 2020  
Real Estate Services Manager

By:  this 20 day of May, 2020  
Colorado Springs Utilities System Extensions Manager

Approved as to Form:

By:  Date: 5/20/2020  
City Attorney's Office

**Exhibit A**  
**LEGAL DESCRIPTION**

To the Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater executed by CHALLENGER COMMUNITIES LLC, Grantor(s) on 5.11.2020.

**PARCEL A:**

A portion of the Northwest quarter of the Southeast quarter of Section 6, Township 13 South, Range 65 West of the 6th P.M., whose locations and boundaries are more particularly described as follows:

Commencing at a point that is on a line drawn parallel with the North line of the Southwest quarter of the Northeast quarter of said Section 6, and 860 feet Southerly therefrom, said point being 211.8 feet West of the East line of said Southwest quarter of the Northeast quarter as measured on said parallel line;

Thence Westerly on said parallel line a distance of 211.8 feet;

Thence angle left 88°16'30" Southerly a distance of 1058.8 feet to the Point of Beginning and the Northeast corner of the tract of land to be described hereby;

Thence angle right 88°16'30" Westerly a distance of 423.6 feet;

Thence angle left 88°16'30" Southerly a distance of 663.78 feet more or less to a point of intersection with the South line of the Northwest quarter of the Southeast quarter of said Section 6, a distance of 843.85 feet Westerly from the Southeast corner thereof;

Thence Easterly on said South line a distance of 423.81 feet

Thence angle left 87°18' Northerly a distance of 656.56 feet more or less to the Point of Beginning, County of El Paso, State of Colorado.



**PARCEL B:**

A portion of the Northwest quarter of the Southeast quarter of Section 6, Township 13 South, Range 65 West of the 6th P.M., described as follows:

Commencing at the Northeast corner of the Southwest quarter of the Northeast quarter of said Section 6; thence Southerly 860 feet on the Easterly line thereof;  
Thence West parallel with the North line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 423.6 feet; Thence angle left 88° 16' 30" Southerly 1058.8 feet;  
Thence Westerly parallel with the North line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 423.6 feet; Thence angle left 88° 16' 30" Southerly parallel with the East line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 344.4 feet to the point of beginning of the tract to be described hereby;  
Thence angle right 88° 16' 30" Westerly parallel with the North line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 326.93 feet;  
Thence angle left 88° 16' 30" Southerly parallel with the East line of the Southwest quarter of the Northeast quarter of said Section 6, a distance of 324.92 feet, more or less, to intersect the South line of the Northwest quarter of the Southeast quarter of said Section 6; Thence angle left 92° 42' Easterly on said South line 327.16 feet to intersect a line drawn Southerly from the point of beginning and parallel with the East line of the Northwest quarter of the Southeast quarter of said Section 6;  
Thence Northerly on said parallel line 319.38 feet, more or less, to the point of beginning, except the Easterly 30.03 feet as measured on the Northerly line thereof.

Together with a non-exclusive right of way for ingress and egress to the above described tract over and across the right of way described in instrument recorded in Book 1587 at Page 149 under Reception No. 10735, in the County of El Paso, State of Colorado.

**PARCEL C:**

A portion of that parcel of land described in the Personal Representative's Deed recorded under Reception No. 207119516 of the El Paso County records, lying within the Northwest Quarter of the Southeast Quarter of Section 6, Township 13 South, Range 65 West of the 6th Principal Meridian, County of El Paso, State of Colorado, described as follows:

Bearings are based upon the East line of said Personal Representative's Deed, monumented at the Northeast corner with a #3 rebar and monumented at the Southeast corner with a #4 rebar and red plastic cap (stamping illegible), and assumed to bear S 00°12'01" E, a field measured distance of 663.78 feet.

BEGINNING at the Southeast corner of said Personal Representative's Deed;  
thence S 87°05'31" W along the South line of said Personal Representative's Deed coincident with the South line of the Northwest Quarter of the Southeast Quarter of said Section 6, a distance of 30.06 feet to the Southwest corner of said Personal Representative's Deed;  
thence N 00°12'01" W along the West line of said Personal Representative's Deed, a distance of 320.08 feet to a point of the South line of that parcel of land described under Reception No. 201168820;  
thence N 88°06'16" E along said South line of that parcel of land described under Reception No. 201168820, a distance of 30.04 feet to a point on said East line of said Personal Representative's Deed;  
thence S 00°12'01" E along said East line, a distance of 319.55 feet to the Point of Beginning.

NOTE: THE ABOVE LEGAL DESCRIPTION WAS PROVIDED IN A TITLE COMMITMENT ISSUED BY LEGACY TITLE GROUP, LLC, FILE NO. 22597LTG, DATED 3/09/2020  
TO THE BEST OF MY KNOWLEDGE AND BELIEF THE ABOVE LEGAL DESCRIPTION ACCURATELY DESCRIBES THE LAND BEING ANNEXED.



VERNON P. TAYLOR, COLORADO PLS NO. 25966

5/8/2020

DATE



**Exhibit B**

To the Special Warranty Deed and Irrevocable Consent to the Appropriation, Withdrawal and Use of Groundwater  
executed (Owner), Grantor(s) on 5.11.2020.

**Decreed Groundwater Rights**

Case No.

Court:

Source:

Amount:

Date of Decree:

Name of Owner:

**Permitted Groundwater**

Permit No.

Date of Permit:

Source:

Amount:

Name of Owner:

Legal Description of Well or other structure:

**Surface Water Rights**

Name of Water Right:

Case No.

Court:

Source:

Amount:

Date of Decree:

Name of Owner: