

**AGREEMENT PROVIDING
FOR WATER SERVICE TO LAND LOCATED OUTSIDE THE CITY LIMITS OF THE CITY OF
COLORADO SPRINGS
AND
AGREEMENT TO ANNEX**

WHEREAS, Glenn S. Pressman, Trustee for Keogh Money Purchase Plan & Profit Sharing Plan for the Benefit of Glenn S. Pressman ("Owner") is the owner of the real property known as Lot 1, Fox Rock Subdivision, (TSN: 7415302001), in El Paso County, Colorado, as shown on the location sketch map and as described and set forth in the attached Exhibit "A" (the "Property"); and

WHEREAS, Owner desires to construct upon the Property a new single-family residence and has requested water service ("Service") for the Property from the City of Colorado Springs, a home rule City and Colorado municipal corporation (the "City"); and

WHEREAS, the Property is not subject to any encumbrances; and

WHEREAS, the City has considered Owner's application for water service and has determined that the Property sought to be served is not presently eligible for annexation to the City; and

WHEREAS, City is agreeable to furnishing water service to the Property for single-family residential purposes upon the terms and conditions set forth below because the City has determined that the extension of service under the terms of this Agreement constitutes a community benefit.

NOW, THEREFORE, in consideration of the premises and in further consideration of the benefits which will accrue to the City and Owner, the City and Owner have entered into this Agreement Providing for Water Service to Land Located Outside the City Limits of the City of Colorado Springs and Agreement to Annex (hereinafter "the Agreement") under the following terms and conditions:

1. This Agreement shall constitute the unqualified and irrevocable consent of Owner to annex the Property to the City, and the City shall not be required to seek legal action to compel specific performance of this Agreement to annex, but may proceed by ordinance to annex all or any part of the Property in the same manner as if Owner had petitioned therefor or as otherwise permitted by law at such time as the City in its sole discretion shall see fit whenever the Property shall become eligible for annexation and pursuant to the Municipal Annexation Act of 1965, Part 1 of Article 12 of Title 31, C.R.S. (hereinafter "the Annexation Act") and Section 30 of Article 2 of the Colorado Constitution or any amendments thereof or subsequent annexation legislation then in effect in the State of Colorado. Upon request of the City Council of the City, Owner further agrees to execute a petition for annexation, execute annexation plats, and execute any other documents that the City determines are necessary to annex the Property to the City. Owner agrees that the provisions of this Agreement are applicable to the Property as described in Exhibit A or any portion thereof. It is further agreed that Owner will not annex the Property or any portion thereof, or incorporate the same with any other municipality or special service district without the prior written consent of the City.

2. It is specifically understood that the water service to be furnished by the City are for single-family residential use and shall be in conformity with the regulations of the City in furnishing water service outside its corporate limits as modified by this Agreement and except as expressly provided herein, will be in conformity with all applicable resolutions, codes, ordinances, regulations and policies of the City. Owner expressly agrees to be bound by and to comply with

any and all City ordinances pertaining to water shortages, outdoor watering restrictions and water efficient landscaping. Owner understands and agrees that the City imposes charges for water service provided outside of its corporate limits at a higher rate than applicable to the provision of services within the corporate limits of the City. Upon annexation of the Property to the City, charges for water service subsequent to annexation shall be at the rate applicable to the provisions of service within the corporate limits of the City.

3. If Owner or Owner's successor-in-interest desires a different water service than granted the Property in this Agreement, or desires to put the Property to other than the uses provided for in this Agreement, a request therefor shall be made to the City Council of the City, and such request, if granted at all, shall be upon such terms and conditions as may be imposed by the Council. If the use of the Property for which the request for the changed use is made involves the subdivision of the Property or development of the Property for multi-family residential, commercial or industrial purposes, the conditions for granting such request, if granted, shall include full compliance with the code, ordinances, resolutions, regulations and policies of the City.

4. Water distribution facilities exist in the area and a water main extension is not required to provide service to the Property. Owner will extend water service lines to the Property and upon the Property, at Owner's expense, in accordance with the provisions of the City's codes, ordinances, rules, regulations and policies in effect at the time of the specific water request. In the event Owner is not required to extend water service lines and connect to the City's water system at the time of entering into this Agreement, Owner shall connect to the City's water system at Owner's expense when required under applicable codes, ordinances, rules, regulations and policies of the City in effect at the time of the request for service. Capacity of the system is not guaranteed by this Agreement, but by availability of service at the time of request. The first-come, first-served policy will govern availability of supply.

City Code section 12.4.407.A provides that Owner shall provide a separate and independent domestic service line, and an individual meter shall be provided from mains for each and every structurally independent residential, commercial, or industrial building, whether or not they are on a single platted lot under common ownership, unless Colorado Springs Utilities ("Springs Utilities"), in the reasonable exercise of its discretion, may determine that other means are more suitable in the operation of its system. Springs Utilities has determined in its discretion that allowing the Property and the property known as Lot 2, Fox Rock Subdivision (TSN: 7415302002) in El Paso County ("Lot 2 Property"), to jointly use a 1" water service line that runs from the Springs Utilities' water main on Bear Creek Road to the existing valve box adjacent to meter vault on the east side of Gold Camp Road as depicted on Exhibit "B" hereto is more suitable for the operation of its system. The Property and the Lot 2 Property shall have individual water meters located within such existing vault and shall have individual service lines running from their respective meters to the respective properties. Any water service line configuration other than as depicted on Exhibit B involving a common water service line for the properties must be approved in advance by Springs Utilities. Owner shall obtain any easements required for the joint service line and the individual service line for the Property, enter into an agreement related to the use, construction, operation, and maintenance of the joint service line with the owner of the Lot 2 Property and recording a "Notice of Private Utility Lines" that is substantially similar to Exhibit "C" for the joint service line and individual service line for the Property.

Owner agrees to pay its pro rata share of the water facility costs through the established water system development charge. Owner will pay a pro rata share of existing water facility costs through established recovery agreement charges when required by codes, ordinances, rules, regulations, or policies of the City. Water distribution required to serve the Property must be designed and constructed at Owner's expense in accordance with applicable codes, ordinances, rules, regulations or policies of the City at the time of the request for Service.

Owner agrees to participate with other developments on a fair share pro rata basis in present and future off-site relief or other water facilities.

5. 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 as Exhibit "D" and hereby incorporated by reference, Owner grants 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 Owner concurrently with this Agreement and shall be made effective immediately after execution by the City. The Deed shall be recorded 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 Owner and all successors in title, Owner irrevocably consents 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, Owner agrees 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 Owner's Property without additional consent from Owner.

6. Owner shall also construct facilities, if determined necessary by the City Engineer, for the safe discharge of all subsurface water into a drainage conveyance facility. These facilities are not eligible for drainage basin credit or reimbursement.

7. Owner and the City acknowledge that if the Property is not located within the corporate limits of the City at the time of its development, Owner nevertheless agrees to comply with all codes, ordinances, rules, regulations and policies of the City, including but not limited to, the City's Subdivision Code, Building Code, Fire Code, Drainage Ordinance, Utility Extension Policies, and Comprehensive Land Development Plan as now existing or subsequently amended, except to the extent that such compliance would be unlawful under the applicable resolutions, codes and regulations of the El Paso County Board of County Commissioners or another governmental entity having jurisdiction. In the event compliance is unlawful under the applicable resolutions, codes and regulations of the El Paso County Board of County Commissioners or other governmental entity having jurisdiction over the Property, Owner shall post assurances to bring any improvements into compliance with City codes, ordinances, rules, regulations and policies upon annexation.

Compliance with City codes, ordinances, rules, regulations, and policies pertaining to land development shall require but shall not be limited to:

- (1) Payment of all applicable water fees or charges.
- (2) Payment for required school/park sites or fees in lieu of dedication to the applicable jurisdiction.
- (3) Dedication, design and construction of required streets, sidewalks, curbs, gutters, and utilities, including telephone, to City standards, or to the standards of the entity having responsibility for maintenance, whichever standard is stricter.
- (4) Dedication of easements, including but not limited to, utility, telephone and drainage easements as required by the City Subdivision Code.
- (5) Provision for necessary drainage facilities or the payment of drainage fees and

arterial roadway bridge fees.

- (6) City requirements for off-street parking in connection with the Property and improvements and submission for City approval plans for adequate off-street parking.

8. Owner agrees to pay fees, charges and take such other actions as set forth in Paragraph 7 at the time of annexation, when required under the provisions of the applicable City codes, ordinances, rules, regulations and policies or at any other time as requested by the City. Fees payable and requirements imposed under Paragraph 7 shall be those in effect at the time the fees are required to be paid or other action to be taken under the provisions of Paragraph 7 and not those fees in effect or requirements in effect at the time of execution of this Agreement. The City may require proof of payment or proper dedication of land prior to the connection of any water service under this Agreement. This Agreement shall not be interpreted to require the City to install any park or drainage facility at any specific location or within any period of time, nor as relieving Owner of any liability or obligation to third persons to provide or to refrain from providing drainage. The City shall incur no obligation to Owner by reason of any claims, suits, judgments, or other liability or obligation resulting from Owner providing or failing to provide drainage. Owner specifically agrees to indemnify and hold the City harmless from all such claims.

9. Owner understands that certain infrastructure serving the Property may be required by the City to meet appropriate City standards at the time of utility service extension to the Property or at the time of annexation of the Property to the City, or at another subsequent time as the City determines is appropriate to be upgraded to meet City standards. Infrastructure may include public utilities and public works projects including, but not limited to, paving and improvements of streets, curb, gutters, drainage facilities, drainage, or water systems necessary to serve the Property subject to this Agreement. Infrastructure may be designed, financed, constructed, and/or maintained by special districts or other entities. These entities may include, but are not limited to, special districts, general improvements districts, limited improvement districts, special improvement maintenance districts, metropolitan districts, and building authorities or another district by whatever name, whether established pursuant to or subsequent to the annexation of the Property to the City or established prior to the annexation of the Property to the City. This Agreement shall constitute Owner's unqualified and irrevocable consent to including the Property within any of the foregoing entities and assessing the Property a fair share of the cost of any improvements as determined by the City Council or the governmental authority having jurisdiction. In addition to or in lieu of the construction of improvements by the foregoing entities, the City may at any time require Owner to execute a time delay or other agreement obligating Owner and the Property to pay for some or all of the improvements and a fair share as the City in its sole discretion may determine is appropriate.

10. The covenants and agreements contained in this Agreement shall run with the land described and affected by this Agreement, and shall extend to and be binding upon Owner's heirs, assigns, legal representatives and successors and Owner for Owner and Owner's heirs, assigns, legal representatives and successors in interest.

11. Prior to annexation, nothing contained in this Agreement shall be interpreted to preclude Owner from obtaining water service from another source acceptable to and meeting the requirements of the general governmental jurisdiction and the appropriate public health agency in which the Property is located. In the event of disconnection from all City services, this Agreement shall terminate without expectation of any refund of fees or rates paid to the City pursuant to this Agreement or conveyance of groundwater or other water rights by City to the Owner.

12. As further consideration for the City providing water service, if all or part of the Property is eligible for annexation and if for any reason Owner or Owner's successor in interest does not or

cannot abide by the terms and conditions of this Agreement, then the water service provided may be terminated by and at the sole option of the City without expectation of any refund of fees or rates paid to the City pursuant to this Agreement or conveyance of the groundwater or other water rights by City to the Owner.

13. Nothing in this Agreement shall abridge or shall be construed as a limitation on the City's authority to adopt different ordinances, rules, regulations, resolutions, policies or codes that apply generally or to the Property specifically.

14. Owner will comply with all ordinances, codes, rules, regulations and policies of the City as now exist or may be amended or adopted in the future which are applicable to the Property under the terms of this Agreement, or are otherwise applicable to the Property after the annexation to the City.

15. Extension of water service under the terms of this Agreement is for the sole benefit of Owner and shall not be interpreted to create rights in a third party beneficiary or constitute City Council's determination of any policy pertaining to extension of water service to other similarly situated individuals or property.

16. As used in this Agreement, the term "Owner" shall also mean any of Owner's heirs, executors, personal representatives, successors, transferees, or assigns. A subsequent Owner of the Property shall have the right to enforce this Agreement subject to its provisions to the same extent as the original Owner of the Property.

17. This Agreement may be amended by Owner and the City. Any amendment shall be recorded in the records of El Paso County, shall run with the land and shall be binding upon all persons or entities now having or later acquiring an interest in the Property subject to the amendment unless otherwise specified in the amendment.

18. The parties to this Agreement agree that for breach of any covenant, term or condition of this Agreement by any Owner, damages are not to be considered an adequate or exclusive remedy, and the City may compel specific performance of this Agreement.

19. If any part of this Agreement is declared void by a Court of competent jurisdiction, the parties agree that the void provision shall not affect the remaining terms and conditions of this Agreement, which shall continue in full force and effect.

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IN WITNESS WHEREOF, the City, Owner and financial institution have executed this Agreement on the _____ day of _____, 2021.

CITY OF COLORADO SPRINGS

BY: _____
John Suthers, Mayor

ATTEST:

BY: _____
Sarah B. Johnson, City Clerk

APPROVED AS TO FORM:

City Attorney's Office

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by, John Suthers, Mayor of the City of Colorado Springs on behalf of the City of Colorado Springs.

My Commission expires: _____.

Notary Public

OWNER:

By: _____
Glenn S. Pressman
Trustee

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Glenn S. Pressman, as Trustee for Keogh Money Purchase Plan & Profit Sharing Plan for the Benefit of Glenn S. Pressman, as Owner.

My Commission expires: _____.

Notary Public

Exhibit A

to the Agreement to Annex Lot 1, Fox Rock Subdivision

LEGAL DESCRIPTION OF PROPERTY

LOT 1, FOX ROCK SUBDIVISION

COUNTY OF EL PASO, STATE OF COLORADO.

Exhibit B
to the Agreement to Annex Lot 1, Fox Rock Subdivision
WATER SERVICE LINE INFRASTRUCTURE

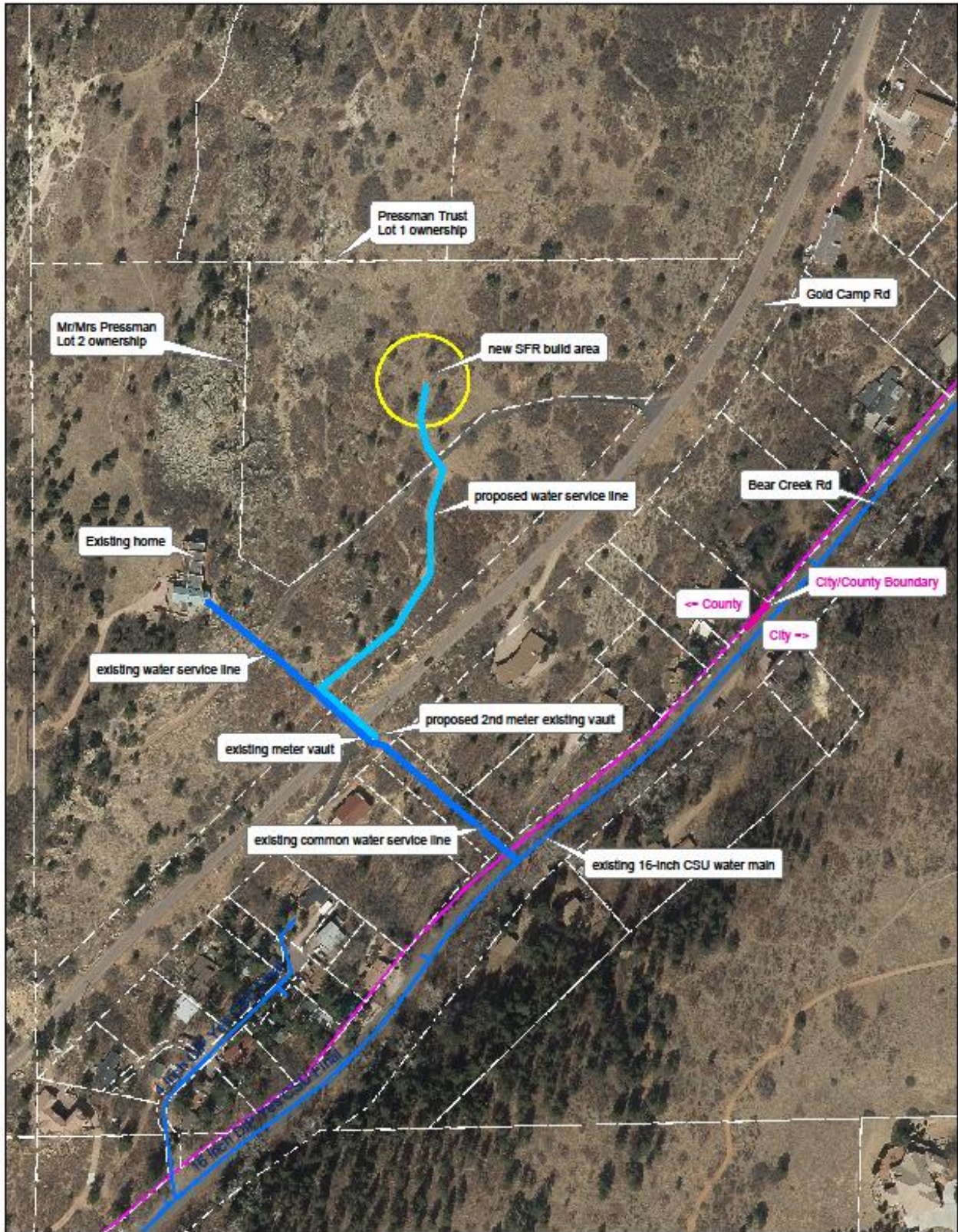


Exhibit C
to the Agreement to Annex Lot 1, Fox Rock Subdivision

NOTICE OF PRIVATE UTILITY LINES

This Notice of Private Utility Lines, dated _____, 2021, is executed by Glenn S. Pressman and Laura L. Feldman (“Lot 2 Owner”), whose address is PO Box 38357 Colorado Springs, CO 80937 and by Glenn S. Pressman, Trustee For Keough Money Purchase Plan & Profit Sharing Plan For Benefit of Glenn S. Pressman (“Lot 1 Owner”), whose address is PO Box 38357 Colorado Springs, CO 80937, as the present owners of “Lot 2” and “Lot 1”, respectively, of the Fox Rock Subdivision, City of Colorado Springs, El Paso County, Colorado, as reflected on the plat recorded at reception number 1722611 with the Clerk and Recorder of El Paso County, Colorado (the “Property”).

All parties who now have, or who may hereafter acquire, any interest in either Lot 1 or Lot 2, are hereby notified that the Private Utility Lines, which now serve or will serve Lot 1 and Lot 2, respectively, are privately owned by the above Lot 1 Owner and Lot 2 Owner respectively; and are subject to the Easement Agreement recorded at reception number _____ with the Clerk and Recorder of El Paso County, Colorado. The existing Private Utility Line for Lot 2 shall continue to be so owned upon the sale or other transfer of all or any portion of Lot 2. The existing and proposed portions of the Private Utility Line for Lot 1 shall continue to be so owned upon the sale or other transfer of all or any portion of Lot 1.

The Private Utility Lines, for purposes of this notice, shall include, but are not limited to, all water pipes, valves, vaults, pumps, manholes, fire hydrants, conduits, and any other items which are necessary, including all appurtenances, in order to enable water to be transferred from Colorado Springs Utilities’ water mains to the Property, or any portion thereof, regardless of whether such items are located on the Property or within rights-of-way, easements, or roadways held by Colorado Springs Utilities, the City of Colorado Springs, or others.

Nothing contained in the Colorado Springs Utilities Water Line Extension and Service Standards shall require the owners of the Property to be responsible for any public water mains, public pipelines, or other public items, which are necessary to service properties other than, or in addition to, the Property.

Due to the private nature of the Private Utility Lines, all matters regarding the Private Utility Lines shall be as provided in the Easement Agreement.

This Notice shall be deemed to run with the land and touch and concern the land.

IN WITNESS WHEREOF, the Lot 2 Owner and the Lot 1 Owner have each executed this Notice of Private Utility Lines as of the Effective Date.

LOT 2 OWNER:

Glenn S. Pressman

Laura L. Feldman

STATE OF COLORADO)

)ss.

COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this ___ day of _____, 2021, by Glenn S. Pressman and Laura L. Feldman, Lot 2 Owners.

Witness my hand and official seal.

My commission expires _____, 20__.

Notary Public

LOT 1 OWNER: Keough Money Purchase Plan & Profit Sharing Plan For Benefit of Glenn S. Pressman

By: _____
Glenn S. Pressman, Trustee

STATE OF COLORADO)

)ss.

COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this ___ day of _____, 2021 by Glenn S. Pressman, Trustee of Keough Money Purchase Plan & Profit Sharing Plan For Benefit of Glenn S. Pressman, Lot 1 Owner.

Witness my hand and official seal.

My commission expires _____, 20__.

Notary Public

EXHIBIT D
to the Agreement to Annex Lot 1, Fox Rock Subdivision
SPECIAL WARRANTY DEED AND IRREVOCABLE CONSENT
TO THE APPROPRIATION, WITHDRAWAL AND USE OF GROUNDWATER
FOR LOT 1, FOX ROCK SUBDIVISION

Glenn S. Pressman, Trustee for Keogh Money Purchase Plan & Profit Sharing Plan for the Benefit of Glenn S. Pressman ("Grantor(s)"), whose address is PO Box 38357, Colorado Springs, CO, 80937 in consideration of the benefits received pursuant to the Agreement Providing for Water Service to Land Located Outside the City Limits of the City of Colorado Springs and Agreement to Annex dated _____ ("Annexation Agreement") for the real property known as Lot 1 Fox Rock Subdivision (TSN: 7415302001), in El Paso County, Colorado, 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). Grantor makes no guaranty or warranty of the existence of groundwater or the quality or quantity of the groundwater.

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 its execution.

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Executed this _____ day of _____, 20__.

GRANTOR(s):

By: _____
Glenn S. Pressman
Trustee

STATE OF COLORADO)

) ss.

COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Glenn S. Pressman, Trustee for Keogh Money Purchase Plan & Profit Sharing Plan for the Benefit of Glenn S. Pressman, as Owner.

My Commission expires: _____.

Notary Public

Accepted by the City of Colorado Springs

By: _____ this _____ day of _____, 2021
Real Estate Services Manager

By: _____ this _____ day of _____, 2021

Approved as to Form:

By: _____ Date: _____
City Attorney's Office

Exhibit A

to the

Special Warranty Deed and Irrevocable Consent to the Appropriation,

Withdrawal and Use of Groundwater executed by

Glenn S. Pressman, Trustee for Keogh Money Purchase Plan & Profit Sharing Plan for the
Benefit of Glenn S. Pressman Grantor(s)

LEGAL DESCRIPTION OF PROPERTY

LOT 1, FOX ROCK SUBDIVISION

COUNTY OF EL PASO, STATE OF COLORADO.