

RESOLUTION ____ -14

A RESOLUTION SETTING FORTH FINDINGS OF FACT AND CONCLUSIONS OF LAW BASED THEREON AND DETERMINING THE STATUS OF THE TERRITORY KNOWN AS FLYING HORSE RANCH ADDITION NO. 2 HEREINAFTER MORE SPECIFICALLY DESCRIBED IN EXHIBIT "A"

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

This matter comes on for hearing before the City Council of the City of Colorado Springs on August 12, 2014 pursuant to Sections 31-12-108 and 31-12-109, C.R.S., known as the Municipal Annexation Act of 1965 as amended (hereinafter referred to as Annexation Act), to consider the annexation of that certain territory known as Flying Horse Ranch Addition No. 2, more specifically described in Exhibit "A" as attached hereto and incorporated herein by reference, and the Council having examined all of the evidence presented at said hearing and being fully advised of the premises, now sets forth findings of fact and conclusions of law based thereon as provided for in Section 31-12-110 of the Annexation Act, other findings of fact and conclusions as are appropriate, and makes determinations as follows:

1. The City Clerk of the City of Colorado Springs has received a petition for annexation of the area described in Exhibit "A" entitled "Petition for Annexation," signed by persons comprising one hundred percent (100%) of the landowners in the area to be annexed and owning one hundred percent (100%) of the area, excluding public streets and alleys, in compliance with the provisions of Article II, Section 30 of the Colorado Constitution, and Section 31-12-107(1) of the Annexation Act.

2. On June 24, 2014, the City Council approved a resolution entitled "A Resolution Finding a Petition for Annexation of The Area Known as Flying Horse Ranch Addition No. 2 Consisting of 1.67 Acres to be in Substantial Compliance with Section 31-12-107(1), C.R.S. and Setting a Hearing Date of August 12, 2014 for the Colorado Springs City Council to Consider the Annexation of the Area." This resolution set a hearing to consider the annexation of this area to the City of Colorado Springs on August 12, 2014, in Council Chambers, City Hall, 107 North Nevada Avenue, Colorado Springs, Colorado, and directed the City Clerk to give notice of said hearing in the manner prescribed in Section 31-12-108 of the Annexation Act. In addition, said resolution found that the petition for annexation is in substantial compliance with Section 31-12-107(1) C.R.S of the Annexation Act, and further determined that said petition is in substantial compliance with Section 30 of Article II of the Colorado Constitution, which findings are adopted herein.

3. The City Clerk, pursuant to said resolution, has caused to have published in the Colorado Springs Gazette a document entitled "Public Notice City of Colorado Springs Notice of Public Hearing on Annexation Petition of Flying Horse Ranch Addition No. 2 Annexation Consisting of 1.67 Acres Located in the Flying Horse Community South of Diamond Rock Road and Roughly 1,000 Feet West of Pride Mountain," along with a copy of said resolution with an attached legal description of the area to be annexed and a map showing the approximate boundaries thereof, with four (4) publications as

follows: July 5, 2014; July 12, 2014; July 19, 2014; and July 26, 2014. The Colorado Springs Gazette is a daily newspaper in general circulation throughout the City of Colorado Springs, throughout the area to be annexed, and throughout El Paso County, Colorado.

4. Said resolution and notice pertaining thereto as set forth in Paragraph 3 of this resolution comply with the requirements of Section 31-12-107(1)(g) and Section 31-12-108 of the Annexation Act.

5. Copies of the published notice and resolution have been mailed to the Board of County Commissioners of El Paso County and to the El Paso County Attorney, and to the School District located within the territory described in Exhibit "A" as required by Section 31-12-108 of the Annexation Act.

6. The annexation impact report is not required as the property to be annexed is comprised of less than 10 acres.

7. The area described in Exhibit "A" is unincorporated.

8. The area described in Exhibit "A" is the same as the area described in the annexation plat.

9. No annexation of all or any part of said area has been commenced by any other municipality.

10. This annexation will not result in the detachment of an area from any school district and attachment of the same area to another school district.

11. This annexation will not result in the change of any county boundaries.

12. At least one-sixth (1/6th) of the boundary of the perimeter of the area proposed to be annexed is contiguous with the boundary of the City of Colorado Springs.

13. No land held in identical ownership within the area proposed to be annexed, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels by the boundaries of such annexation without the written consent of the landowner except as such tracts or parcels are separated by a dedicated street, road or other public way.

14. No land held in identical ownership within the area proposed to be annexed, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, comprising twenty (20) acres or more (which, together with the buildings and improvements situated thereon, has a valuation for assessment in excess of \$200,000 for ad valorem tax purposes for the next year preceding the annexation), has been included within the boundary of the area proposed to be annexed without the written consent of the landowners.

15. This annexation will not extend boundaries of the city limits of the City of

Colorado Springs more than three miles in any direction from the municipal boundary.

16. There has been adopted by the City Council as provided in Section 31-12-105 C.R.S. of the Annexation Act a plan which includes the area subject to the annexation.

17. There are no additional terms or conditions to be imposed upon this annexation, and the annexation agreement itself as between the petitioners and the City shall not constitute additional terms and conditions under the Annexation Act.

18. In establishing the boundaries of the area proposed to be annexed, if a portion of a platted street or alley is annexed, the entire width of said street or alley is included within the area proposed to be annexed.

19. The applicable parts of Section 31-12-105 of the Annexation Act have been met.

20. The provisions of Section 31-12-104(b) requiring a finding that "(t)hat a community of interest exists between the area proposed to be annexed and the annexing municipality; that said area is urban or will be urbanized in the near future; and that said area is integrated with or is capable of being integrated with the annexing municipality..." are met by virtue of a finding of at least one-sixth (1/6th) boundary contiguity with the City of Colorado Springs as provided for in said section.

21. No petition for election has been received nor is an election otherwise required under the provisions of Section 31-12-107(2) of the Annexation Act.

22. The annexation of Flying Horse Ranch Addition No. 2 Annexation as legally described in Exhibit "A" attached hereto meets the requirements of and fully complies with Part 1 of Article 12 of Title 31 C.R.S., the Municipal Annexation Act of 1965 as amended, and Section 30 of Article II of the Colorado Constitution.

23. The City Council finds and concludes that said territory is eligible for annexation to the City of Colorado Springs.

24. The City Council authorizes the President of the City Council to enter into the Flying Horse Addition No. 2 Annexation Annexation Agreement, attached hereto as Exhibit "B", upon its presentation to City Council.

Dated at Colorado Springs, Colorado, this 12th day of August, 2014.

Keith King, Council President

ATTEST:

Sarah B. Johnson, City Clerk

EXHIBIT A

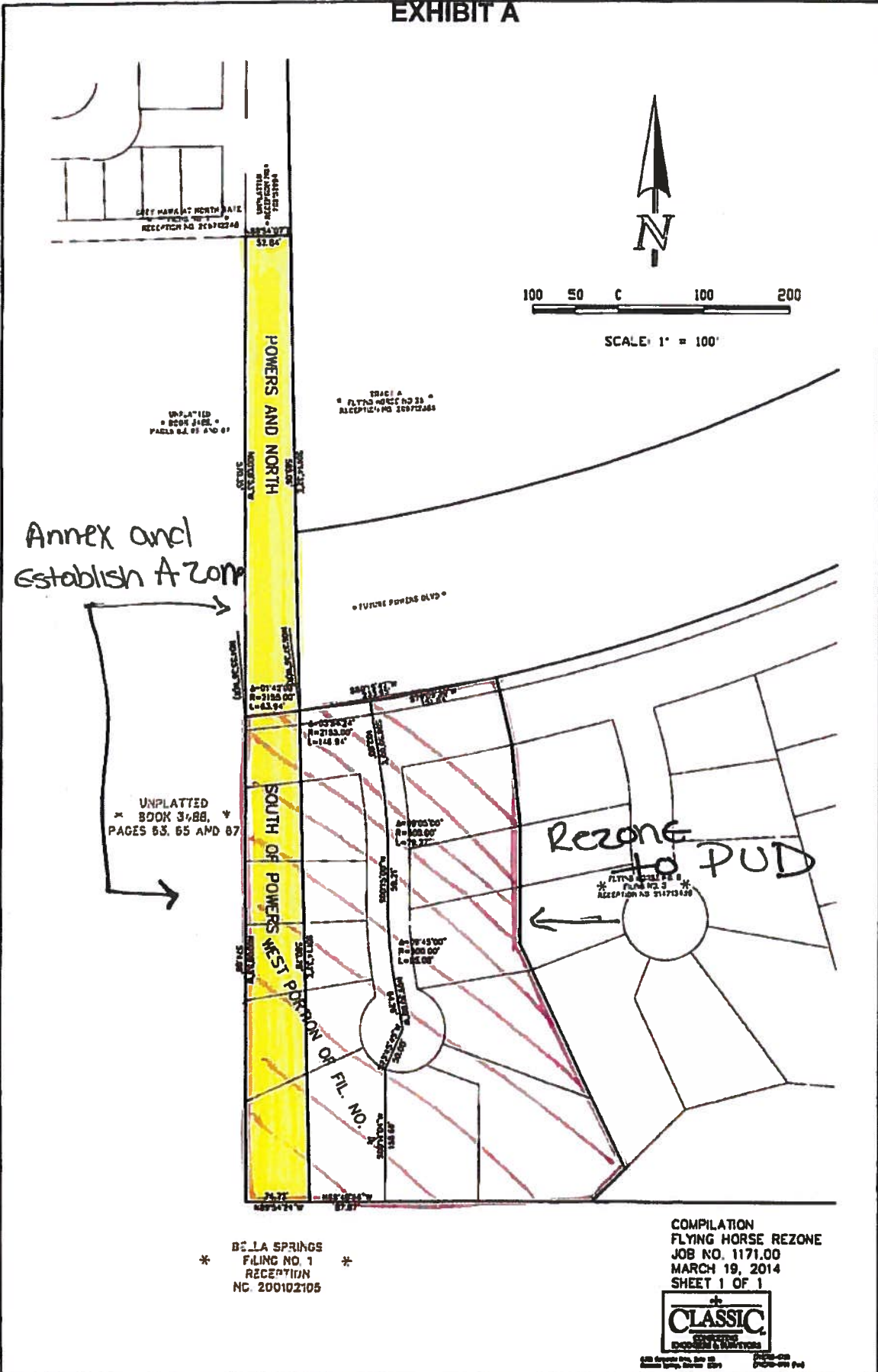
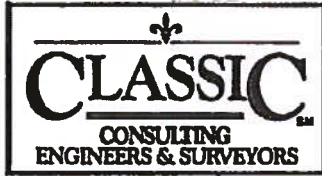


EXHIBIT A



6385 Corporate Drive, Suite 101
Colorado Springs, Colorado 80919

(719)785-0780
(719) 785-0789(Fax)

JOB NO. 1071.93-03
NOVEMBER 12, 2013
PAGE 1 OF 1

LEGAL DESCRIPTION:

THAT PORTION OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH P.M. LYING EAST OF AND ADJACENT TO THAT PARCEL OF LAND DESCRIBED IN DEEDS RECORDED OCTOBER 2, 1981 IN BOOK 3488 AT PAGES 63, 65, AND 67, IN THE CITY OF COLORADO SPRINGS, COUNTY OF EL PASO, STATE OF COLORADO.

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WESTERLY BOUNDARY OF TRACT A AS PLATTED IN FLYING HORSE NO. 26 RECORDED UNDER RECEPTION NO. 206712386, RECORDS OF EL PASO COUNTY, COLORADO, MONUMENTED AT BOTH ENDS BY A 1-1/2" ALUMINUM SURVEYORS CAP "CCES LLC PLS 30118", IS ASSUMED TO BEAR S01°14'32"E, A DISTANCE OF 625.69 FEET.

COMMENCING AT THE SOUTHEASTERLY CORNER OF GREY HAWK AT NORTH GATE FILING NO. 1 RECORDED UNDER RECEPTION NO. 206712248, RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING THE NORTHEASTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 3488 AT PAGE 63, 65 AND 67, SAID POINT ALSO BEING THE SOUTHWESTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 206152664, SAID POINT ALSO BEING THE POINT OF BEGINNING;

THENCE N88°54'07"E, ON THE SOUTHERLY BOUNDARY OF SAID PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 206152664, A DISTANCE OF 52.84 FEET TO A POINT ON THE EAST LINE OF THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 12 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN SAID POINT BEING ON THE WESTERLY BOUNDARY OF TRACT A AS PLATTED IN FLYING HORSE NO. 26 RECORDED UNDER RECEPTION NO. 206712386;
THENCE S01°14'32"E, ON SAID EAST LINE AND SAID WESTERLY BOUNDARY AND THE SOUTHERLY EXTENSION THEREOF, A DISTANCE OF 1146.84 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH HALF OF SAID SECTION 8, SAID POINT BEING ON THE NORTHERLY BOUNDARY OF BELLA SPRINGS FILING NO. 1, RECORDED UNDER RECEPTION NO. 200102105;
THENCE N89°54'24"W, ON SAID SOUTH LINE AND SAID NORTHERLY BOUNDARY, A DISTANCE OF 74.72 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE EASTERLY BOUNDARY OF SAID PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 3488 AT PAGES 63, 65, AND 67;
THENCE N00°08'53"W, ON SAID EASTERLY BOUNDARY AND THE SOUTHERLY EXTENSION THEREOF, A DISTANCE OF 1144.44 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 1.677 ACRES.

LEGAL DESCRIPTION STATEMENT:

I, DOUGLAS P. REINELT, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION WAS PREPARED UNDER MY RESPONSIBLE CHARGE AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, IS CORRECT.



DOUGLAS P. REINELT, PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. NO. 30118
FOR AND ON BEHALF OF CLASSIC CONSULTING,
ENGINEERS AND SURVEYORS, LLC.

Nov 12, 2013
DATE

EXHIBIT B

FLYING HORSE RANCH ADDITION NO. 2 ANNEXATION ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT, dated this ___ day of _____, 2014, is between the City of Colorado Springs, a home rule city and Colorado municipal corporation ("City"), and Pulpit Rock Investments, LLC ("Owner" or "Property Owner").

I. INTRODUCTION

The Owner owns 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 for 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 Owner has 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 the annexation plat and 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

The Property is included in the Flying Horse Master Plan. The Owner will comply with this Master Plan or an amended Master 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 Department of the City agrees to recommend that the initial zone for the Property shall be a split zone. The northern portion of the strip described as powers and north is 0.759 acres and is to be zoned A (Agricultural) upon annexation. The southern portion of the strip described as powers and south is 0.917 acres and to be zoned PUD (Planned Unit Development; single family residential). *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 an A and PUD zone for the Property.

B. Change of Zoning. A change of zone request shall conform to the Master Plan, as approved or as amended by the City in the future.

C. Phasing. Subject to adjustment as reasonably necessary to respond to market conditions, phasing of development within the Property is anticipated to be in substantial conformance with the phasing plan submitted and approved in conjunction with the Flying Horse Master Plan.

V.
COMPLIANCE WITH FLYING HORSE RANCH ANNEXATION AGREEMENT

Although included within the Flying Horse Master Plan, the Property was not included in the Flying Horse Ranch Annexation Agreement, and the provision contained in this Agreement shall only apply to the Property describe in Exhibit A and not to any of the property described in the 2004 Flying Horse Ranch Annexation Agreement recorded January 22, 2004.

However, upon annexation of the Property, Owner understands and agrees that all the provision of the 2004 Flying Horse Ranch Annexation Agreement will extend to the Property as if it originally had been included in the 2004 Flying Horse Ranch annexation, and the Property will be subject to and included in the 2004 Flying Horse Ranch Annexation Agreement.

Without limitation, but by way of explanation, the Property is subject to the following provision in the Flying Horse Ranch Annexation Agreement:

- Section 5 - Public Facilities
- Section 6 - Utilities
- Section 7 - Groundwater Consent
- Section 8 – Parks
- Section 9 – Public Land Dedication
- Section 11 – Fire Protection
- Section 16 – Special Taxing District

VI.
SPECIAL PROVISIONS

Southeastern Colorado Water Conservancy District: Notice is hereby provided that upon annexation the Property is subject to subsequent inclusion into 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 and shall be subject thereafter to a property tax mill levy for the purposes of meeting the financial obligations of the District. CSU will make best efforts to get the Property included within the District boundaries, however, the Owner acknowledges that inclusion of the Property within the District's boundaries is subject to approval by the U.S. Bureau of Reclamation ("Reclamation"). Accordingly, CSU makes no guarantee that the Property will be included within the District's boundaries and the Owner accepts any such risks. The Owner agrees to provide any additional information that may be required to facilitate CSU obtaining the necessary approvals for District boundary inclusion.

VII.
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.

VIII.
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.

By executing this Agreement, the deed of trust holder agrees that: (1) should it become owner of the Property through foreclosure or otherwise that it will be bound by the terms and conditions of this Agreement to the same extent as Owner; and (2) should it become owner of the Property, any provisions in its deed of trust or other agreements pertaining to the Property in conflict with this Agreement shall be subordinate to and superseded by the provisions of this Agreement.

IX.
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.

X.
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."

XI.
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.

XII.
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.

XIII.
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.

XIV.
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: _____
PRESIDENT OF CITY COUNCIL

ATTEST:

BY: _____
CITY CLERK

DEED OF TRUST HOLDER:

By: [Signature]
Title: managing TRUSTEE

ACKNOWLEDGMENT

STATE OF TX)
COUNTY OF Harris) ss.

The foregoing instrument was acknowledged before me this 16 day
of July, 2014, by Bill D Patterson as
managing trustee.

Witness my hand and notarial seal.

My commission expires: 3-4-2018

[Signature]
Notary Public
Address: 1115 Beckdale A
Houston, TX 77036

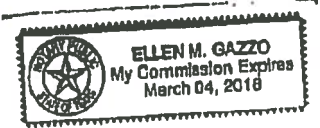


EXHIBIT A



6386 Corporate Drive, Suite 101
Colorado Springs, Colorado 80918

(719)785-0790
(719) 785-0789(Fax)

JOB NO 1071 93-03
NOVEMBER 12, 1013
PAGE 1 OF 1

LEGAL DESCRIPTION:

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BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WESTERLY BOUNDARY OF TRACT A AS PLATTED IN FLYING HORSE NO. 28 RECORDED UNDER RECEPTION NO. 208712388, RECORDS OF EL PASO COUNTY, COLORADO, MONUMENTED AT BOTH ENDS BY A 1-1/2" ALUMINUM SURVEYORS CAP "CCES LLC PLS 30118", IS ASSUMED TO BEAR S01°14'32"E, A DISTANCE OF 625.69 FEET.

COMMENCING AT THE SOUTHEASTERLY CORNER OF GREY HAWK AT NORTH GATE FILING NO 1 RECORDED UNDER RECEPTION NO 208712248, RECORDS OF EL PASO COUNTY, COLORADO, SAID POINT BEING THE NORTHEASTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 3488 AT PAGE 63, 65 AND 67. SAID POINT ALSO BEING THE SOUTHWESTERLY CORNER OF A PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED UNDER RECEPTION NO. 206152664. SAID POINT ALSO BEING THE POINT OF BEGINNING.

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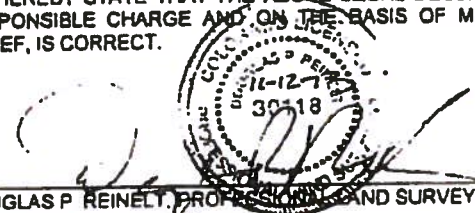
THENCE N89°54'24"W, ON SAID SOUTH LINE AND SAID NORTHERLY BOUNDARY, A DISTANCE OF 74.72 FEET TO A POINT ON THE SOUTHERLY EXTENSION OF THE EASTERLY BOUNDARY OF SAID PARCEL OF LAND DESCRIBED IN A DOCUMENT RECORDED IN BOOK 3488 AT PAGES 63, 65, AND 67;

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DOUGLAS P. REINELT, PROFESSIONAL LAND SURVEYOR
COLORADO P L S NO 30118
FOR AND ON BEHALF OF CLASSIC CONSULTING,
ENGINEERS AND SURVEYORS, LLC

Nov 12, 2013
DATE