

December 17, 2015

Mr. Dwain Maxwell 1123 North Kirkwood Drive Pueblo West, CO 81007

#### RE: Trail Erosion and Restoration 1115 North Kirkwood Drive, Pueblo West, CO

Dear Mr. Maxwell,

On Thursday, December 10, 2015, staff members from Pueblo County Department of Planning and Development, Pueblo County Department of Public Works and Engineering, Pueblo West Metropolitan District (PWMD) and the Southern Delivery System (SDS) program team met with you to observe and discuss the land restoration concerns you had expressed at the December 8, 2015 Pueblo Board of County Commissioners public hearing on SDS revegetation efforts. The concerns related to two localized areas of erosion (or rills) across the PWMD recreational trail from off-easement drainage onto a vacant parcel of land owned by you, and ground elevation restoration questions associated with lands adjacent and to the west of the vacant Maxwell-owned parcel (see attached map).

By way of background, according to Pueblo County Tax Assessor information the vacant parcel (parcel number 9520004011 addressed as 1115 North Kirkwood and located adjacent to the south of the Maxwell family residential property at 1123 North Kirkwood) was purchased by you on April 23, 2015 from Charles Keen and Patricia Cheatum-Keen. Prior to your purchase, a Memorandum of Agreement (MOA) for Revegetation had been signed between Colorado Springs Utilities and Mr. and Mrs. Keen for the 1115 North Kirkwood property in August 2012, with revegetation license agreements signed between Mr. and Mrs. Keen and Colorado Springs Utilities in August 2012, September 2013 and September 2014. Copies of the MOA and revegetation license agreements are attached to this letter for your records.

After reviewing the noted areas of concern with you in the field, the meeting participants asked that you identify the boundaries of the area where the ground elevation was in question as a consequence of SDS construction activities. The boundaries you identified were staked with wood lathe and flagging for visual reference. Three representatives from Pueblo County, two representatives from PWMD, and one from the SDS Program then accompanied you on to your back porch to view the delineated area from the residential porch vantage point. It was determined from the porch vantage point that the delineated area was not in the line of sight between your porch and a home located to the west of your property and across the utility easement. Upon further evaluation, it was also confirmed by the meeting participants that the area in question was outside of the SDS construction and restoration crews did not have access to this area. It was therefore concluded by you and the meeting participants that the area in question had not been disturbed during the SDS construction or restoration activities, and no further action in the area was required.

In relation to the localized areas of erosion (rilling) across the PWMD recreational trail, it was determined by the meeting participants that a pre-existing shallow, narrow drainage swale up gradient of the SDS construction easement has historically resulted in flow through this area. With the addition of the PWMD recreational trail in 2012, the natural flow through this localized area was observed to have braided across the trail in two small rills which had both deposited a small amount of trail material onto your vacant property adjacent to the east. The two rills were approximately 25 feet apart, with a depth of less than one inch and a width of less than six inches. To correct this, you and the meeting participants PAGE 2 OF 2

December 17, 2015

agreed that the SDS program team would regrade and level the area of the trail where the two narrow rills were present, and install a rock trench approximately 90-feet long by one-foot wide along the eastern boundary of the trail to assist in spreading future flows across the vacant property and limit future rill erosion.

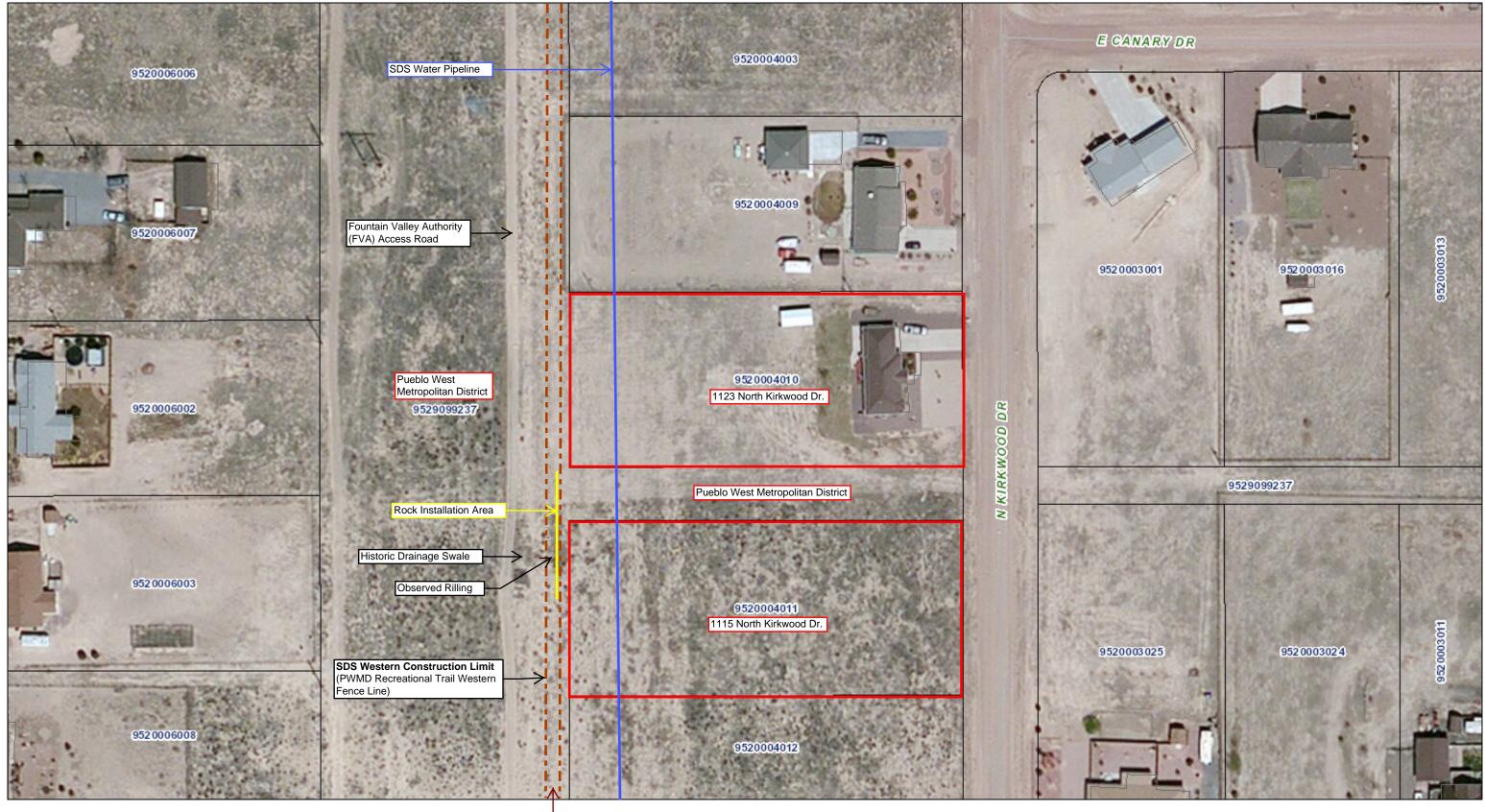
On Monday, December 14, 2015, SDS crews completed the trail restoration activities and rock installation. The completed work was observed with you following completion to confirm your satisfaction with the final work product. Photographs of the area prior to the restoration activities and following the restoration activities are attached to this letter for your reference.

With the completion of the above described site activities, we are of the understanding that your concerns related to the SDS site restoration activities have been properly addressed and no further actions are required. If you should you have any questions or comments, please feel free to contact us at 1-855-737-4968.

Sincerely,

John A. Fredell SDS Program Director Colorado Springs Utilities

Cc: Joan Armstrong, Director, Pueblo County Planning and Development Alf Randall, Director, Pueblo County Public Works and Engineering David Benbow, County Engineer, Pueblo County Engineering Department Dan Centa, Director of Public Works, Pueblo West Metropolitan District Scott Eilert, Director of Utilities, Pueblo West Metropolitan District Shawn Winters, Engineer, Pueblo West Metropolitan District Keith Riley, SDS Deputy Program Director, Colorado Springs Utilities Kevin Binkley, SDS Permitting and Compliance Specialist, MWH Dennis Auge, SDS Resident Engineer, MWH



December 8, 2015

Pueblo West Metropolitan District (PWMD) Recreation Trail

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Provided by: Pueblo County EDGIS

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

> Memorandum of Agreement For Revegetation

APN. 95200-04-011

Property Owner Charles J Keen and Patricia E. Cheatum-Keen

Southern Delivery System

Segment Work Package S2

Property Address: 1115 N Kirkwood Drive, Pueblo West, CO 81007 Parcel Description: See Exhibit A for property owner's property. See Exhibits B and C for the areas of Revegetation Activities. Revegetation activities are intended to occur where Southern Delivery System construction disturbances have occurred on owner's property.

- The undersigned owner agrees to allow revegetation activities (as defined on the attached scope of work) on 1. his/her property for a one-year term renewable for two additional terms upon the mutual agreement of both parties. Payment shall be made for each separate term following the execution and delivery of the license agreement or a renewal of the license agreement.
- 2. It is understood by the owner that the revegetation access is for a public purpose and is voluntary and may be revoked upon thirty (30) days written notice. Revocation of access shall constitute a waiver of future revegetation work and a release of Colorado Springs Utilities (CSU) from performing and completing such work on the owner's property, excepting the removal of all or a portion of the irrigation system and fencing.
- 3. If the owner declines to execute a Revegetation License Agreement, owner understands that no future agreements will be offered or are available. By declining the Revegetation Offer, owner acknowledges that the Southern Delivery System shall not conduct its revegetation activities on the owner's property.
- Payment for Year One shall be \$300.00. Payment for Year Two shall be \$200.00. Payment for Year Three 4. shall be \$100.00. Each payment shall be made in a separate calendar year. Samples of the Agreements are attached for reference purposes.
- 5. The memorandum shall not be considered as binding upon the parties until such time as all of the hereinbelow signatures have been obtained.
- 6. This Agreement shall be construed in accordance with the laws of the State of Colorado.

The parcel proposed to be revegetated contains 7,352 square feet in Permanent Easement; 8,052 square feet in Temporary Construction Easement and improvements as follows:

Compensation shall be paid upon execution and acceptance of each Revegetation License Agreement.

**Colorado Springs Utilities** 2112 Real Estate Specialist APPROVED: Team and 8/28 City Attorney's Office Date 6.23.12

Date

SDS Director/Deputy Director

Owner 8-17-2012 Date Owner

Owner

Date

VORK	
EOFV	
SCOPI	

Note: The Scope of Work is based on requiring a full three years to establish a successful revegetation program

Revegetation Task	Year One	Year Two	Year Three
	\$300	\$200	\$100
Install Irrigation System	Yes	No	No
Maintain Irrigation System	Yes	Yes	No
Remove Irrigation System (above ground)	No	Possible	Yes
Prepare Soil	Yes	Possible	No
Install Seeding	Yes	No	No
Re-seed	Possible	Possible	No
Irrigate	Yes	Yes	No
Monitor Revegetation	Yes	Yes	No
Install Fencing	Yes	Possible	No
Maintain Fencing	Yes	Yes	Unlikely
Remove Fencing*	No	Yes	Possible
Control Noxious Weeds	Yes	Yes	Yes
Miscellaneous**	Possible	Possible	Possible

\*Unless otherwise agreed to \*\*Unanticipated items which contribute to the success of the revegetation effort

PARCEL DE	SIGNATION:	9520004011	DATE:	December 3, 2009
OWNER:	KEEN, CHAR	LES J. & PATRICIA EVAN	CHEATUM, (Owner current a	as of the date of certification

# EXHIBIT A

LOT 10, BLOCK 5, TRACT 237, PUEBLO WEST COLORADO, located in the Southeast Quarter of Section 20, Township 19 South, Range 65 West of the Sixth Principal Meridian, Pueblo County, Colorado, according to the plat thereof recorded in Book 1679 at Page 219 of the records of Pueblo County.



Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Ave., Suite 700, Colorado Springs, Co, 80903

9520004011\_EXA.doc

PARCEL DES	SIGNATION:	9520004011		DATE:	December 3, 2009
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The east 52.51 feet of the west 60.01 feet of said Lot 10.

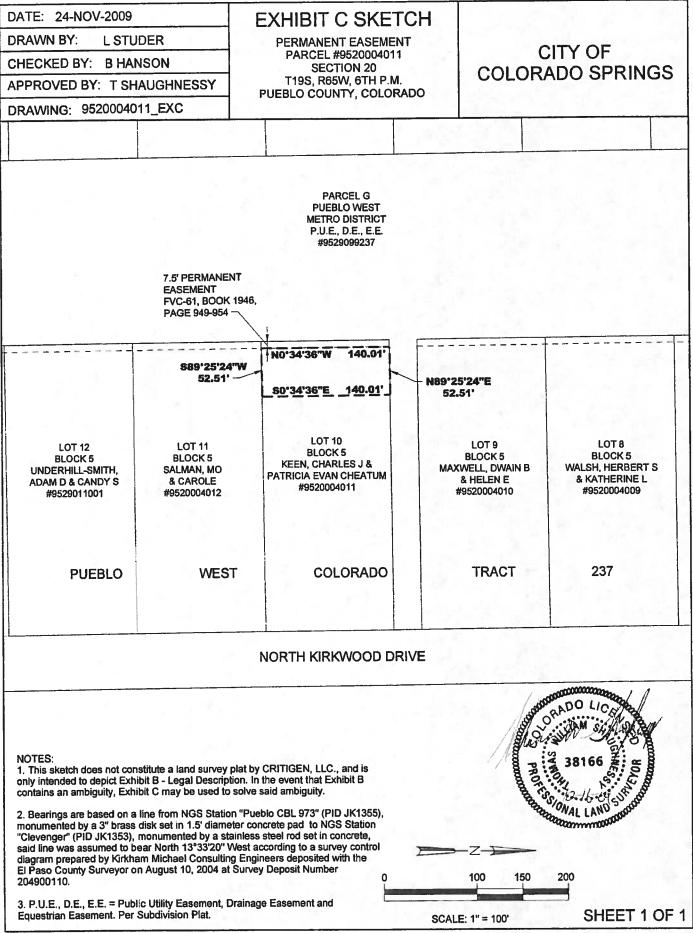
Said easement contains 7,352 square feet or 0.169 acres more or less.

EXHIBIT C SKETCH is attached hereto and is only intended to depict Exhibit B – Legal Description. In the event that Exhibit B contains an ambiguity, Exhibit C may be used to solve said ambiguity.



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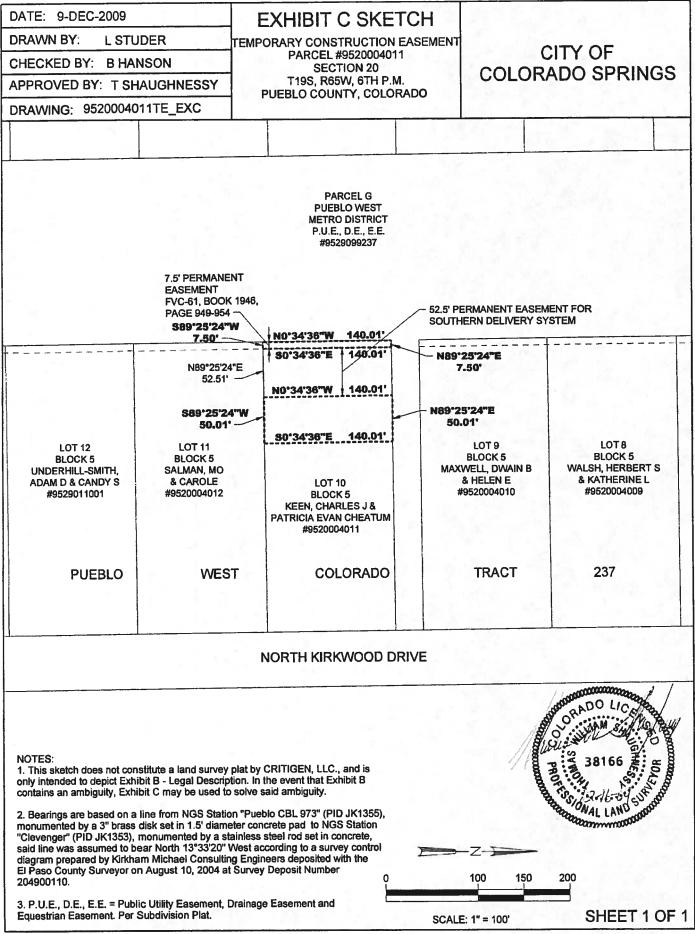
Said easement contains 8,052 square feet or 0.185 acres more or less.

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# REVEGETATION LICENSE AGREEMENT (YEAR ONE) Pueblo County

APN: <u>95200-04-011</u>

Owner:	Charles and Patricia Keen	Tenant:	<u>N/A</u>	
Address:	1266 S Thoreau Place			
	Pueblo West, CO 81007-3180			
Contact Info:	(719) 547-2894			
Property Addr	ess: 1115 N Kirkwood Drive, Pueblo	West, CO 8	1007	

Owner ("Licensor") hereby authorizes the City of Colorado Springs, a home rule city and municipal corporation, on behalf of its enterprise, Colorado Springs Utilities ("Licensee"), its agents or contractors to enter upon said property for the purpose of Revegetation Activities within the lands described in Exhibits B and C attached hereto and incorporated herein by reference. These Revegetation Activities shall include, but not be limited to, the following: seeding, re-seeding, irrigation installation, irrigation maintenance, soil preparation, soil amending, minor grading, fence installation, fence maintenance, fence removal, and/or weed control.

Licensor hereby certifies that he/she is the owner of the property at the address indicated above.

As consideration for the rights granted by this License, the Licensor shall be compensated the sum of Three Hundred and no/100 Dollars (\$300.00), and other good and valuable consideration upon execution and acceptance of this License.

This License shall commence on <u>26<sup>th</sup></u> day of <u>September</u>, 2012 and terminate one year thereafter. This License shall be non-exclusive and may be terminated by Licensor upon thirty (30) days written notice.

This License shall **not** be recorded at the Office of the Clerk and Recorder for the county in which the property is located.

Licensee, to the extent specifically authorized by Colorado Law, shall hold harmless and indemnify Licensor from all claims, suits and costs arising from the construction and operation



of the Revegetation Activities directly caused by Licensee. The Licensor shall hold harmless and indemnify Licensee, its agents or contractors, from all claims, suits and costs arising from the Revegetation Activities caused by the direct actions of the Licensor.

This License shall be construed in accordance with the laws of the State of Colorado.

Notices shall be sent to the following addresses:

if to Licensor: <u>Charles and Patricia Keen</u> <u>1266 S Thoreau Pl</u> <u>Pueblo West, CO 81007-3180</u> if to Licensee: Colorado Springs Utilities c/o Deputy Program Director P.O. Box 1103, Mail Code 930 Colorado Springs, CO 80947-0930

Dated this

17th\_\_\_\_ day of Augus

,2012

Owner/Licensor:

Catucia E. Cheation - Keen

Colorado Springs Utilities/Licensee:

PARCEL DE	SIGNATION:	9520004011	DATE:	December 3, 2009
OWNER:	KEEN, CHAF	LES J. & PATRICIA EVAN	CHEATUM, (Owner current	as of the date of certification

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PARCEL DES	SIGNATION:	9520004011	DAT	E:	December 3, 2009
OWNER:	KEEN, CHAF	RLES J. & PATRICIA EVAN CI	HEATUM, (Owner cum	rent a	as of the date of certification

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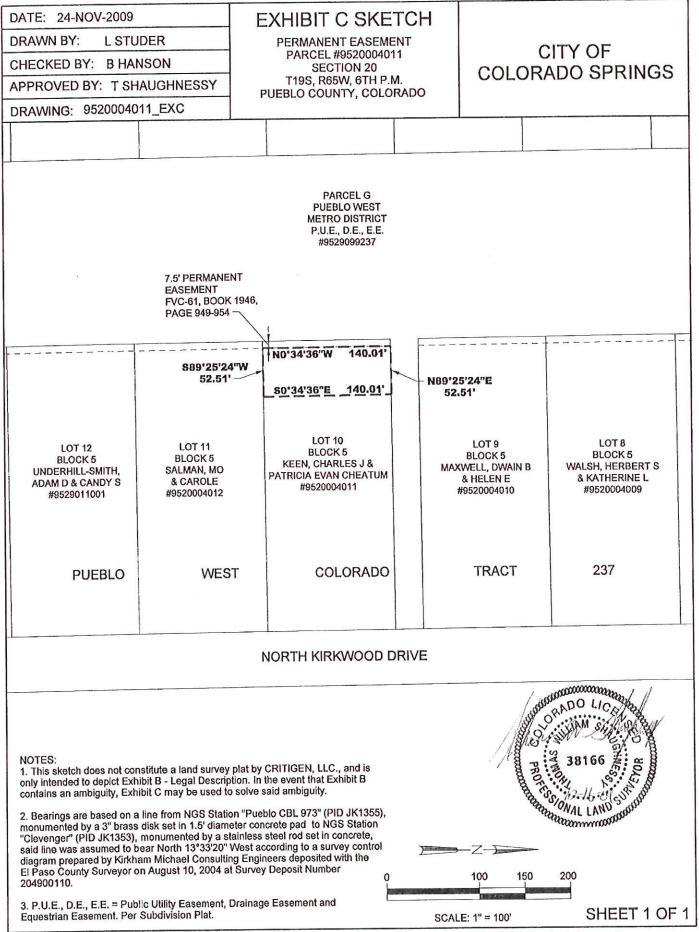
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Said easement contains 7,352 square feet or 0.169 acres more or less.

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Said easement contains 8,052 square feet or 0.185 acres more or less.

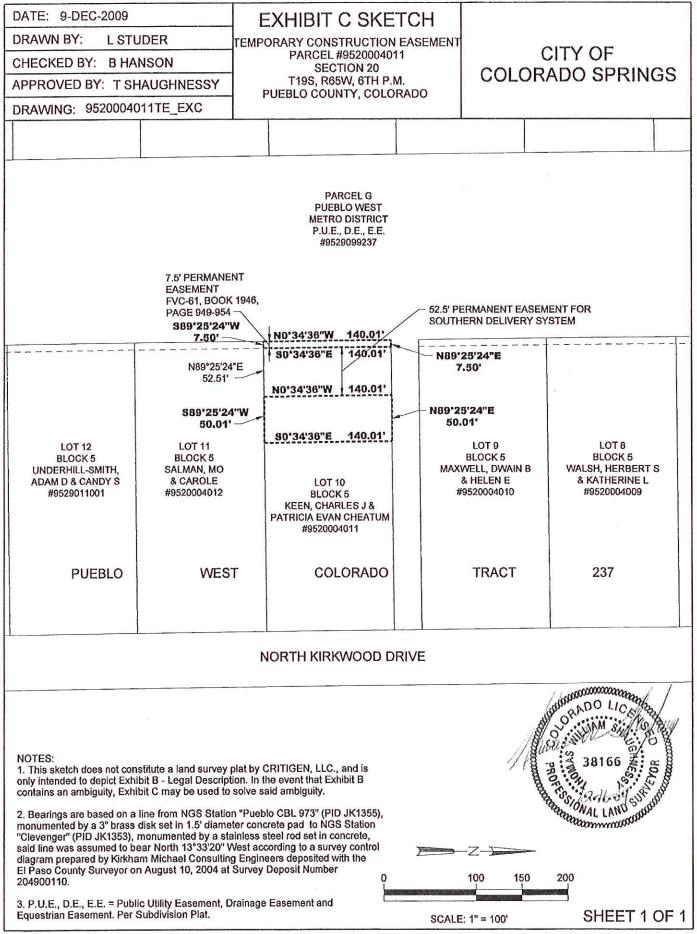
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# **REVEGETATION LICENSE AGREEMENT** (YEAR TWO)

Pueblo County

APN: 95200-04-011

Owner:	Charles & Patricia Keen	Tenant:	NA
Address:	1266 South Thoreau Place		
	Pueblo West, CO 81007		
Contact Info:	719-547-2894		
Property Add	ess: 1115 North Kirkwood Driv	e, Pueblo West, CO	<b>) 8</b> 1007

Owner ("Licensor") hereby authorizes the City of Colorado Springs, a home rule city and municipal corporation, on behalf of its enterprise, Colorado Springs Utilities ("Licensee"), its agents or contractors to enter upon said property for the purpose of Revegetation Activities within the lands described in Exhibits B and C attached hereto and incorporated herein by reference. These Revegetation Activities shall include, but not be limited to, the following: seeding, re-seeding, irrigation installation, irrigation maintenance, soil preparation, soil amending, minor grading, fence installation, fence maintenance, fence removal, and/or weed control.

Licensor hereby certifies that he/she is the owner of the property at the address indicated above.

As consideration for the rights granted by this license, the licensor shall be compensated the sum of Two Hundred and no/100 Dollars (\$200.00), and other good and valuable consideration.

This License shall commence on the 26<sup>th</sup> day of September, 2013 and terminate one year thereafter. This License shall be non-exclusive and may be terminated by Licensor upon thirty (30) days written notice.

This License shall **<u>not</u>** be recorded at the Office of the Clerk and Recorder for the county in which the property is located.

Licensee, to the extent specifically authorized by Colorado Law, shall hold harmless and indemnify Licensor from all claims, suits and costs arising from the construction and operation



of the Revegetation Activities directly caused by Licensee. The Licensor shall hold harmless and indemnify Licensee, its agents or contractors, from all claims, suits and costs arising from the Revegetation Activities caused by the direct actions of the Licensor.

This License shall be construed in accordance with the laws of the State of Colorado.

Notices shall be sent to the following addresses:

if to Licensor: Charles & Patricia Keen 1266 South Thoreau Place Pueblo West, CO 81007 if to Licensee: Colorado Springs Utilities c/o Deputy Program Director P.O. Box 1103, Mail Code 930 Colorado Springs, CO 80947-0930

day of September Dated this 2013

Owner: eni

Colorado Springs Utilities:

Approved as to Form:

City Attorney's Office - Utilities Division

PARCEL DE	SIGNATION:	9520004011	DATE:	December 3, 2009	
OWNER:					

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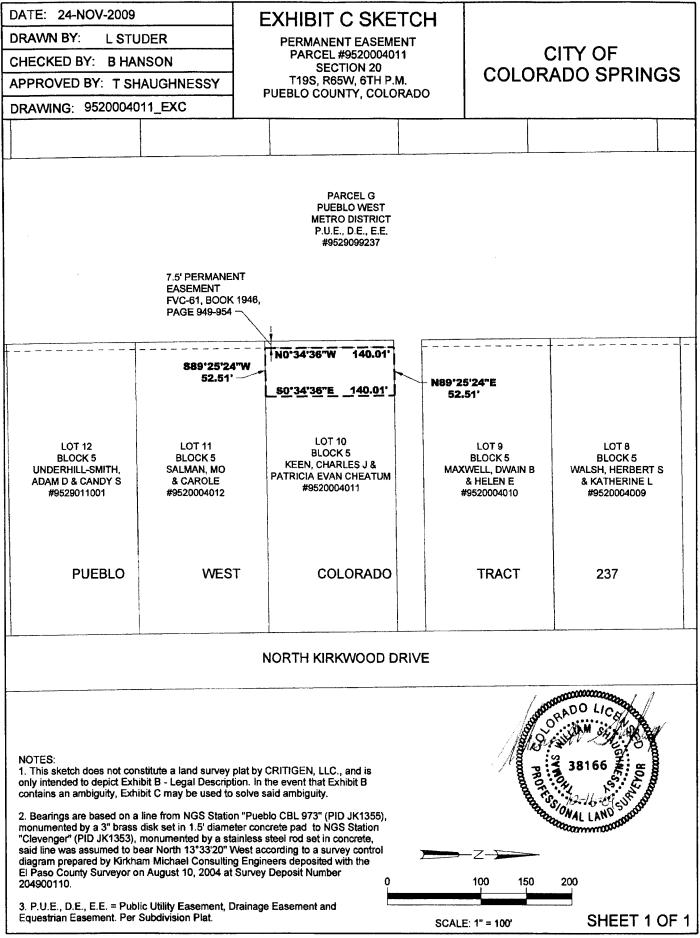
Said easement contains 7,352 square feet or 0.169 acres more or less.

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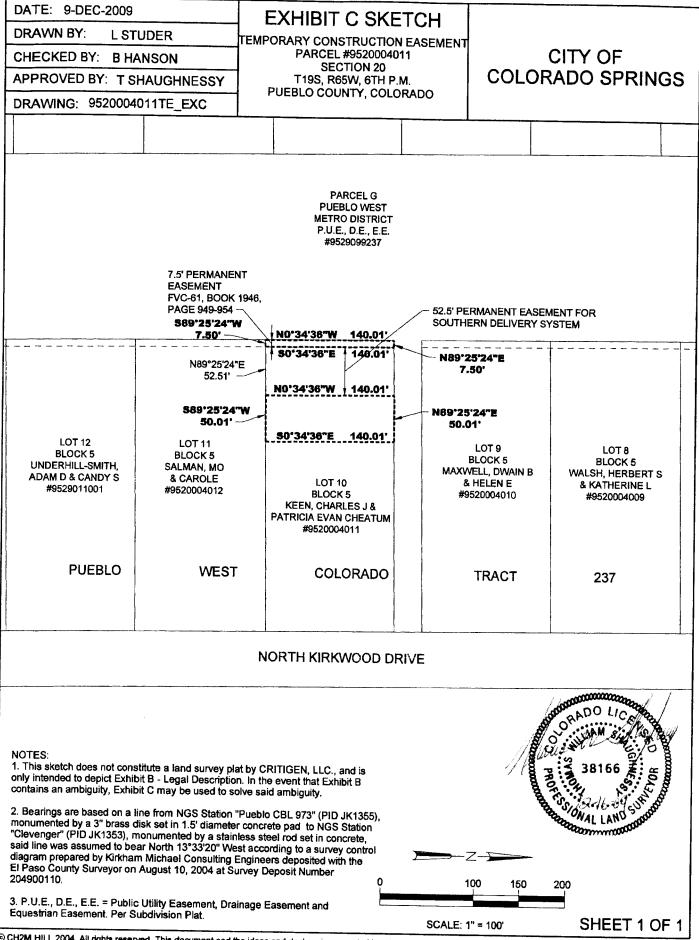
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# **REVEGETATION LICENSE AGREEMENT** (YEAR THREE)

Pueblo County

APN: 95200-04-011

Owner: Charles J. Keen & Tenant: N/A Patricia E. Cheatum-Keen Address: 1266 South Thoreau Place Pueblo West, CO 81007 Contact Info: 719-547-2894 Property Address: 1115 North Kirkwood Drive, Pueblo West, CO 81007

Owner ("Licensor") hereby authorizes the City of Colorado Springs, a home rule city and municipal corporation, on behalf of its enterprise, Colorado Springs Utilities ("Licensee"), its agents or contractors to enter upon said property for the purpose of Revegetation Activities within the lands described in Exhibits **B** and C attached hereto and incorporated herein by reference. These Revegetation Activities shall include, but not be limited to, the following: irrigation lateral removal, fence removal, and/or noxious weed control.

Licensor hereby certifies that he/she is the owner of the property at the address indicated above.

As consideration for the rights granted by this license, the licensor shall be compensated the sum of One Hundred and no/100 Dollars (\$100.00), and other good and valuable consideration.

This License shall commence on the 26th day of September, 2014 and terminate one year thereafter. This License shall be non-exclusive and may be terminated by Licensor upon thirty (30) days written notice.

This License shall <u>not</u> be recorded at the Office of the Clerk and Recorder for the county in which the property is located.

Licensee, to the extent specifically authorized by Colorado Law, shall hold harmless and indemnify Licensor from all claims, suits and costs arising from the construction and operation of the Revegetation Activities directly caused by Licensee. The Licensor shall hold harmless



and indemnify Licensee, its agents or contractors, from all claims, suits and costs arising from the performance of the Revegetation Activities caused by the direct actions of the Licensor.

This License shall be construed in accordance with the laws of the State of Colorado.

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18th day of Septem Dated this 2014

Owner:

Colorado Springs Utilities:

Owner:

Approved as to Form:

City Attorney's Office – Utilities Division

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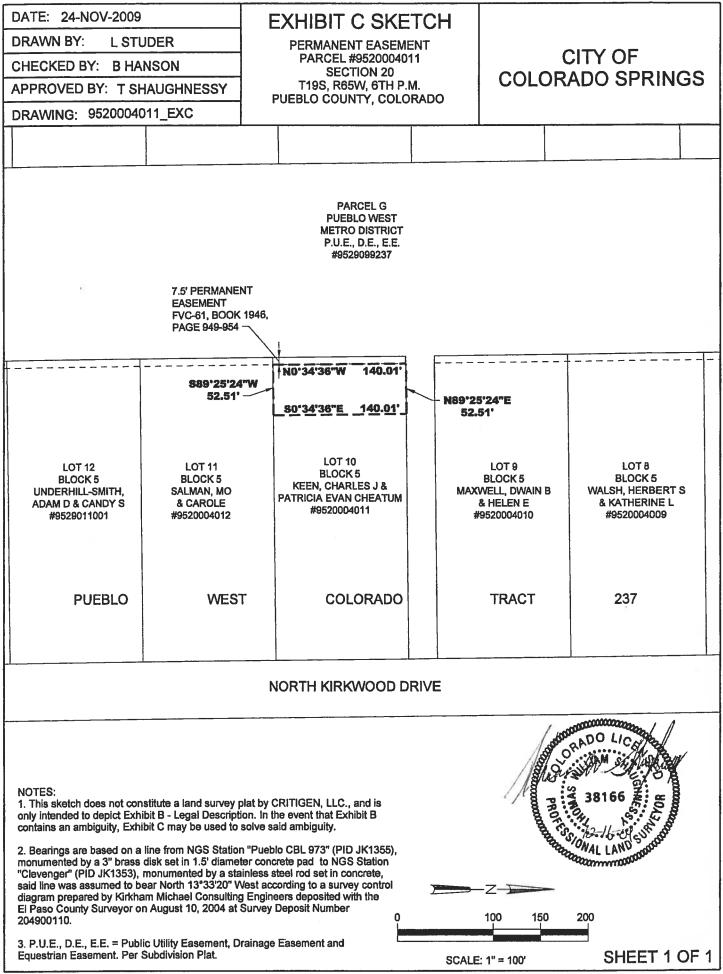
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Said easement contains 7,352 square feet or 0.169 acres more or less.

EXHIBIT C SKETCH is attached hereto and is only intended to depict Exhibit B – Legal Description. In the event that Exhibit B contains an ambiguity, Exhibit C may be used to solve said ambiguity.



Prepared for and on behalf of Colorado Springs Utilities by: Thomas W. Shaughnessy, L.S. 38166, of CRITIGEN, LLC, 90 South Cascade Ave., Suite 700, Colorado Springs, Co, 80903



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PARCEL DES	SIGNATION:	9520004011		DATE:	December 3, 2009
OWNER:	KEEN, CHAR	LES J. & PATRICIA EVAN C	HEATUM, (Ow	mer current a	as of the date of certification

A temporary construction easement situated in LOT 10, BLOCK 5, TRACT NO. 237, PUEBLO WEST COLORADO, located in the Southeast Quarter of Section 20, Township 19 South, Range 65 West of the Sixth Principal Meridian, Pueblo County, Colorado, according to the plat thereof recorded in Book 1679 at Page 219 of the records of Pueblo County, more particularly described as follows:

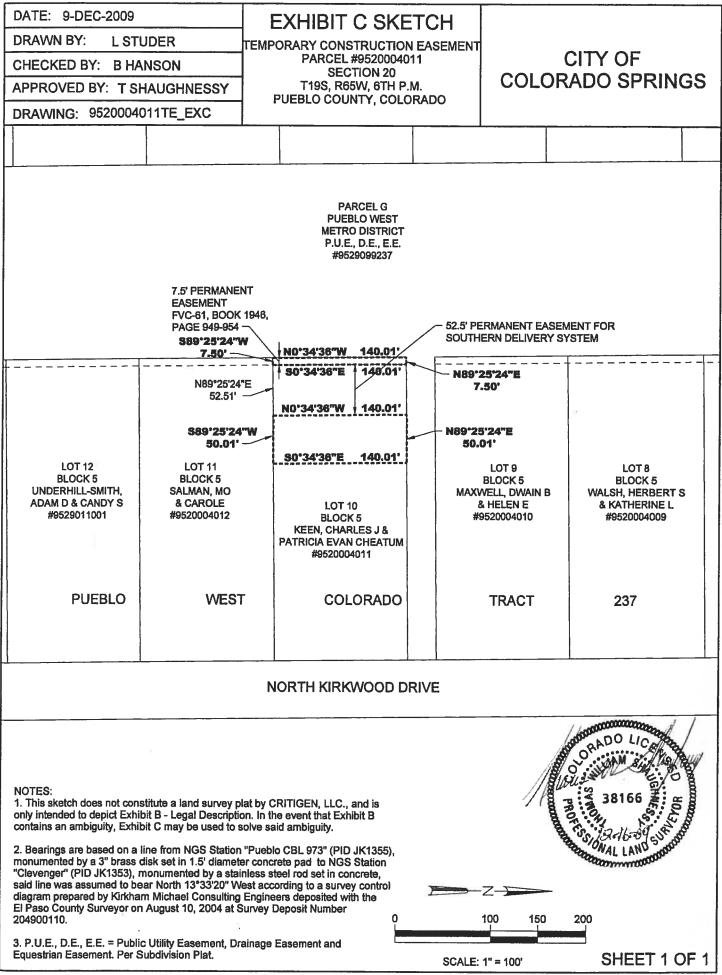
The west 7.50 feet and the east 50.01 feet of the west 110.02 feet of said Lot 10.

Said easement contains 8,052 square feet or 0.185 acres more or less.

EXHIBIT C SKETCH is attached hereto and is only intended to depict Exhibit B – Legal Description. In the event that Exhibit B contains an ambiguity, Exhibit C may be used to solve said ambiguity.



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Pueblo West Metropolitan District recreation trail looking south, prior to rock installation along the eastern trail boundary.



Pueblo West Metropolitan District recreation trail looking south, following completion of rock installation along the eastern trail boundary.





View looking north at the narrow drainage swale adjacent to the western boundary of the SDS construction limits and Pueblo West Metropolitan District recreation trail.



View looking north at the narrow drainage swale adjacent to the west of the SDS construction limits following trail restoration and rock installation activities east of the swale.





View looking southeast at the location of two rills across the Pueblo West Metropolitan District recreation trail prior to restoration (denoted by the wood lathe and orange flagging).



View looking southeast at the former location of two rills across the Pueblo West Metropolitan District recreation trail following restoration and rock installation.





View looking north at surveying activities conducted prior to commencement with trail restoration and rock installation activities



View looking north at surveying activities conducted following completion of trail restoration and rock installation activities





View looking northeast during the shallow trenching activities along the eastern boundary of the recreational trail prior to rock installation.



View looking south at the rock placement and compaction conducted during the rock installation activities along the eastern boundary of the recreation trail.





Pueblo West Metropolitan District recreation trail looking south, prior to and following completion of rock installation along the eastern trail boundary.





View looking south at area west of the SDS construction limits where determined not to have been disturbed by SDS activities.



View looking north at area west of the SDS construction limits where determined not to have been disturbed by SDS activities.