

## **AGREEMENT TO TRANSFER REAL PROPERTY**

**THIS AGREEMENT** is entered into on the 12<sup>th</sup> day of June 2012, by and between the Colorado City Metropolitan District (hereinafter "Metro District") and the Pueblo City-County Library District (hereinafter "PCCLD").

**WHEREAS**, Metro District is a special district organized pursuant to C.R.S. §32-1-101, *et seq.*; and

**WHEREAS**, PCCLD is a Library District organized pursuant to the provisions of C.R.S. §24-90-101, *et seq.*; and

**WHEREAS**, PCCLD desires to build and operate a branch library in the Colorado City and Rye portions of Pueblo County; and

**WHEREAS**, Metro District owns real property in Pueblo County, Colorado that it believes would be suitable for a library site; and

**WHEREAS**, PCCLD desires to acquire, for the purpose of building and operating a library, approximately four acres of land in the Rye-Colorado City area; and

**WHEREAS**, the respective Boards of the parties have determined that entering into this agreement for the transfer of real property is in the best interests of the residents and taxpayers of Pueblo County and their respective districts.

**NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES CONTAINED HEREIN AND THE PAYMENTS TO BE MADE HEREUNDER, THE PARTIES AGREE AS FOLLOWS:**

1. Conveyance of Property. Provided that the conditions of Closing are met, the Metro District agrees to convey to PCCLD, by special warranty deed at Closing, approximately 4.1 acres of real property located at the southwest corner of State Highway 165 and Cibola Drive, in Pueblo County, Colorado, more particularly described in **Exhibit A** attached hereto and incorporated herein (the "Property"). Metro District will retain the remaining 23.06 acres of the parcel. The Board of Directors of the Metro District has adopted a resolution to approve conveyance of the Property to PCCLD, in accordance with the terms of this Agreement. A survey of the Property to be conveyed is attached as **Exhibit B**.
2. Consideration. PCCLD agrees to pay to Metro District the sum of Ten Dollars and NO/100ths (\$10.00) for the Property at Closing. Additionally, PCCLD will pay all closing costs and reimburse the Metro District for all attorney fees and costs associated with negotiation, preparation and review of contracts, deeds, Resolutions, and other documents related to this transfer. PCCLD also agrees, as consideration for the transfer, to construct a library on the Property, in accordance with paragraph 8.

3. Inspection of the Property Prior to Closing.

- A. Metro District agrees to provide PCCLD with open access, during normal business hours of the Metro District, to any and all of Metro District's files on soil conditions or other kinds of technical reports regarding the Property, any information related to infrastructure on the Property or infrastructure agreements and any information regarding restrictions, covenants or conditions affecting the Property.
- B. Metro District agrees to provide access to the Property, during normal business hours, for making such tests and determinations as PCCLD deems necessary to determine the suitability of the Property for a branch library.
- C. All tests and investigations, including but not limited to soil tests and other geological tests, environmental tests and survey and engineering tests, shall be done at PCCLD's sole risk and expense. PCCLD shall restore the Property to its prior condition as a result of such tests and investigations and indemnify, defend and hold Metro District harmless from any liabilities, costs or expenses resulting therefrom. The provisions of this paragraph shall survive Closing.

4. Conditions of Closing. The parties agree that PCCLD's decision to close on acquisition of the Property and construct a branch library on the Property is contingent upon, among other things:

- A. Receiving a subdivision exemption from Pueblo County for the division of the Property and construction of the library, including, access off of Cibola Drive to the library site.
- B. Access to necessary utilities to build and operate the library.
- C. Completion of a drainage study that is satisfactory to PCCLD.
- D. Completion of soil testing that is satisfactory to PCCLD.
- E. Approval and the successful completion of the library's plan to finance the improvements to be constructed.

5. Termination. The parties agree that if that PCCLD decides, in its discretion, that any of the foregoing contingencies is not met or that for any other reason, construction of library on the Property is not feasible, PCCLD shall notify Metro District and this Agreement shall be terminated, except that paragraph 3(C) will continue, and the Property shall remain with the Metro District. In such event, PCCLD will provide the Metro District with copies of all tests, studies and applications pertaining to the Property.

6. Development Costs. PCCLD agrees to be responsible for the payment of all surveys, studies, platting, application, application fees and any other expenses associated with the

platting of the Property and obtaining the necessary approvals from Pueblo County for the subdivision exemption and construction of the branch library.

7. Closing. "Closing" shall take place not later than 180 days from the signing of this Agreement. The date, hour and place of Closing shall be as designated by mutual agreement of the parties.
  - A. At Closing, Metro District will convey by special warranty deed, title to the Property, free and clear of all liens, including any governmental liens for special improvements installed as of the date of PCCLD's signature hereon, whether assessed or not, except those shown as of record with the County Clerk and Recorder. PCCLD understands that Metro District will reserve easements for a trail that crosses the Property and for utilities, and the parties will sign an Easement Agreement in substantially the form attached hereto as **Exhibit D**, and that Metro District may reserve all groundwater rights associated with the Property. The special warranty deed will also be subject to the utility easements in favor of the San Isabel Electric Association, and all other encumbrances recorded with the Pueblo County Clerk and Recorder. The special warranty deed will be in substantially the form attached hereto as **Exhibit C**.
  - B. PCCLD shall pay all closing costs, including without limitation costs of title commitments and policies, recording costs, and other items required to be paid at Closing, and each of the parties shall complete all customary or reasonably required documents at or before Closing. Metro District shall not incur or pay any closing costs.
  - C. Possession of the Property shall be delivered to PCCLD at Closing and is subject to no existing leases or tenancies, subject to those encumbrances recorded with the County Clerk and Recorder.
8. Construction / Use of the Library.
  - A. The parties agree that PCCLD shall make the final decision to construct the library prior to Closing, and PCCLD agrees to commence construction not later than 365 days after the Closing. PCCLD agrees that if it does not commence construction within 365 days, complete construction with reasonable diligence, and open the library to the public within 100 days of completion of the construction, the Property (with all improvements) shall be reconveyed to the Metro District at no cost to the Metro District, by special warranty deed.
  - B. If PCCLD, or its successor in interests, ceases to use the Property for a library, PCCLD shall offer to sell the Property back to the Metro District for the depreciated value of the constructed structure, prior to sale to any other third party.
  - C. PCCLD agrees that it intends to use the full Property for library purposes. As such, PCCLD agrees that neither PCCLD, nor its successor in interests, will use, sell or

lease a portion of the Property for uses other than a library, without the express written consent of the District, in its sole discretion.

9. Development Approvals.

- A. All development costs, including without limitation obtaining and improving access to the Property, are the responsibility of PCCLD. At its sole expense, PCCLD shall prepare, submit and process through final approval with Pueblo County, any necessary applications and submittals for access from Cibola Drive. Metro District agrees to fully cooperate with PCCLD's efforts and take no action that would negatively impact PCCLD's efforts to obtain the necessary approvals from Pueblo County for access.
- B. At its sole expense, PCCLD shall prepare, submit and process through final approval with the County of Pueblo, all necessary applications and submittals for:
  - i. Rezoning of the Property to permit governmental use as a branch library; and
  - ii. The appropriate form of Subdivision Plat that will create more than one separate legally subdivided parcels of real property consistent with the survey attached as **Exhibit B**.
- C. PCCLD shall make its rezoning application no later than 45 days after execution of this Agreement and proceed with due diligence to seek final approval by the County of Pueblo no later than the Closing.
- D. PCCLD shall make its subdivision application or obtain a subdivision exemption, if possible, no later than 90 days after the execution of this Agreement and proceed with due diligence to seek final approval by the County of Pueblo no later than the Closing. Metro District shall fully cooperate with PCCLD's efforts and take no action that would negatively impact PCCLD's efforts to obtain the rezoning or subdivision provided that Metro District shall incur no financial obligations under any of the documents executed in connection with the rezoning or the subdivision of the Property. PCCLD may terminate this Agreement if it cannot obtain Pueblo County's approval to a rezoning and a subdivision of the Property by providing written notice of same to Metro District prior to Closing.
- E. At its sole expense, PCCLD shall prepare, submit and process through final approval, all necessary applications and submittals for approval of utility services and systems, including but not limited to electric, phone, internet, water, natural gas and sanitary sewer. PCCLD shall make its application for all necessary utility services and systems within 120 days after execution of this Agreement and proceed with due diligence to seek all final approvals no later than the Closing. Metro District shall fully cooperate with PCCLD's efforts and take no action that would negatively impact PCCLD's efforts to obtain approval for all utility services and systems, provided that Metro District shall incur no financial obligations under any of the

documents executed in connection with the PCCLD's applications, and provided that receipt of water or sanitation services from the Metro District will be in accordance with all applicable Rules, Regulations and Policies of the Metro District.

- F. PCCLD may terminate this Agreement if it cannot obtain approval, upon terms to its satisfaction, for any utility services or systems, including, but not limited to, electric, water, natural gas, and sanitary sewer by providing written notice of same to Metro District prior to Closing.


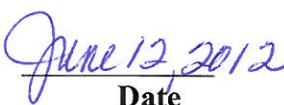
10. Condition of Property. The parties agree and acknowledge that the Property is being conveyed "as is", subject only to explicit warranties of title. PCCLD will have a full opportunity to inspect the Property prior to Closing and to investigate whether it is suitable for use as a library. The Metro District makes no representations regarding the nature, quality or condition of the Property, or any structures or lack of structures thereon, or the fitness of the Property to be used for any particular purpose.

11. Miscellaneous.

- A. This Agreement constitutes the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Agreement. No subsequent modification of any of the terms of this Agreement shall be valid, binding upon the parties or enforceable unless made in writing and signed by the parties.
- B. Any obligations in this Agreement that by its terms are intended to be performed after termination or Closing shall survive the same.
- C. All notices called for by this Agreement shall be in writing. Any notice to PCCLD shall be effective when received by PCCLD, and any notice to Metro District shall be effective when received by Metro District. Copies shall be provided to the attorneys for the parties (Nicholas Gradisar for PCCLD at [ngradisar@gtlaw.com](mailto:ngradisar@gtlaw.com) and Carolyn Steffl for the Metro District at [csteffl@mwhw.com](mailto:csteffl@mwhw.com)).
- D. As an alternative to physical delivery, any signed document and written notice may be delivered in electronic form by facsimile or email. Documents with original signatures shall be provided upon request of any party.
- E. This contract and all disputes arising hereunder shall be governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in this state for property located in Colorado. Venue for any judicial action shall be in the County of Pueblo.
- F. This contract shall be binding on successors and assigns of the parties.

**This Agreement shall be effective when it has been approved by the Board of Directors of the Colorado City Metropolitan District and approved by the Board of the Pueblo City-County Library District and executed by the Board Presidents below:**

**COLORADO CITY METROPOLITAN DISTRICT**

By:    
Board President Date

**PUEBLO CITY-COUNTY LIBRARY DISTRICT**

By: \_\_\_\_\_  
Board President Date



## **Exhibit A**

The legal description of the Property to be conveyed is:

A parcel of land located in a portion of Parcel 5, Colorado City (amended) as filed for record in Book 1532 at Pages 629-650, of the Pueblo County Records and located in Section 24, Township 24 South, Range 67 West, of the 6th P.M. and being a portion of that certain tract of land recorded in Book 2135 at Page 758 being more particularly described as follows:

Beginning at a point in the southerly right-of-way line of Colorado State Highway 165 with the Westerly right-of-way line of Cibola Drive as shown in Unit No. 5, of Colorado City according to the recorded plat filed for record in Book 1564 at Pages 703-718, of the Pueblo County Records; thence along the southerly right-of-way line of Colorado State Highway 165, the following two (2) courses; 1) S 87° 04' 04" W, a distance of 134.14 feet. 2) S 65° 50' 13" W, a distance of 235.83 feet; thence departing the southerly right-of-way line of Colorado State Highway 165, S 04° 26' 47" E, a distance of 446.89 feet; thence N 77° 20' 23" E, a distance of 380.31 feet to the westerly right-of-way line of Cibola Avenue; thence N 04° 26' 47" W, along said westerly right-of-way line, a distance of 471.11 feet to the point of beginning, containing 4.10 acres, more or less.

# Exhibit B

## Survey

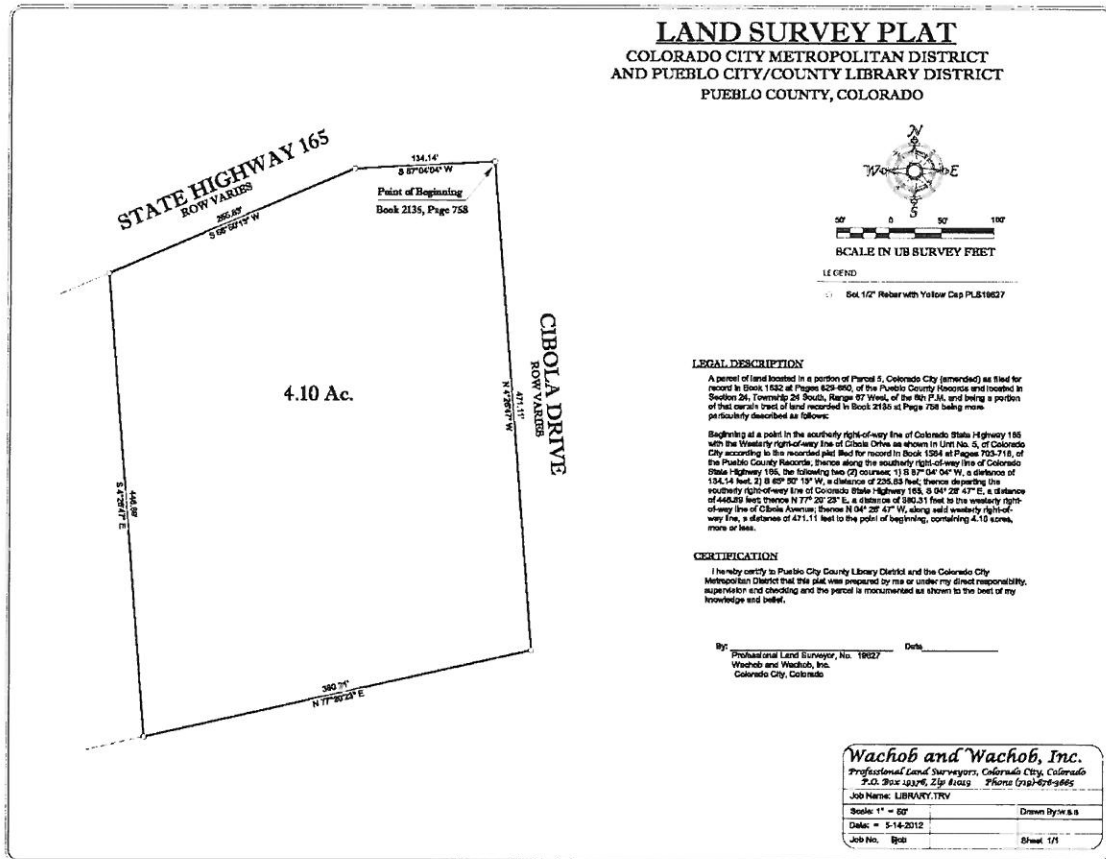




Exhibit C

**SPECIAL WARRANTY DEED**

**THIS DEED**, made this 12<sup>th</sup> day of June, 2012, between **COLORADO CITY METROPOLITAN DISTRICT**, a special district and political subdivision of the state of Colorado ("Grantor"), whose legal address is 4497 Bent Brothers Blvd., Colorado City, CO 81019, and **PUEBLO CITY-COUNTY LIBRARY DISTRICT**, a library district of the State of Colorado, whose legal address is 100 E Abriendo Ave., Pueblo, CO 81004 ("Grantee"),

**WITNESS**, that the Grantor, for and in consideration of the sum of TEN DOLLARS and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does hereby grant, bargain, sell, convey, and confirm, unto the Grantee, its successors and assigns forever, all the real property situate, lying and being in the County of Pueblo and State of Colorado, as more particularly described in Exhibit A attached hereto and incorporated by reference (the "Property"),

**TOGETHER** with improvements, if any, except for water and sanitation improvements, and together with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances;

**TO HAVE AND TO HOLD** the said premises above bargained and described with the appurtenances unto the Grantee, its successors and assigns forever. The Grantor, for itself, its successors and assigns covenants and agrees that it shall and will **WARRANT AND FOREVER DEFEND** the above described premises in the quiet and peaceable possession of the Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor, except as to any restrictions included in recorded deeds or agreements and the exceptions set forth in Exhibit B attached hereto and incorporated by reference,

**EXCEPT** and reserving onto Grantor any and all water and water rights associated with or appurtenant to the Property including without limitation surface water and tributary, non-tributary and not non-tributary groundwater, and all ditches and ditch rights, wells and well rights, springs and spring rights, reservoirs and reservoir rights, and all structures, related facilities used for diversion of such rights, headgates, measuring devices, permits, pumps, pipelines, all as may be located on the Property,

**EXCEPT** and reserving onto Grantor an easement for water and sanitation pipelines and other facilities and an easement for trail purposes, pursuant to that certain Easement Agreement of the same date as this Deed,

**IN ADDITION**, the Property is being conveyed "as is", subject only to explicit warranties of title set forth herein. Grantor makes no representations regarding the nature, quality or condition of the Property, or any structures or lack of structures thereon, or the fitness of the Property to be used for any particular purpose,

**SUBJECT TO** the agreement between Grantor and Grantee that Property shall be reconveyed to Grantor by special warranty deed, for no additional consideration, if Grantee fails to: a) commence construction of a library on the Property within 365 days from the date of this Deed, b) complete construction with reasonable diligence, or c) open the library to the public within 100 days of completion of the construction. Thereafter, if Grantee, or its successors or assigns, ceases to use the Property for a library, Grantor shall have a right of first refusal to purchase the Property for the depreciated value of the constructed structure. Grantee will not sell, lease or transfer a portion of the Property for uses other than a library, without the express written consent of the Grantor.

**IN WITNESS WHEREOF**, the Grantor has caused its corporate name to be subscribed hereto the day and year first above written.

**COLORADO CITY METROPOLITAN DISTRICT**

By: J. Wachob

Its: Board Chairman

STATE OF Colorado )

) ss.

COUNTY OF Pueblo )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of June, 2012, by Jacque Wachob, as Chairman of Colorado City Metropolitan District.

My commission expires on: 9-17-12

Witness my hand and official seal.



Karen G. Davis

Notary Public

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

A PARCEL OF LAND LOCATED IN PARCEL 5, OF COLORADO CITY (AMENDED) AS FILED FOR RECORD IN BOOK 1532 AT PAGES 629-650, PUEBLO COUNTY RECORDS, IN SECTIONS 24 AND 25 OF TOWNSHIP 24 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF PUEBLO, STATE OF COLORADO, TO WIT:

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY NO. 165 AND THE WESTERLY RIGHT OF WAY LINE OF CIBOLA DRIVE, IN UNIT NO. 5 OF COLORADO CITY, ACCORDING TO THE RECORDED PLAT THEREOF, AS FILED FOR RECORD IN BOOK 1564 AT PAGES 703-718, PUEBLO COUNTY RECORDS; THENCE ALONG THE SAID SOUTHERLY RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY NO. 165, THE FOLLOWING FOUR (4) COURSES:

- 1) S 87 DEGREES 04 MINUTES 04 SECONDS W, A DISTANCE OF 134.14 FEET;\_
- 2) S 66 DEGREES 50 MINUTES 13 SECONDS W, A DISTANCE OF 1688.28 FEET;\_
- 3) S 66 DEGREES 10 MINUTES 20 SECONDS W, A DISTANCE OF 198.20 FEET;\_
- 4) ON THE ARC OF A CURVE TO THE LEFT, WHOSE RADIUS IS 2815 FEET, A DISTANCE OF 187.31 FEET; THENCE S 22 DEGREES 33 MINUTES 26 SECONDS E, A DISTANCE OF 155.56 FEET; THENCE S 11 DEGREES 53 MINUTES 26 SECONDS E, A DISTANCE OF 195.00 FEET; THENCE N 73 DEGREES 06 MINUTES 29 SECONDS E, A DISTANCE OF 663.83 FEET; THENCE N 84 DEGREES 14 MINUTES 30 SECONDS E, A DISTANCE OF 598.02 FEET; THENCE N 43 DEGREES 10 MINUTES 45 SECONDS E, A DISTANCE OF 489.57 FEET; THENCE N 77 DEGREES 20 MINUTES 23 SECONDS E, A DISTANCE OF 415.82 FEET; THENCE N 4 DEGREES 26 MINUTES 47 SECONDS W, A DISTANCE OF 471.11 FEET TO THE POINT OF BEGINNING.

**EXHIBIT B**  
**PERMITTED EXCEPTIONS**

1. Any facts, rights, interests, or claims thereof, not shown by the Public Records but that could be ascertained by an inspection of the Land or that may be asserted by persons in possession of the Land.
2. [Intentionally deleted.]
3. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land and not shown by the Public Records.
4. [Intentionally deleted.]
5. [Intentionally deleted.]
6. [Intentionally deleted.]
7. (a) Unpatented mining claims; (b) reservations or exceptions in patents or in Acts authorizing the issuance thereof; (c) water rights, claims or title to water, whether or not the matters excepted under (a), (b), or (c) are shown by the Public Records.
8. RIGHT OF WAY EASEMENT AS GRANTED TO COLORADO CITY WATER & SANITATION DISTRICT IN INSTRUMENT RECORDED FEBRUARY 28, 1973, IN BOOK 1741 AT PAGE 985.
9. THE EFFECT OF INCLUSION OF SUBJECT PROPERTY IN THE COLORADO CITY CEMETERY DISTRICT, AS EVIDENCED BY INSTRUMENT RECORDED JULY 23, 1982, IN BOOK 2122 AT PAGE 439.
10. [Intentionally deleted.]
11. [Intentionally deleted.]

Exhibit D

Easement Agreement

## EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT ("Agreement") is made and entered into this 12<sup>th</sup> day of June, 2012, by and between and **PUEBLO CITY-COUNTY LIBRARY DISTRICT**, a library district of the State of Colorado ("Grantor") and **COLORADO CITY METROPOLITAN DISTRICT**, a special district and political subdivision of the State of Colorado ("Grantor"), whose legal address is 4497 Bent Brothers Blvd., Colorado City, CO 81019 ("Grantee").

### WITNESSETH:

For good and valuable consideration, the receipt of which is hereby acknowledged, Grantor hereby grants to Grantee, its successors and assigns, an easement for the non-exclusive and permanent right to enter, re-enter, occupy and use the hereinafter described property to construct, maintain, repair, replace, remove, enlarge, operate and/or inspect one or more sanitary sewer or water pipelines and all underground and surface facilities related thereto, including, but not limited to, the following: electric or other control systems, underground cables, wires, connections, mains and conduits, valves, vaults, manholes, pumps and pump stations, lift stations, wells, well housings, ventilators, transformers, lights and the like; and to construct, maintain, repair and open to the public a trail in, through, over and across the following described parcel of land situate, lying and being in the County of Pueblo and State of Colorado, to wit:

See **Exhibit A** attached hereto and incorporated herein by reference.

NOW, THEREFORE, it is hereby mutually covenanted and agreed by and between the parties hereto as follows:

1. Grantor shall not stop, limit, hinder or impede the construction, operation, use and maintenance of Grantee's water and sewer pipeline facilities or trail within the easement property.
2. Grantee and its agents shall have and exercise the right of ingress and egress in, to, over, through and across the easement property for the full use of the easement provided for herein.
3. Grantee shall have the right to cut, trim, control, and remove trees, brush and other obstructions located within the easement or upon Grantor's adjacent property which injure or interfere with Grantee's use, occupation, or enjoyment of the easement or the construction, operation, maintenance, repair, replacement, removal, enlargement, or inspection of Grantee's water and sewer lines or trail, without liability for damages arising therefrom. Grantee may open the trail to use by the public.



4. Grantor shall not construct any permanent building or similar structure on the easement property. If any such items are placed on the easement property, Grantee may remove the items without liability for damages arising therefrom and bill Grantor for its costs for the removal. Grantee shall not be responsible to replace such items after it has exercised its rights under this Agreement. Grantor shall pay the costs of removal within 30 days of receiving a bill from Grantee.

5. Grantor may install temporary or removable and replaceable objects such as yard lights, mail boxes, signs, fences, and shrubs, flowers, or plants without deep root systems, on the easement property. If, in the process of exercising one or more of the rights described in this Agreement, Grantee finds it necessary to remove any of the previously described permitted items that have been placed or planted on the easement property by Grantor, Grantee shall do so at its own cost, and Grantee shall not be responsible for replacing such items after it has exercised its rights under this Agreement.

6. In no event shall Grantor:

- a. Construct or place, longitudinally along or otherwise within the easement property, any tree, underground pipeline, cable, wire, conduit, valve, stub, or other utility or appurtenance without the prior written consent of Grantee; or
- b. Change, by excavation or filling, the present grade or ground level of the easement property by more than one foot without the prior written consent of Grantee.

7. Grantee shall have and exercise the right of subjacent and lateral support for the full and complete use of the easement. Grantor shall take no action that would impair the earth cover over, or the lateral or subjacent support for, any of the Grantee's activities within the easement property without obtaining the specific written permission of Grantee.

8. After construction, repair, replacement or enlargement of any pipelines or trails on the easement property, the general surface of the ground shall be restored as nearly as reasonably can be done, given the existence of these pipelines or trails, to the grade and condition it was in immediately prior to construction. Topsoil shall be replaced in cultivated and agricultural areas, and any excess earth resulting from installation by Grantee shall be removed from the easement property at the expense of Grantee. Grantee agrees that for a period of one year following construction that involves disturbance of the surface of the ground, Grantee will maintain the surface elevation and quality of the soil by correcting any settling or subsiding that occurs as a result of the work done by Grantee within the easement property.

9. Grantor retains the right to the use and occupancy of the easement property insofar as such use and occupancy is consistent with the terms of this Agreement and does not impair Grantee's use of the easement. Grantor and its successors, assigns, together with licensees, or guests, agree to release Grantee from any and all claims arising from the construction, installation, use, maintenance, repair replacement, operations or other acts



associated with Grantee's pipelines and trail on the property, except for claims arising from negligence on the part of Grantee. Grantor and its successors, assigns, licensees, or guests, agree to indemnify and hold harmless Grantee from any and all claims arising from the use of the property or use of adjacent property by Grantor its successors, agents, licensees or guests.

10. Grantee will secure and maintain general liability insurance sufficient to cover any liability for its actions on the easement property, in an amount determined in the reasonable discretion of the Board of Directors of Grantee.

11. It is mutually agreed by and between the parties hereto that Grantee may commence the exercise of its rights to the use of the easement forthwith, or it may postpone the exercise of all or some part of its rights hereunder to a future time.

12. Grantor warrants that it has full right and lawful authority to make the grant herein contained, and promises and agrees to defend Grantee in the exercise of its rights hereunder.

13. The failure of Grantee to insist, in any one or more instances, upon a strict performance of any of the obligations, covenants, or agreements herein contained, or the failure of Grantee in any one or more instances to exercise any option, privilege, or right herein contained, shall in no way be construed to constitute a waiver, relinquishment or release of such obligations, covenants, or agreements, and no forbearance by Grantee of any default hereunder shall in any manner be construed as constituting a waiver of such default.

14. If Grantee abandons use and operation of its water and sewer pipelines or trail on the easement property, such abandonment shall not constitute abandonment of its rights under this Agreement or the easement.

15. The provisions of this Agreement are severable. Illegality or unenforceability of any provision herein shall not affect the validity or enforceability of the remaining provisions of the Agreement.

16. Each and every benefit and burden of this Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the parties hereto. If any party hereto, or its successor or assign, seeks to enforce its rights hereunder through litigation, arbitration or other administrative proceeding, the non-prevailing party shall be required to pay the reasonable attorney fees and costs of the prevailing party as part of any judgment, order, or award.

17. Grantor reserves the right to grant further easement interests in the easement property to other utilities and grantees upon obtaining written consent from Grantee, which consent shall not be unreasonably withheld if Grantee's rights to the use of the Easement will not be materially impaired by such grant; provided that:

- (a) Such further easement interests shall be no closer than 10 feet from Grantee's existing and any future planned use of its easement, except as stated in (b).

- (b) In the case of utilities crossing District lines, crossings shall be perpendicular where possible and the other utilities shall be installed in accordance with Grantee's Rules and Regulations and requirements, and buried at least 1.5 feet below any existing or future planned use of the easement by the Grantee. The utility shall take reasonable measures required by Grantee to protect its existing pipelines and trail, and Grantee may require a representative to be on-site for such installation, at the cost of the additional grantee.

18. This Agreement shall be construed in accordance with the laws of the State of Colorado. In the event of any dispute over the terms and conditions hereof, the exclusive venue and jurisdiction for any litigation arising hereunder shall be in the District Court of Pueblo County, Colorado.

19. Unless special provisions are attached hereto, the above and foregoing constitute the entire agreement between the parties and no additional or different oral representation, promise or agreement shall be binding upon any of the parties hereto, with respect to the subject matter of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Easement Agreement as of the day and year first written above.

**COLORADO CITY METROPOLITAN DISTRICT**

By:   
President

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF Pueblo     )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of June, 2012, by Jacques Wachob as President of Colorado City Metropolitan District.



Witness my hand and official seal.

  
Notary Public

My commission expires: 9-17-12

PUEBLO CITY-COUNTY LIBRARY DISTRICT

By: \_\_\_\_\_  
President

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF PUEBLO     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by \_\_\_\_\_, as President of Pueblo City-County Library District.

Witness my hand and official seal.

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

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

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

**[To be added after survey]**