

AFTER RECORDING, RETURN TO:
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Colorado Springs, CO 80903

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El Paso County, CO

218129434

POST DEPLETION PUMPING EASEMENT AGREEMENT

THIS POST DEPLETION PUMPING EASEMENT AGREEMENT (“Agreement”), dated effective as of October 29, 2018, is by and among **Flying Horse Ranch, LLC**, a Colorado limited liability company (“Grantor”); the **Flying Horse North Homeowners Association, Inc.**, a Colorado nonprofit corporation (the “HOA”); and **Flying Horse Country Club, LLC**, a Colorado limited liability company (the “Club”). The HOA and Club are collectively referred to as the “Benefitted Parties” and individually as a “Benefitted Party.”

RECITALS

A. Grantor is the owner of the real property described on **Exhibit A** attached hereto and incorporated herein by this reference (the “Pump Site”).

B. The HOA and the Club each own property within the Flying Horse North Development in El Paso County (“FHN”), and each have committed to undertake certain obligations related to applicable augmentation decrees, including without limitation Water Decree 16CW3190 from Division 1 and other relevant water decrees (collectively the “Water Decrees”).

C. Grantor is willing to grant the Benefitted Parties an easement for purposes of conducting post depletion pumping pursuant to the Water Decrees on the terms set forth in this Agreement.

EASEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby grants to each Benefitted Party the following easement on the Pump Site.

1. Grant of Access Easement. Grantor hereby grants to the Benefitted Parties a perpetual and non-exclusive easement and right-of-way over, under, and across the Pump Site, for purposes of drilling, well construction, and well operating and maintenance as required for purposes of accomplishing post deletion pumping and other post depletion requirements pursuant to the Water Decrees for FHN (the “Easement”). The Easement is for the benefit of the HOA and Club for the purpose of allowing both the HOA and the Club use of the Pump Site to accomplish their respective post deletion pumping requirements.

2. Maintenance Activities and Easement. All improvements made to the Pump Site for post deletion pumping purposes shall be maintained by the Benefitted Parties. Grantor and

each successive owner of the Pump Site shall be responsible for maintaining and repairing the Pump Site surface prior to the installation of any post depletion pumping improvements.

3. Enforcement. The terms, conditions and provisions of this Agreement may be enforced by Grantor and/or any Benefitted Party, and in the event legal or administrative suits or proceedings are brought against any party (whether a party to this instrument or not), for the purpose of such enforcement, the prevailing party or parties may recover all costs associated therewith, including but not limited to reasonable attorneys' fees. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

4. Term, Amendment, and Termination. The conditions, covenants, restrictions, reservations, rights, and obligations provided for herein shall continue in full force and effect in perpetuity and may be amended or terminated only upon the consent of the Grantor and the Benefitted Parties. No amendment, modification, or termination shall be effective until a written instrument setting forth the terms of such amendment, modification, or termination has been duly executed, acknowledged, and recorded in the Office of the Clerk and Recorder of El Paso County, Colorado.

5. Miscellaneous.

a. Indemnification. The HOA and Club each agree to indemnify, defend, and hold harmless the owner of the Pump Site from and against any and all claims, losses, or damages, including attorneys' fees, relating to the use of the Easement by such Benefitted Party and its agents.

b. Run with the Land. The rights granted herein and the provisions hereof shall run with land and are appurtenant to and burden the Pump Site, and it inures to the benefit of each of the Benefitted Parties on the terms of this Agreement.

c. No Obstruction. The owner of the Pump Site shall not place any fence, barricade, or other obstruction on or across the Pump Site that will impede access to Pump Site; provided, however, fencing or barriers that are installed and removed prior to the deletion date pursuant to the Water Decrees are permitted.

d. Public Dedication. Nothing contained herein shall be deemed a gift or dedication of any portion of the Lots to the general public or for any public purpose.

e. Severability. In the event any clause, sentence, or any portion of the terms, conditions, covenants and provisions contained herein are deemed illegal, null, or void for any reason, or are held by any court of competent jurisdiction to be so, the remaining portions contained herein shall remain in full force and effect.

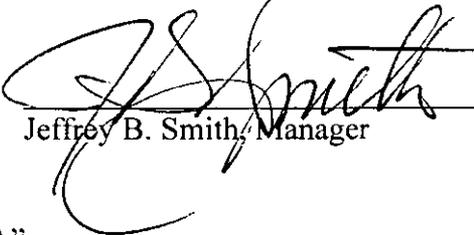
[Signature Page Follows]

[Signature Page – Post Depletion Pumping and Access Easement Agreement]

IN WITNESS WHEREOF, the undersigned have executed this document as of the date first above written.

“GRANTOR”

Flying Horse Ranch, LLC,
a Colorado limited liability company

By: 
Jeffrey B. Smith, Manager

“HOA”

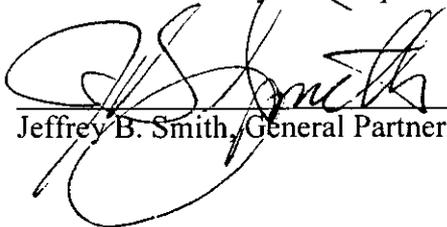
Flying Horse North Homeowners Association, Inc.,
a Colorado non-profit corporation

By: 
Drew Balsick, President

“CLUB”

Flying Horse Country Club, LLC,
a Colorado limited liability company

By: JBS Family Enterprises, LLLP,
a Colorado limited liability limited partnership, as Manager

By: 
Jeffrey B. Smith, General Partner

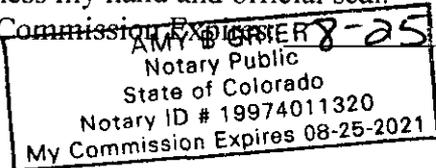
STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me on 10-29, 2018, by Jeffrey B. Smith, as Manager of **Flying Horse Ranch, LLC**, a Colorado limited liability company.

Witness my hand and official seal.

My Commission Expires: 8-25-21

(SEAL)



Amy B. Grier
Notary Public

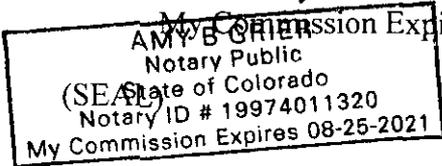
STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me on 10/29, 2018, by Drew Balsick, as President of **Flying Horse North Homeowners Association, Inc.**, a Colorado non-profit corporation.

Witness my hand and official seal.

My Commission Expires: 8-25-21

(SEAL)



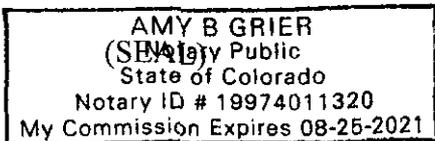
Amy B. Grier
Notary Public

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

The foregoing instrument was acknowledged before me on 10/29, 2018, by Jeffrey B. Smith, as Manager of JBS Family Enterprises, LLLP, a Colorado limited liability limited partnership, as Manager of **Flying Horse Country Club, LLC**, a Colorado limited liability company.

Witness my hand and official seal.

My Commission Expires: 8-25-21



Amy B. Grier
Notary Public

EXHIBIT A

(Legal Descriptions and depiction of Pump Site)



619 N. Cascade Ave Suite 200 (719) 785-0790
Colorado Springs, Colorado 80903 (719) 785-0799(Fax)

JOB NO. 1178.00-04R
JUNE 15, 2018
REVISED JUNE 28, 2018
PAGE 1 OF 2

EXHIBIT A
LEGAL DESCRIPTION: POST DEPLETION PUMPING EASEMENT

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF THE SOUTHWEST OF SECTION 31, TOWNSHIP 10 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BASIS OF BEARINGS: THE EAST LINE OF SECTION 31, TOWNSHIP 10 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY COLORADO, BEING MONUMENTED AT THE NORTH END, AT THE NORTHEAST CORNER OF SAID SECTION 31, BY A 2-1/2 INCH ALUMINUM SURVEYORS CAP STAMPED "LS 29052" AND AT THE SOUTH END, AT THE SOUTHEAST CORNER OF SAID SECTION 31, BY A G.L.O. STONE, IS ASSUMED TO BEAR S00°00'03"E, A DISTANCE OF 5292.98 FEET;

COMMENCING AT THE SOUTHEAST CORNER OF SECTION 31, TOWNSHIP 10 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, DOUGLAS COUNTY, COLORADO;

THENCE N89°48'52"W, ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 31 A DISTANCE OF 2842.36 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 31;
THENCE N89°48'52"W, ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 31, A DISTANCE OF 772.68 FEET;
THENCE N00°03'01"E, A DISTANCE OF 30.00 FEET TO A POINT ON A LINE 30.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 31, SAID POINT BEING THE POINT OF BEGINNING;

THENCE N00°03'01"E, A DISTANCE OF 50.00 FEET;
THENCE S89°48'52"E, A DISTANCE OF 50.00 FEET;
THENCE S00°03'01"W, A DISTANCE OF 50.00 FEET TO A POINT ON A LINE 30.00 FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 31;
THENCE N89°48'52"W, ON SAID PARALLEL LINE, A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

CONTAINING A CALCULATED AREA OF 2,500 SQUARE FEET

LEGAL DESCRIPTION STATEMENT:

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



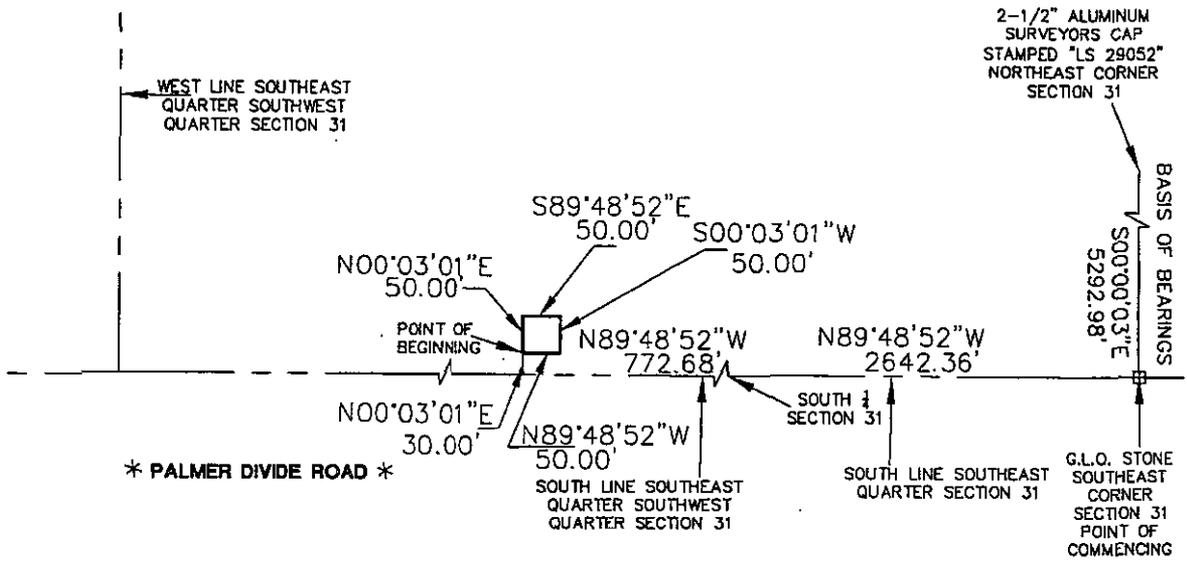
DOUGLAS P. REINELT, PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. NO. 30118
FOR AND ON BEHALF OF CLASSIC CONSULTING,
ENGINEERS AND SURVEYORS, LLC.

JUNE 29, 2018
DATE



619 N. Cascade Avenue, Suite 200 (719)785-0790
 Colorado Springs, Colorado 80903 (719)785-0799 (Fax)

POST DEPLETION PUMPING EASEMENT
 EXHIBIT A
 SHEET 2 OF 2
 JOB NO. 1178.00-04R
 JUNE 15, 2018
 REVISED JUNE 29, 2018



* PALMER DIVIDE ROAD *



SCALE: 1" = 200'



CCES, LLC DOES NOT EXPRESS NOR IMPLY ANY WARRANTY WITH THE ABOVE WRITTEN LEGAL DESCRIPTION AND EXHIBIT. THE LEGAL DESCRIPTION WAS WRITTEN FOR INFORMATIONAL PURPOSES ONLY AND DOES NOT DEPICT A MONUMENTED LAND SURVEY.