

ENCROACHMENT EASEMENT AGREEMENT

This Encroachment Easement Agreement ("Agreement") is entered into and made effective this 8th day of March, 2018 between David C. King and Christine L. King (collectively, "Grantor") and William E. Freienmuth and Lena S. Freienmuth (collectively, "Grantee"). Grantor and Grantee may be referred to as a "Party" and collectively, as the "Parties."

Background and Purpose

A. Grantor is the owner of real property legally described as:

"Lot 2, Block 2, Pine Hills, County of El Paso, State of Colorado"

and commonly known as 16755 Vincent Avenue, Monument, Colorado (the "Grantor Property").

B. Grantee is the owner of real property legally described as:

"Lot 1, Block 2, Pine Hills, County of El Paso, State of Colorado"

and commonly known as 16815 Vincent Avenue, Monument, Colorado (the "Grantee Property").

C. Prior to Grantee acquiring the Grantee Property, the previous owner constructed a barn which was partially constructed on the Grantor Property. Rather than require the relocation of the barn from the Grantor Property, Grantor is agreeable, through this Agreement, to allowing Grantee the use of an area within the Grantor Property that allows Grantee the use of the existing barn. The use area that encompasses the barn encroachment on the Grantor Property is legally described in the attached **Exhibit A** and graphically shown on the diagram attached as **Exhibit B**, which exhibits are incorporated into and made a part of this Agreement by this reference (the "Encroachment Area"). The Encroachment Area is approximately 15 feet from the footprint of the existing barn on the Grantor Property.

D. Grantor is agreeable to allowing Grantee the use of the Encroachment Area on the Grantor Property, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, Grantor and Grantee agree as follows:

1. **Grant of Easement.** Grantor grants Grantee and their successors and assigns, for so long as the existing barn is within the Encroachment Area, a non-exclusive easement on, across and over the Encroachment Area solely for access to and from and use of the existing barn located on and within the Encroachment Area ("Easement"). The intention of the Easement is to allow Grantee the use of the Encroachment Area for so long as the existing barn is in its current location so that Grantee does not have to relocate it from the Grantor Property. At such time as the barn is destroyed and/or is to be replaced, Grantee shall relocate the barn so it is no longer within the Encroachment Area, and at that time, Grantee shall restore the Encroachment Area to its natural condition as may be reasonably possible, and shall cooperate with Grantor to terminate this Agreement in the records of El Paso County, Colorado. Photographs of the existing barn are attached as **Exhibit C** and incorporated by this reference.

2. **Use and Benefit.** Grantee shall use the barn for customary purposes and consistent with the purpose for which it was originally constructed; specifically, for the housing of livestock in accordance with state and local regulations, and storage of Grantee's personal property within the barn itself. Grantee may not lease to, nor allow the use of the barn by, any third party not a tenant or occupant of the remainder of the Grantee Property. Grantee shall maintain the Encroachment Area in good condition, to include weed control. Grantee may perform minor repairs to the barn but may not rebuild, improve, replace or enlarge the barn in its present location without the prior written consent of Grantor, which may be withheld in Grantor's sole discretion. Grantee shall not use the barn as a residence, nor shall Grantee store any property on or within the Encroachment Area that is not completely enclosed within the barn itself. Grantee shall not construct any other structure or improvement on or within the Encroachment Area.
3. **Permissive Use.** Grantee acknowledges and agrees that the Grantee's use of the Encroachment Area has been permissive and has not created for Grantee and its predecessors any ownership interest in the Grantor Property.
4. **Indemnification.** Grantee, on behalf of themselves, and their agents, representatives, insurers, successors and assigns, agrees to indemnify and hold Grantor, their successors and assigns, harmless from and against all liability, actions, claims, damages and expenses of any kind and nature, including reasonable attorney fees and costs, for claims of personal injury, death, property damage or mechanics liens arising out of or resulting from the use of the Encroachment Area by Grantee.
5. **Notices.** All notices under this Agreement shall be in writing and given by certified mail, postage prepaid; by hand delivery, or by recognized overnight delivery service, to a party at their address listed with the El Paso County Assessor's Office. Notice shall be deemed effective upon the earlier of receipt by personal delivery, two (2) days after mailing postage prepaid by a recognized overnight delivery service, or five (5) days after mailing postage prepaid, certified mail, return receipt requested. A Party, by notice given as above, may change the address to which future notices should be sent.
6. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of Grantor and Grantee, and their respective successors and assigns.
7. **Severability.** The provisions of this Agreement are severable. A determination of illegality or unenforceability of any provision shall not affect the validity or enforceability of the remaining provisions in this Agreement.
8. **Default.** In the event of a default of the obligations created by this Agreement, the Party in default shall be liable to the other Party for all reasonable expenses and costs, including reasonable attorney fees, incurred in enforcing this Agreement or any rights or benefits conferred under this Agreement.
9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

10. Amendment/Termination. This Agreement may be amended or terminated by a written instrument signed by the Parties and recorded in the records of El Paso County, Colorado. At such time as the Grantee's barn is no longer located within the Encroachment Area, Grantee and Grantor shall execute and acknowledge a termination of this Agreement, which shall be recorded in the records of El Paso County, Colorado.

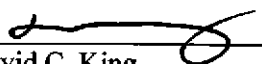
11. Waiver. No waiver of, or consent to depart from, the requirements of any of the provisions of this Agreement by any Party shall be effective unless it is in writing signed by the Party giving the waiver. No such waiver shall be construed as a waiver of any subsequent breach or any other agreement or obligation contained in this Agreement. No delay or omission on the part of any Party to exercise any right shall be construed as a waiver of such right.

12. Benefits and Burdens. For so long as the existing barn is located within the Encroachment Area, the benefits and burdens of the Easement shall run with the Grantor Property and the Grantee Property and shall be binding upon, and inure to the benefit of, the respective successors and assigns of the owners of the Grantor Property and the Grantee Property.

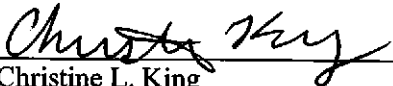
13. Entire Agreement. This Agreement embodies all agreements between the Parties and no other promises, terms, conditions, duties or obligations, oral or written, have been made which might serve to modify, add to or change the terms and conditions of this Agreement.

Dated to be effective the day and year first above written.

GRANTOR:



David C. King



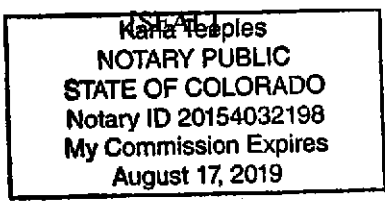
Christine L. King

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

The foregoing instrument was acknowledged before me this 8 day of March, 2018, 2018, by David C. King and Christine L. King.

Witness my hand and official seal.

My commission expires: August 17, 2019





Notary Public

12. Benefits and Burdens. For so long as the existing barn is located within the Encroachment Area, the benefits and burdens of the Easement shall run with the Grantor Property and the Grantee Property and shall be binding upon, and inure to the benefit of, the respective successors and assigns of the owners of the Grantor Property and the Grantee Property.

13. Entire Agreement. This Agreement embodies all agreements between the Parties and no other promises, terms, conditions, duties or obligations, oral or written, have been made which might serve to modify, add to or change the terms and conditions of this Agreement.

Dated to be effective the day and year first above written.

GRANTOR:

[Signature]
David C. King

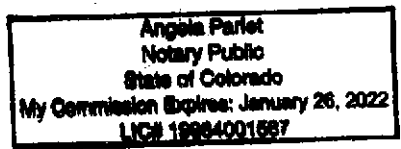
Christine L. King
Christine L. King

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

The foregoing instrument was acknowledged before me this 13 day of March, 2018, by David C. King and Christine L. King.

Witness my hand and official seal.

My commission expires: 1-26-2022



[SEAL]

[Signature]
Notary Public GRANTEE:

William E. Freienmuth
William E. Freienmuth
Freienmuth

Lena S. Freienmuth
Lena S. Freienmuth

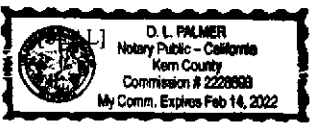
STATE OF California)

COUNTY OF Kern) ss.
)

The foregoing instrument was acknowledged before me this 2nd day of March, 2018, by William E. Freienmuth and Lena S. Freienmuth.

Witness my hand and official seal.

My commission expires: 14 Feb 2022



D. L. Palmer
Notary Public

EXHIBIT A
LEGAL DESCRIPTION OF ENCROACHMENT AREA

**EXHIBIT A
LEGAL DESCRIPTION OF ENCROACHMENT AREA**

LEGAL DESCRIPTION:

AN EASEMENT FOR ENCROACHMENT PURPOSES LYING OVER AND ACROSS A PORTION OF LOT 2, BLOCK 2, PINE HILLS, AS RECORDED IN PLAT BOOK Y AT PAGE 44 UNDER RECEPTION NO. 15607 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER FOR THE BENEFIT OF LOT 1 OF SAID BLOCK 2, LOCATED IN THE SOUTHWEST ONE-QUARTER (SW1/4) OF SECTION 22, TOWNSHIP 11 SOUTH, RANGE 67 WEST OF THE 6th P.M., EL PASO COUNTY, COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 2, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID LOT 1, AS MONUMENTED BY A REBAR AND RED PLASTIC CAP (ILLEGIBLE), FROM WHICH THE NORTHEAST CORNER OF SAID LOT 2, SAID POINT ALSO BEING THE SOUTHEAST CORNER OF SAID LOT 1, AS MONUMENTED BY A 1-1/8" O.D. IRON PIPE BEARS N88°20'00"E, A DISTANCE OF 659.83 FEET (660.0 FEET OF RECORD) AND IS THE BASIS OF BEARINGS USED HEREIN;

THENCE N88°20'00"E ALONG THAT LINE COMMON TO SAID LOT 2 AND SAID LOT 1, A DISTANCE OF 367.58 FEET TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED;

THENCE N88°20'00"E CONTINUING ALONG SAID COMMON LINE, A DISTANCE OF 112.35 FEET;

THENCE S11°34'19"E, A DISTANCE OF 28.21 FEET;

THENCE S78°33'42"W, A DISTANCE OF 110.64 FEET;

THENCE N11°37'19"W, A DISTANCE OF 47.28 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 4,177 SQUARE FEET (0.096 ACRES) OF LAND, MORE OR LESS.

PREPARED BY:
KEVIN F. LLOYD, COLORADO P.L.S. NO. 26965
FOR AND ON BEHALF OF RAMPART SURVEYS, LLC
P.O. BOX 5101
WOODLAND PARK, COLORADO 80866
719-687-0920



H:\RAMPART\egate\2018\180311\18033 - Encroachment Easement.docx

EXHIBIT B

PLDWG18118033.dwg 2/19/2018 11:33:24 AM, Canon C3525

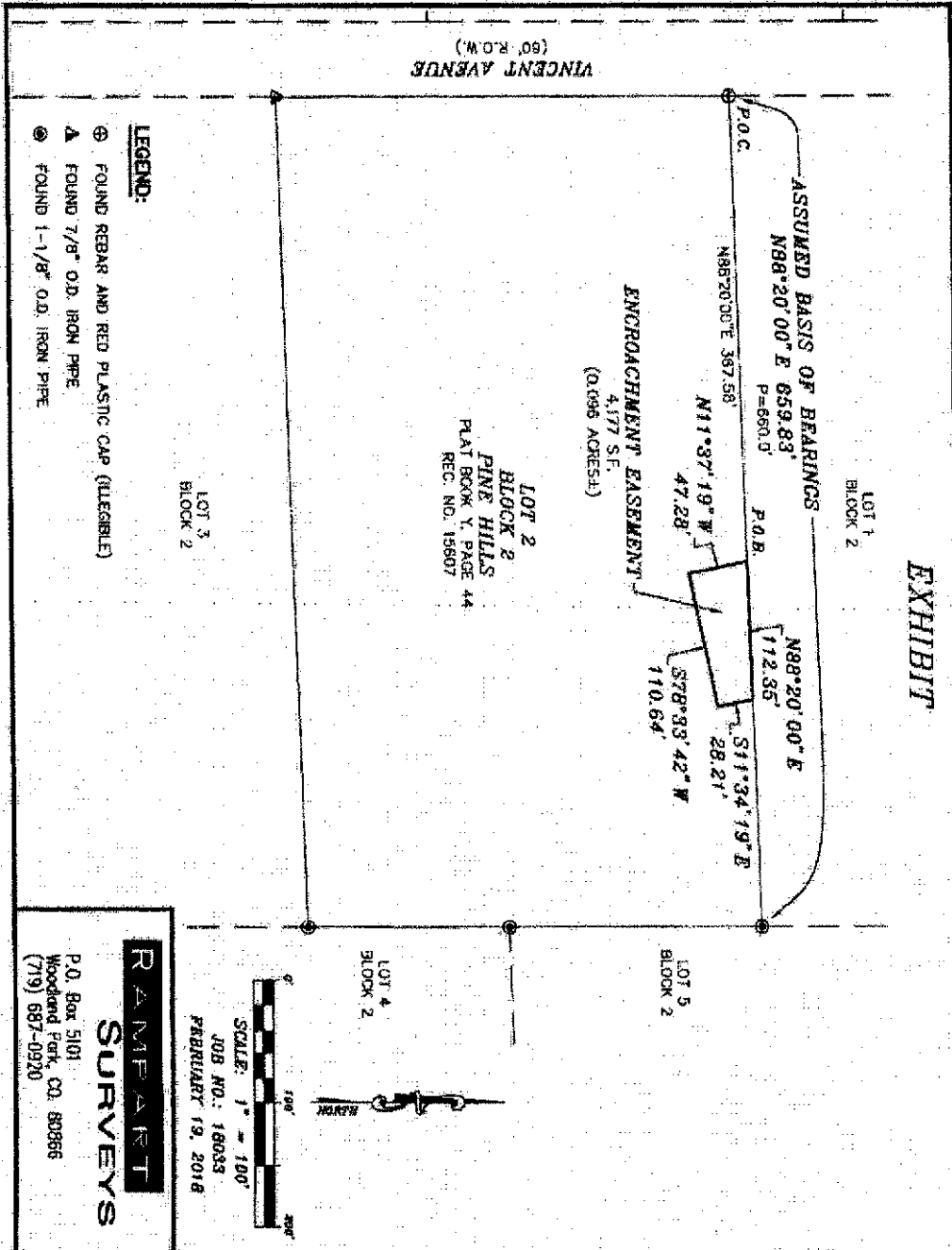


EXHIBIT
C

