

REAL ESTATE DONATION OF PROPERTY AGREEMENT

4921 Austin Bluffs Parkway
City Council Resolution No. 183-12

This REAL ESTATE DONATION AGREEMENT ("Agreement"), dated this 24th day of December, 2012, is between SRPC, LLC, a Colorado limited liability company ("SRPC, LLC"), and the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation ("City"). SRPC, LLC and the City may be collectively referred to as the Parties or singularly the Party.

SRPC, LLC and the City agree as follows:

I. PURCHASE OF PROPERTY

1.1 Property. SRPC, LLC is the owner of certain real property located in the County of El Paso, State of Colorado, described as:

Lot 2, Sundown Square Subdivision Filing No. 1 according to the Plat thereof recorded May 26, 1999 at Reception No. 99084327 in the records of the El Paso County, Colorado Clerk and Recorder.


also known as a portion of TSN 6313307137, the ("Property"). City desires to accept the conveyance of the Property from SRPC, LLC on the terms and conditions contained in this Agreement.

1.2 Deposit. No deposit is required.

1.3 Donation. SRPC, LLC will donate and the City shall accept the Property on the terms and conditions of this Agreement. SRPC, LLC will donate the Property to the City at no cost. The City will accept the Property from SRPC, LLC in the form of an in-kind donation from SRPC, LLC to the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation.

1.4 Force and Effect. If any provision of this Agreement shall be determined to be invalid, illegal or without force by a court of law or rendered so by legislative act, then the remaining provisions of this Agreement shall remain in full force and effect.


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II. CLOSING

- 2.1 Time and Place. The closing of the conveyance of the Property shall occur at the offices of Stewart Title, located at 121 South Tejon Street, Suite 111, in Colorado Springs, in Colorado Springs, Colorado, at a date and time mutually agreed upon by the parties, but in no event later than December 31, 2012.
- 2.2 Procedure. At closing, the following shall occur:
- a. Conveyance Deed. SRPC, LLC shall convey the Property to City by General Warranty Deed, free and clear of any liens or encumbrances whether recorded or unrecorded, but subject to easements, conditions and restrictions of record, insofar as they may lawfully affect the Property.
 - b. Donation. SRPC, LLC shall convey and the City shall accept the Property in the form of an in-kind donation and other good and valuable consideration with no monetary exchange. The in-kind donation will be reflected in the Settlement Statements to be signed by City and SRPC, LLC.
 - c. Sundown Owners Association Expenses, Assessments and Maintenance Obligations. Until such time as the City either disposes of or develops the Property, SRPC, LLC shall pay any and all outstanding expenses and assessments (regular and special), maintenance obligations and any other fees, costs, expenses, assessments or obligations due and owing to the Sundown Owners Association pursuant to that Declaration of Covenants, Conditions and Restrictions recorded at Book 6917 Page 884.
 - d. Shared Access Easement Obligations. Until such time as the City either disposes of or develops the Property, SRPC, LLC shall pay any and all outstanding expenses for maintenance obligations and/or cost sharing liabilities due and owing to the Saddleback HOA, or its successors, pursuant to that Easement Maintenance Agreement recorded at Reception No. 96131709.

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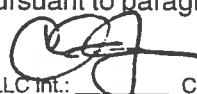
SRPC, LLC int.:  City Int: JK
Date: 12-24-12 Date: 12/18/12

- e. Real Property Taxes. SRPC, LLC shall be responsible for paying all real property taxes that have accrued through the date of closing.
 - f. Possession. SRPC, LLC shall deliver possession of the Property to City at closing.
- 2.3 Closing Costs. SRPC, LLC shall pay all costs of closing to include the title policy, recording fees and documentary fees, if any.
- 2.4 Title Policy. SRPC, LLC shall instruct Stewart Title to prepare a title commitment for the City's review. Closing is contingent on City's satisfaction with the update of the title commitment prior to closing. The amount of title insurance will be based upon an appraisal provided by SRPC, LLC for IRS donation purposes only, pursuant to paragraph 6.4 of this Agreement.
- 2.5 Environmental Assessment. Closing is contingent on the City's receipt of and satisfaction with a Phase 1 Environmental Site Assessment, and a Phase 2, if necessary.

III. CONDITION OF PROPERTY

- 3.1 Physical Condition of Property. City acknowledges that SRPC, LLC has made no representations or warranties concerning the condition of soils on the Property or drainage conditions on the Property. SRPC, LLC will provide a Phase 1 Environmental Site Assessment prior to closing. If required, SRPC, LLC will provide a Phase 2 Environmental Site Assessment. Any recommended environmental remediation will remain an obligation of SRPC, LLC and such obligation shall survive closing.
- 3.2 SRPC, LLC Responsibilities.—Until such time as the City either disposes of or develops the Property: (i) any and all financial obligations related to recorded covenants and maintenance agreements shall remain the responsibility of SRPC, LLC and such obligation shall survive closing—; and (ii) SRPC, LLC shall continue to fulfill all obligations associated with the Sundown Owners Association as outlined in the Declaration of Covenants, Conditions and Restrictions recorded at Book 6917 Page 884, and all obligations associated with the Easement Maintenance Agreement recorded at Reception No. 96131709 until such time as the City disposes of or develops the Property pursuant to paragraph 6.6 (d.) of this Agreement.

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 SRPC, LLC Int.: _____ City Int: AL

Date: 12-24-12 Date: 12/18/12

IV. DEFAULT

- 4.1 SRPC, LLC Remedies. If City is in default under this Agreement, SRPC, LLC may terminate this Agreement by written notice to City and the Parties shall then be released from all obligations under this Agreement.
- 4.2 City Remedies. If SRPC, LLC is in default under this Agreement, City may terminate this Agreement by written notice to SRPC, LLC and the Parties shall then be released from all obligations under this Agreement.
- 4.3 Time. Time is of the essence in this Agreement.

V. NOTICES AND OTHER DELIVERIES

- 5.1 Notices and Other Deliveries. Any notice or other documents or materials required or permitted to be delivered by this Agreement shall be deemed properly delivered upon receipt by the Party to whom the documents or materials are to be delivered. Notices may be hand delivered, sent by first-class mail, return receipt requested, with postage prepaid, or transmitted by electronic facsimile. Notices shall be addressed and delivered as follows:


If to SRPC, LLC:	If to City:
SRPC, LLC c/o Norwood Attn: Kent Petre 111 South Tejon Street, Suite 222 Colorado Springs, Colorado 80903 Phone: 593-2600 Fax: 633-0545	City of Colorado Springs Manager, Real Estate Services 30 South Nevada, Suite 701 Colorado Springs, CO 80903 Phone: (719) 385-5605 Fax: (719) 385-5610

Either Party may, by notice properly delivered, change the person or address to which future notices or delivered to that Party shall be made.

VI. INTERPERTATION OF AGREEMENT

- 6.1 Governing Law. This Agreement is subject to and shall be interpreted under the laws of the State of Colorado, and the Charter, City Code, ordinances, rules and

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regulation of the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation. Court venue and jurisdiction shall exclusively be in the Colorado District Court for El Paso County, Colorado. The Parties agree that this Agreement shall be deemed to have been made in, and the place of performance is deemed to be in, the City of Colorado Springs, El Paso County, State of Colorado.

6.2 Headings. The article and section headings in the Agreement are for convenience only, and shall not be used in its interpretation or considered part of this Agreement.


6.3 Appropriation of Funds. In accord with Colorado Constitution, Article X, Section 20, and the City Charter, performance of the City's obligations under this Agreement is expressly subject to appropriation of funds by City Council and the availability of those appropriated funds for expenditure. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the City's obligations under the Agreement, or appropriated funds may not be expended due to Constitutional or City Charter spending limitations, then the City may terminate this Agreement without compensation to SRPC, LLC.

6.4 IRS Documentation. City agrees to complete any and all necessary IRS forms and documents acknowledging SRPC, LLC's donation to the City in accord with *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* (the "Manual"). Additionally, City agrees to cooperate with SRPC, LLC's efforts to qualify this transaction as a charitable contribution for tax purposes in accord with the Manual and IRS rules and regulations for charitable contributions. SRPC, LLC, at its expense, will obtain an MAI appraisal of the Property (the "Appraisal"), and will promptly notify the City of the Property's appraised value as of the date of Closing. For a period of three years and one day after Closing, the City shall not transfer or convey the Property except:

- a. To another tax-exempt charitable entity; or
- b. For consideration equal or greater than the Property's value as determined by the Appraisal.

6.5 Entire Agreement. This Agreement, together with all attached exhibits, constitutes the entire Agreement between the Parties, and all other representations or statements previously made, verbal or written, are merged in this Agreement, which may be amended only in writing, executed by duly authorized representatives of the Parties.

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Date: 12-24-12 Date: 12/18/12

6.6 Special Provisions.

- a. Authority to Acquire Property. This Agreement is contingent upon City Council approval.
- b. No New Encumbrances. SRPC, LLC agrees that no new easements, liens or encumbrances shall be placed on the Property from the time of Agreement execution through closing, except any easement so designated by the City.
- c. Environmental Condition. Closing is contingent upon delivery and acceptance of a Phase 1 ESA and/or a Phase 2 ESA to City. Any recommended environmental remediation will remain an obligation of SRPC, LLC and such obligation shall survive closing.
- d. SRPC, LLC Responsibilities. Until such time as the City either disposes of or develops the Property, SRPC, LLC will assume responsibility for any and all obligations associated within the Property pursuant to the Declaration of Covenants, Conditions and Restrictions recorded at Book 6917 Page 884, and the Easement Maintenance Agreement recorded at Reception No. 96131709.

6.7 No Third Party Beneficiary. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to enforcement, shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any claims or right of action by any other or third person or entity on the Agreement. It is the express intention of the Parties that any person or entity, other than the Parties to this Agreement, receiving services or benefits under this Agreement shall be deemed to be incidental beneficiaries only.

6.8 Agreement. This Agreement shall inure to the benefit of and be binding upon the heirs, successors and assigns of SRPC, LLC and the City.

6.9 Assignment. Neither SRPC, LLC nor City shall assign or otherwise transfer this Agreement or any right or obligation under this Agreement.

6.10 Entire Agreement, Modification, Survival. This Agreement constitutes the entire agreement between the Parties relating to the conveyance of the Property, and any prior agreements pertaining to the subject of this Agreement, whether oral or written, have been merged and integrated into this Agreement. No subsequent

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SRPC, LLC Int: [Signature] City Int: ok

Date: 12-24-12 Date: 12/18/12

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. Any obligation or agreement set forth in this Agreement that, by its terms, is intended to be performed after termination or Closing shall survive closing.

SIGNATURES APPEAR ON THE NEXT PAGE.

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Date: 12-24-12 Date: 12/18/12

WARRANTY DEED

SRPC, LLC, a Colorado limited liability company, ("Grantor") whose street address is 111 South Tejon Street, Suite. 222, Colorado Springs, Colorado 80903, City of Colorado Springs, County of El Paso and State of Colorado, for the consideration of one dollar (\$1.00), in hand paid, hereby sells and conveys to the **City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation**, ("Grantee") whose street address is 30 South Nevada Avenue, Suite 701, Colorado Springs, Colorado, County of El Paso, State of Colorado, the following real; property in the County of El Paso and State of Colorado, to wit:

Lot 2, Sundown Square Subdivision Filing No. 1 according to the Plat thereof recorded May 26, 1999 at Reception No. 99084327 in the records of the El Paso County, Colorado Clerk and Recorder.

Also known as: TSN 6313307137

With all appurtenances, and hereby warrants title to the same subject to easements, conditions and restrictions of record.

Signed this 26 day of December, 2012.

SRPC, LLC,
a Colorado limited liability company

By: [Signature]
Christopher S. Jenkins, Manager

State of Colorado)
) ss.
County of El Paso)

The foregoing instrument was acknowledged before me this 24th day of December, 2012 by Christopher S. Jenkins as Manager of SRPC, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My Commission expires: 10-24-2013

[Signature]
Loretta D. Jibreen
Notary Public



Accepted by the City of Colorado Springs

By: [Signature] this 18 day of December, 2012
Laura Neumann, Chief of Staff

By: [Signature] this 18th day of December, 2012
Ingrid Richter, Real Estate Services Manager

Approved as to Form:

By: [Signature] Date: 12/18/12
City Attorney's Office

959701

212154489

WARRANTY DEED

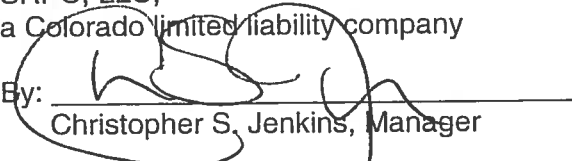
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With all appurtenances, and hereby warrants title to the same subject to easements, conditions and restrictions of record.

Signed this 26 day of December, 2012.

SRPC, LLC,
a Colorado limited liability company
By: 
Christopher S. Jenkins, Manager

State of Colorado)
) ss.
County of El Paso)

The foregoing instrument was acknowledged before me this 24th day of December, 2012 by Christopher S. Jenkins as Manager of SRPC, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My Commission expires: 10-24-2013


Notary Public

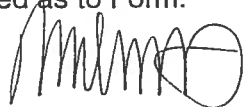


Accepted by the City of Colorado Springs

By:  this 18 day of December, 2012
Laura Neumann, Chief of Staff

By:  this 18th day of December, 2012
Ingrid Richter, Real Estate Services Manager

Approved as to Form:

By: 
City Attorney's Office

Date: 12/18/12



959701

RESOLUTION NO. 183 - 12

A RESOLUTION ACKNOWLEDGING AN IN-KIND LAND DONATION OF A 1.14-ACRE PARCEL FROM SRPC, LLC TO THE CITY OF COLORADO SPRINGS

WHEREAS, the City of Colorado Springs Parks has been given the opportunity to accept a donation of 1.14 acres of land known as 4921 Templeton Gap Road (TSN: 6313307137) as set forth on Exhibit A attached hereto, owned by SRPC, LLC, a Colorado limited liability company ("Owner"); and

WHEREAS, the City of Colorado Springs finds it to be in the best interest of the citizens of Colorado Springs to accept the 1.14-acre parcel land donation; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. The City Council of the City of Colorado Springs hereby accepts the donation of 1.14 acres as shown on the attached Exhibit A made a part of this Resolution.

Section 2. The Real Estate Manager of the City of Colorado Springs is hereby authorized to execute all the necessary paperwork to receive and acknowledge this donation in accord with Section 7.7.1802 of the Code of the City of Colorado Springs 2001, as amended, prior to the City's receipt of the donation.


Section 3. This Resolution shall be in full force and effect immediately upon its adoption.

DATED at Colorado Springs, Colorado, this 11th day of December 2012.



Scott Hente, Council President

ATTEST:



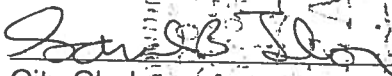
Sarah B. Johnson, City Clerk

EXHIBIT A

Lot 2, Sundown Square Subdivision Filing No. 1 according to the Plat thereof recorded May 26, 1999 at Reception No. 99084327 in the records of El Paso County, Colorado Clerk and Recorder.

I, Sarah B. Johnson, City Clerk of the City of Colorado Springs, Colorado, do hereby certify the foregoing to be a true and correct copy of Resolution No. 183-12, adopted by the City Council of the City of Colorado Springs on the 11TH day of December, 2012, the original of which is on file in the City Clerk's Office.

Dated at Colorado Springs, Colorado, this 13th day of December, 2012.


City Clerk

