

Return to:
City Clerk
City of Aurora Colorado
15151 E Alameda Pkwy Suite 1400
Aurora Colorado 80012

AVIGATION EASEMENT

1. The undersigned (the "Grantor") is the owner of that certain parcel of real property more particularly identified and described in the legal description attached to and made a part of this instrument as Exhibit A (the "Property").
2. Grantor, for itself, its successors and assigns, hereby grants and conveys to THE CITY OF AURORA, COLORADO, its successors and assigns (the "City"), a perpetual and assignable easement in and over the Property and a right-of-way for the free and unrestricted passage and flight of all aircraft in the navigable airspace above the surface of the Property as defined by the Federal Aviation Act of 1958, 49 U.S.C. § 40101, *et seq.*, and the regulations adopted pursuant thereto, as the same are from time to time amended (the "Airspace").
3. Said easement and right-of-way shall include, but is not limited to:
 - a. For the use and benefit of the public, the easement and continuing right to fly, or cause or permit the flight by any and all persons of any and all aircraft now known or hereafter invented, used, or designated for navigation of or flight in the air, in, through, across or about any portion of the Airspace;
 - b. The right to cause or create, or permit or allow to be caused or created in the Airspace, such noise, dust, turbulence, vibration, illumination, air currents, fumes, exhaust, smoke, and all other effects as may be inherent in the proper operation of aircraft;
 - c. The right to clear and keep clear the Airspace of any portions of buildings, structures, or improvements of any and all kinds, and of trees, vegetation, or other objects, including the right to remove or demolish those portions of such buildings, structures, improvements, trees or any other objects which extend into the Airspace and the right to cut to the ground level and remove any trees which extend into the Airspace;
 - d. The right to mark and light, or cause or require to be marked or lighted, as obstructions to air navigation, any and all buildings, structures, or other improvements, and trees or other objects now upon, or that in the future may be upon, the Property, and which extend into the Airspace; and
 - e. The right of ingress to, passage within, and egress from the Property, solely for the above stated purposes.

4. Grantor hereby covenants with City as follows:
 - a. Grantor will not construct, install, permit or allow any building, structure, improvement, tree, or other object on the Property to extend into the Airspace, constitute an obstruction to air navigation, or obstruct or interfere with the use of the easement and right-of-way herein granted; and
 - b. Grantor will not use or permit the use of the Property in such a manner as to create electrical or electronic interference with radio communication or radar operation between any installation upon the Airport and any aircraft.
5. The easement and right-of-way granted herein shall be deemed in gross, being conveyed to City for their benefit and the benefit of any and all members of the general public who may use said easement or right-of-way operating aircraft in or about, or in otherwise flying through, the Airspace.
6. The covenants and agreements made herein shall run with the land and shall be binding upon Grantor and its successors and assigns.
7. The City is hereby designated as agent for all purposes regarding the enforcement or removal of the easement and right-of-way granted herein.
8. It is understood and agreed that Grantor shall have no right or cause of action, either in law or in equity, for damages or injury to any person or property arising out of or resulting directly or indirectly, from the overflight of aircraft, or for damages or injury to any person or property resulting from any noise or nuisance of any kind or description resulting, directly or indirectly, from aircraft overflights; provided, however, that nothing herein shall divest Grantor of any right or cause of action for damages to any person or property resulting from the negligent operation of aircraft overflights over the described premises at any altitude above ground level.
9. Nothing herein shall be construed to be a waiver of the governmental immunity afforded to the City or any other governmental agency or department by virtue of the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, C.R.S., as amended.

[End of text; signatures on following page]

EXECUTED this 22 day of SEPTEMBER, 2020.

GRANTOR:

MURPHY CREEK DEVELOPMENT, INC.,
a Colorado corporation

By: Harvey B. Alpert
Harvey B. Alpert, President

STATE OF Arizona)
COUNTY OF Maricopa) ss.

The foregoing instrument was acknowledged before me this 22 day of September, 2020, by Harvey B. Alpert, as President of Murphy Creek Development, Inc., a Colorado corporation.

Witness my hand and official seal.

My Commission Expires:

8/11/2022

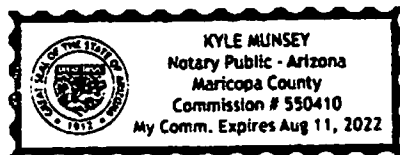


EXHIBIT A

Legal Description of the Property

A PART OF SOUTH 1/2 OF SECTION 19, TOWNSHIP 4 SOUTH, RANGE 65 OF THE 6TH P.M., CITY OF AURORA, COUNTY OF ARAPAHOE, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH 1/4 CORNER OF SAID SECTION 19, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 19 BEARS SOUTH 89 DEGREES 36 MINUTES 25 SECONDS WEST, A DISTANCE OF 2640.92 FEET;

THENCE NORTH 00 DEGREES 23 MINUTES 28 SECONDS WEST, A DISTANCE OF 70.00 FEET TO THE POINT OF BEGINNING, SAID POINT ALSO BEING ON THE NORTH RIGHT OF WAY LINE OF EAST JEWELL AVENUE;

THENCE SOUTH 89 DEGREES 36 MINUTES 25 SECONDS WEST, ALONG SAID NORTH RIGHT OF WAY LINE A DISTANCE OF 710.87 FEET TO A POINT ON AN EASTERLY LINE OF LOT 1, BLOCK 4 OF HOMESTEAD AT MURPHY CREEK SUBDIVISION FILING NO. 1, A SUBDIVISION PLAT RECORDED IN THE OFFICE OF THE CLERK AND RECORDER OF ARAPAHOE COUNTY IN BOOK 161 AT PAGE 48;

THENCE ALONG AN EASTERLY, SOUTHERLY AND WESTERLY LINE OF SAID HOMESTEAD AT MURPHY CREEK SUBDIVISION FILING NO. 1 THE FOLLOWING FOUR (4) COURSES:

1. NORTH 22 DEGREES 03 MINUTES 58 SECONDS EAST, A DISTANCE OF 765.13 FEET;
2. NORTH 89 DEGREES 36 MINUTES 25 SECONDS EAST, A DISTANCE OF 170.00 FEET;
3. SOUTH 38 DEGREES 04 MINUTES 25 SECONDS EAST, A DISTANCE OF 306.39 FEET;
4. SOUTH 14 DEGREES 56 MINUTES 31 SECONDS EAST, A DISTANCE OF 480.00 FEET TO A POINT ON SAID NORTH RIGHT OF WAY LINE;

THENCE SOUTH 89 DEGREES 36 MINUTES 40 SECONDS WEST, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 59.29 FEET TO THE POINT OF BEGINNING.