

**Resolution No. 2024- 3-1**

**RESOLUTION  
OF THE BOARD OF DIRECTORS OF  
PAINT BRUSH HILLS METROPOLITAN DISTRICT  
AUTHORIZING GRANT OF EASEMENTS TO FAWWA**

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WHEREAS, the Board of Directors (the “**Board**”) of Paint Brush Hills Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”) has determined that it is in the best interest of the District and the residents and property owners of the District to grant certain easement rights to the Falcon Area Water and Wastewater Authority, a neighboring public corporation and political subdivision of the State of Colorado (“**FAWWA**”), to assist FAWWA in completing a pipeline project; and

WHEREAS, pursuant to § 32-1-1001(1)(f), C.R.S., the Board is authorized to acquire, dispose of, and encumber real and personal property including, without limitation, rights and interests in property, leases, and easements necessary to the functions or the operation of the special district; and

WHEREAS, the District owns certain real property within Filing 14 that runs along the northern board of the District boundaries and is primarily dedicated for use by the District for utility and recreational trail purposes (“**Tract A**”); and

WHEREAS, FAWWA is currently running a water pipeline from their facilities east of the District to a development north of the District and expressed a desire to obtain an easement right in the District’s Tract A to install a portion of their pipeline running east to west prior to extending the pipeline north; and

WHEREAS, the Board of the District has determined that it is in the best interest of the District and the residents and property owners of the District to grant FAWWA a utility easement and related temporary construction easement, in the forms attached as Exhibit A, for \$10,000.

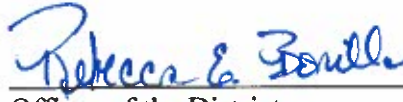
NOW, THEREFORE, be it resolved by the Board of Directors of Paint Brush Hills Metropolitan District as follows:

1. Grant of Easements. The District authorizes the execution of the easement documents, granting a non-exclusive utility easement as well as a temporary construction easement to FAWWA within Tract A of the Paint Brush Hills Filing 14, as further set forth in the easement agreements attached as Exhibit A.
2. Effective Date. The provisions of this Resolution shall take effect as of March 21, 2024.
3. Severability. If any term or provision of this Resolution or if any rule or regulation is found to be invalid or unenforceable by a court of competent jurisdiction or by operation of any

applicable law, such invalid or unenforceable term or provision shall not affect the validity of the remainder of the Resolution or the fee increases, as a whole, but shall be severed, leaving the remaining terms or provisions in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

**RESOLVED AND ADOPTED** this 21<sup>st</sup> day of March, 2024.

**PAINT BRUSH HILLS METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado



\_\_\_\_\_  
Officer of the District

**ATTEST:**



APPROVED AS TO FORM:  
LYONS GADDIS, PC  
Attorneys at Law



\_\_\_\_\_  
General Counsel to the District

**UTILITY EASEMENT AGREEMENT**  
**(Water Line Improvements)**

For and in consideration of the sum of Ten Thousand Dollars (\$10,000.00) and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, Paint Brush Hills Metropolitan District, a political subdivision of the State of Colorado whose address 9985 Towner Avenue, Falcon, CO 80831 (the "Grantor"), hereby grants, bargains, sells and conveys Falcon Arca Water and Wastewater Authority, a public corporation and political subdivision of the State of Colorado, whose address is 1700 Lincoln Street, Suite 2000 Denver, CO 80203, its successors and permitted assigns (the "Grantee"), a perpetual, non-exclusive easement ("Easement") under, in, and across certain real property located in the County of El Paso, State of Colorado and being more particularly described and depicted in Exhibit "A" attached hereto and incorporated herein by this reference (the "Grantor Property"), solely for the lawful construction, installation, maintenance, operation, repair, replacement and use of water transmission and distribution line improvements, facilities and any associated above or below ground appurtenances, including, but not limited to, fire hydrants (hereafter referred to, collectively, as "Grantee's Improvements"). The terms, conditions and obligations of the Grantor and Grantee as defined herein are referred to hereafter as (the "Easement Agreement"). The Easement is granted by the Grantor and is accepted by the Grantee pursuant to the following terms and conditions:

1. This Easement Agreement shall commence upon execution hereof by both the Grantor and the Grantee and shall run with the land and continue in full force and effect in perpetuity. Absent written notice to the Grantor to the contrary, abandonment by the Grantee and/or any permitted assignee(s) of the Grantee's Improvements described herein shall constitute abandonment of the rights and the real property interest represented by this Easement Agreement.

2. The Grantee, its agents, successors and permitted assigns, shall have and exercise the right of ingress and egress across the Easement, for any purposes necessary for the construction, reconstruction, operation, use, maintenance, repair, replacement and/or removal of the Grantee Improvements.

3. The Grantor shall not construct or place anything, including without limitation, any structure or building, any hard surface improvements such as concrete or asphalt, or any above ground improvements, street light, power pole, yard light, mailbox or sign, whether temporary or permanent, or plant any shrub, tree, woody plant, nursery stock, garden or other landscaping design feature on any part of the Easement (hereafter, "Prohibited Improvements"), except with the prior written consent of the Grantee. Prohibited Improvements of any kind situated on the Easement as of the date of this Easement Agreement may be removed by and at the sole expense of the Grantee in the Grantee's exercise of its rights hereunder, without liability to the Grantor therefor. Prohibited Improvements placed on the Easement after the date of this Easement Agreement, except where the Grantee has consented thereto in writing, may be removed by the Grantee at the sole expense of the Grantor without liability to the Grantor therefor.

4. With the exception of removing Prohibited Improvements, as set forth in Paragraph 3 above, upon completion of its activities the Grantee shall restore the surface of the Easement, or any other portion of Grantor's Property impacted by Grantee's use of the Easement, to include the surface of the ground, trails, and landscaping permitted by Grantee, to the condition that reasonably existed prior to the date of this Easement Agreement.

5. The Grantee shall have the right to enter upon the Easement and to survey, construct, reconstruct, operate, use, maintain, repair, replace and remove the Grantee's Improvements, and to remove objects interfering therewith, including but not limited to Prohibited Improvements, provided, however, that such activities shall not interfere unreasonably with the Grantor's use and enjoyment of the Easement. Upon completion of any such activities or entry upon the Easement, the Grantee shall restore the surface of the Easement, or any other portion of Grantor's Property impacted by Grantee's use of the Easement, to

include the surface of the ground, trails, and landscaping permitted by Grantee, to the condition that reasonably existed prior to the entry onto the Easement.

6. The Grantee shall have and exercise the right of subjacent and lateral support to whatever extent is necessary for the operation and maintenance of the Grantee's Improvements. It is specifically agreed between and among the parties hereto that, except as provided in this Easement Agreement, the Grantor shall not take any action which would impair the lateral or subjacent support for the Grantee's Improvements.

7. It is expressly acknowledged and agreed that the Grantee shall have the right and authority to assign this Easement Agreement and Easement or grant licenses therein to any appropriate local governmental entity or to any public utility provider, including but not limited to all rights to use, and all obligations associated with, this Easement Agreement or the Easement as are granted to and assumed by the Grantee herein. In addition, the Grantee shall have the right and authority to grant temporary construction easements or license agreements within the Easement to any appropriate local governmental entity or public utility provider for purposes of construction, reconstruction, operation, use, maintenance, repair, replacement and/or removal of improvements consistent herewith.

8. The Grantor hereby warrants, covenants, grants, bargains and agrees to and with the Grantee that the Grantor is well seized of the Easement above conveyed and has good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature, except matters of record.

9. The Grantor, to the extent permitted by law, shall indemnify, defend and hold harmless the Grantee and each of its directors, employees, agents and consultants (collectively the "Grantee Indemnitees"), from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities of, by or with respect to, third parties to the extent they arise from or may be alleged to arise, directly or indirectly, in whole or in part, from the intentional or negligent acts or omissions of the Grantor or any party permitted by Grantor, with or without the consent of Grantee, including but not limited to contractors, subcontractors, agents or their respective employees, in connection with this Easement Agreement or the Easement provided hereunder. Provided, however, that the Grantor shall not be liable for any claim, loss, damage, injury or liability arising out of negligence of the Grantee Indemnitees.

10. The Grantee shall indemnify, defend and hold harmless the Grantor and each of its directors, employees, agents and consultants (collectively the "Grantor Indemnitees"), from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities of, by or with respect to, third parties to the extent they arise from or may be alleged to arise, directly or indirectly, in whole or in part, from the intentional or negligent acts or omissions of the Grantee or any party permitted by Grantee, with or without the consent of Grantor, including but not limited to contractors, subcontractors, agents or their respective employees, in connection with this Easement Agreement or the Easement. Provided, however, that the Grantee shall not be liable for any claim, loss, damage, injury or liability arising out of negligence of the Grantor Indemnitees.

11. The Grantor reserves the right to grant further easement interests in and to the Easement to other grantees so long as such easement interests and uses are not inconsistent with, or unreasonably interfere with, the use and benefits of this Easement by the Grantee, its successors and permitted assigns, as described herein, with such determination to be made by the Grantee in its reasonable discretion.

12. The rights and responsibilities set forth in this Easement Agreement are intended to be covenants upon the Grantor's property that is subject to the Easement and are to run with the land until this Easement Agreement is abandoned or terminated pursuant to the terms set forth herein.

13. This Easement Agreement shall be governed by and construed in accordance with the laws of the State of Colorado, and venue for any dispute hereunder shall lie in the El Paso County District Court.

14. Nothing herein or any actions taken by either party pursuant to this Easement Agreement shall be deemed a waiver, express or implied, of any immunities, defenses or protections provided by applicable law, including but not limited to the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes, as amended.

15. This Easement Agreement constitutes the entire agreement between the parties and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Easement Agreement are of no force and effect. This Easement Agreement may not be amended, altered, or otherwise changed except by a written agreement signed by the parties.

16. This Easement Agreement may be executed in one or more counterparts, each of which, when executed shall constitute but one and the same document.

17. This Easement Agreement does not and shall not be deemed or construed to confer upon or grant to any third party or parties, any rights to claim damages or to bring any suit, action or other proceeding against the Grantor because of any breach of this Easement Agreement or because of any of the terms, covenants, agreements or conditions herein contained.

IN WITNESS WHEREOF, the parties have duly executed this Easement Agreement this 12 day of MARCH, 2024.



[SIGNATURE PAGE FOLLOWS]





**Exhibit A**

Easement

(Attached)





20-FOOT UTILITY EASEMENT  
JOB NO. 1307.00-11  
MARCH 13, 2024  
PAGE 1 OF 4

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

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

A PARCEL OF LAND BEING PORTION OF TRACT A OF PAINT BRUSH HILLS FILING NO. 14 ACCORDING TO THE OFFICIAL MAP THEREOF RECORDED APRIL 19, 2022 IN THE OFFICE OF THE EL PASO COUNTY CLERK AND RECORDER UNDER RECEPTION NUMBER 222714943; SAID PARCEL LOCATED IN THE NORTHEAST QUARTER OF SECTION 26 TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN, EL PASO COUNTY, STATE OF COLORADO MORE PARTICULARLY DESCRIBED AS FOLLOWS WITH BEARINGS REFERENCED TO THE NORTH LINE OF SAID NORTHEAST QUARTER BEING MONUMENTED AT THE WEST END BY A FOUND NO. 6 REBAR AND 2-1/2" ALUMINUM CAP ENGRAVED WITH THE APPROPRIATE MARKINGS FOR THE RESPECTIVE SECTION CORNER AND STAMPED "PLS 4842" AND MONUMENTED ON THE EAST END BY A FOUND NO. 5 REBAR AND 1-1/2" ALUMINUM CAP PARTIALLY ILLEGIBLE AND STAMPED "LS 9664"; DETERMINED FROM GPS OBSERVATIONS TO BEAR N88°44'40"E A DISTANCE OF 2640.31 FEET.

**COMMENCE** AT THE NORTHEAST SECTION CORNER OF SAID SECTION 26.

THENCE S88°44'43"W, ON THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 26, A DISTANCE OF 351.13 FEET TO THE NORTHEAST CORNER OF SAID PAINT BRUSH HILLS FILING NO. 14 AND THE NORTH WEST CORNER OF PAINT BRUSH HILLS FILING NO. 13E RECORDED UNDER RECEPTION NUMBER 219714420 OF SAID PASO COUNTY RECORDS, SAID POINT ALSO BEING THE **POINT OF BEGINNING**;

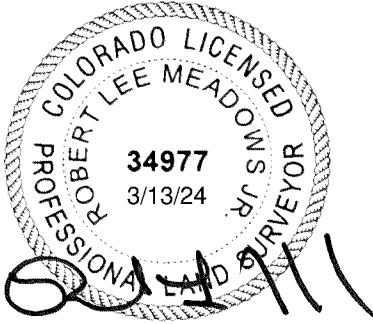
THENCE S00°21'07"E, ON THE COMMON BOUNDARY LINE BETWEEN SAID PAINT BRUSH HILLS FILING NO. 14 AND PAINT BRUSH HILLS FILING NO. 13E, A DISTANCE OF 20.00 FEET TO A LINE BEING 5 FEET NORTH OF AND PARALLEL WITH THE SOUTHERLY LINE OF TRACT "A" OF SAID PAINT BRUSH HILLS FILING NO. 14;

THENCE S88°44'40"W, ON SAID PARALLEL LINE, A DISTANCE OF 2,289.10, FEET TO THE WESTERLY LINE OF SAID PAINT BRUSH HILLS FILING NO. 14 AND THE EASTERLY LINE OF 30-FOOT UTILITY EASEMENT RECORDED UNDER RECEPTION NUMBER 220136338 IN THE EL PASO COUNTY RECORDS;

THENCE N00°34'54"W, ALONG THE SAID COMMON LINE, A DISTANCE OF 20.00 FEET TO THE QUARTER CORNER COMMON TO SECTIONS 23 AND 26, TOWNSHIP 12 SOUTH, RANGE 65 WEST OF THE SIXTH PRINCIPAL MERIDIAN;

THENCE N88°44'40"E, ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 26 A DISTANCE OF 2,289.18 FEET TO THE **POINT OF BEGINNING**.

THE ABOVE DESCRIPTION PRODUCES A CALCULATED AREA OF 45,780 SQUARE FEET (1.05096 ACRES), AND IS DEPICTED ON THE ATTACHED GRAPHICAL EXHIBIT FOR REFERENCE.

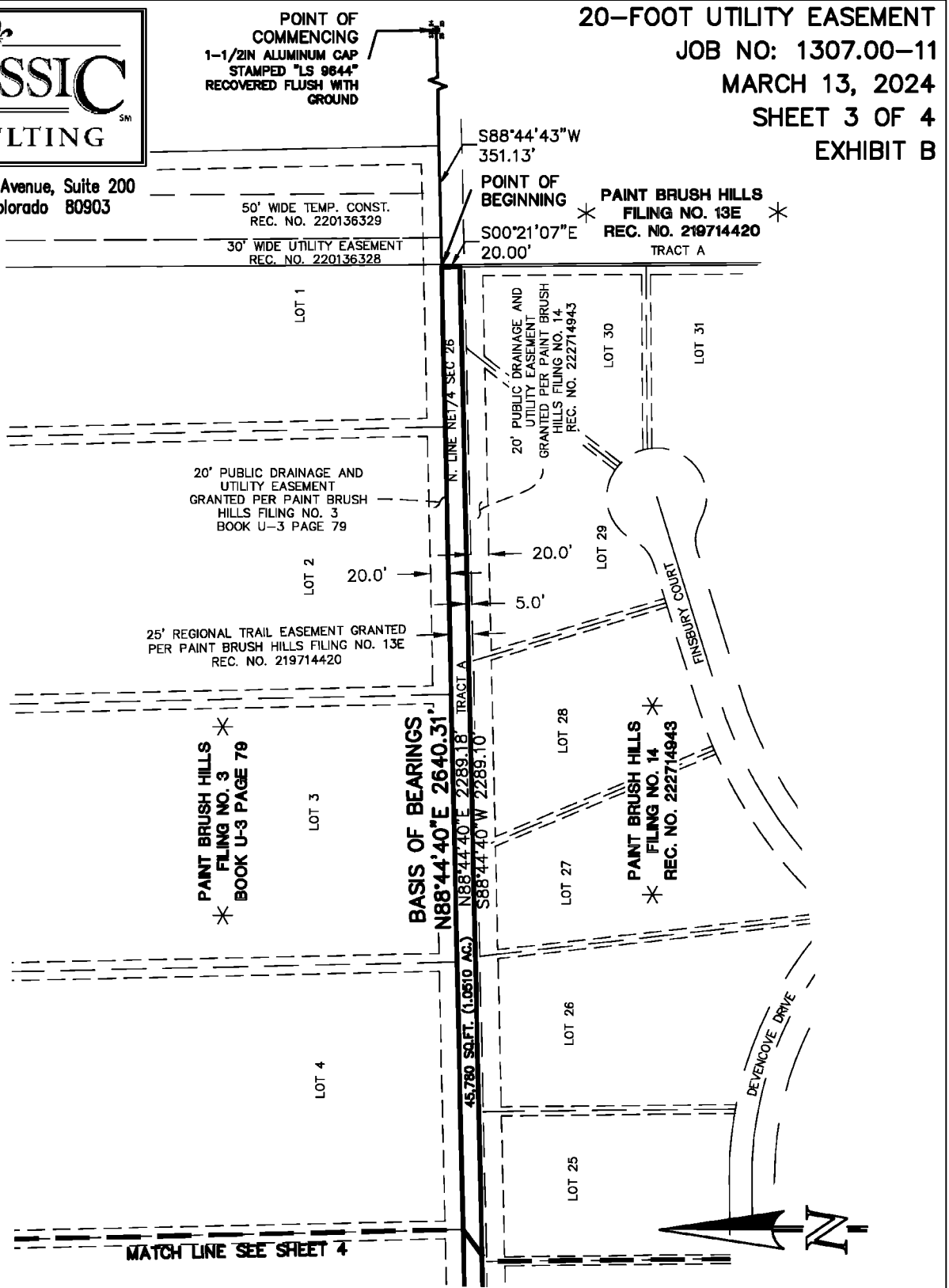


ROBERT L. MEADOWS JR., PLS 34977  
PREPARED FOR AND ON BEHALF OF  
CLASSIC CONSULTING ENGINEERS AND SURVEYORS



619 North Cascade Avenue, Suite 200  
 Colorado Springs, Colorado 80903  
 (719)785-0790

**20-FOOT UTILITY EASEMENT**  
**JOB NO: 1307.00-11**  
**MARCH 13, 2024**  
**SHEET 3 OF 4**  
**EXHIBIT B**





619 North Cascade Avenue, Suite 200  
 Colorado Springs, Colorado 80903  
 (719)785-0790

MATCH LINE SEE SHEET 3

20-FOOT UTILITY EASEMENT

JOB NO: 1307.00-11

MARCH 13, 2024

SHEET 4 OF 4

EXHIBIT B

