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2450 E. Quincy Ave.
Cherry Hills Village, CO 80113

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RESOLUTION NO. 14
SERIES OF 2004

INTRODUCED BY: DOUG TISDALE
SECONDED BY: CATHY POMEROY

A
RESOLUTION
OF THE CITY COUNCIL
ACCEPTING A NON-MOTORIZED
RECREATIONAL TRAIL EASEMENT
AT 21 SANDY LAKE ROAD

WHEREAS, John and Anna Sie, as the owners of property within the City of Cherry Hills Village, requested the vacation of a portion of a platted trail easement over their real property known as Lot 4, The Buell Mansion Subdivision, Filing 2, County of Arapahoe, State of Colorado; and

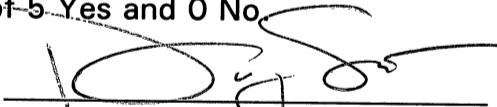
WHEREAS, the City Council approved an ordinance vacating said portion of the platted trail easement on the condition, among other things, that the Owners provide to the City a replacement trail by way of a fully executed original copy of that certain document that was attached to said ordinance and titled "Donation and Dedication of Easement for Non-Motorized Public Trail;" and

WHEREAS, the City Council desires to accept such trail easement,

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE:

Section 1. The City Council hereby accepts a non-motorized public trail easement from the Buell Mansion Owner's Association, Inc., as more specifically described in the attached "Donation and Dedication of Easement for Non-motorized Public Trail" (Exhibit A).

Introduced, passed and adopted at the regular meeting of City Council this 14th day of December, 2004, by a vote of 5 Yes and 0 No.


Douglas Scott, Mayor

ATTEST:


Jennifer Pettinger, City Clerk

(SEAL)

APPROVED AS TO FORM:


Thad Renaud, City Attorney

**DONATION AND DEDICATION OF EASEMENT
FOR NON-MOTORIZED PUBLIC TRAIL**

THIS DONATION AND DEDICATION OF EASEMENT FOR NON-MOTORIZED PUBLIC TRAIL EASEMENT, ("Easement Agreement") is entered into as of the date of execution of this Easement Agreement by the Grantor(s) as shown below, by and between **BUELL MANSION OWNER'S ASSOCIATION, INC.**, a unit owner's association organized under the Colorado Common Interest Ownership Act, whose address is 1 Buell Mansion Parkway, Englewood, Colorado 80113, hereinafter referred to as "Grantor(s)" and the **CITY OF CHERRY HILLS VILLAGE, COLORADO**, a home rule municipal corporation of the State of Colorado, whose address is 2450 East Quincy Avenue, Cherry Hills Village, Colorado, 80110 (hereinafter referred to as "City"). Both parties are collectively referred to herein as the "Parties."

WITNESSETH:

WHEREAS, the Grantor desires to voluntarily and generously donate and dedicate to the City the right of public access and use to a limited portion of the Grantor(s) real property in order to advance public recreational opportunities and to enhance the character and quality of life with the City of Cherry Hills Village; and

WHEREAS, the Grantor does not desire monetary compensation for such donation and desire only that the City of Cherry Hills Village use and maintain the Easement as described in this Easement Agreement; and

WHEREAS, the City desires to accept the Grantor's generous donation of the Easement,

NOW THEREFORE, and in consideration of the City's use and management of the Easement as provided below, the sufficiency of which is hereby acknowledged by Grantor, the Grantor hereby grants and dedicates to the City, its successors and assigns, the permanent and perpetual nonexclusive easement and right to occupy and use the real property described in **Attachment A** to this Easement Agreement and known for purposes of this Easement Agreement as the "Easement."

It is the primary purpose and intent of this Easement Agreement to permit and facilitate the City's installation, operation, maintenance, repair, and replacement of a public recreational trail for non-motorized use, including but not limited to pedestrian, equestrian, and bicycle uses together with such fencing, surface improvements, landscaping, retaining walls, and directional signage as may be deemed appropriate by the City to support such non-motorized use(s). The Easement granted by the Grantor shall be permanent and perpetual so long as the Easement is used by the City for the purposes described in this Easement Agreement.

TO HAVE AND TO HOLD said Easement unto Grantee and its successors forever, upon the following express terms and conditions;

1. The City shall have and exercise the right of ingress and egress in, to, over, on, through and across the Easement for the purpose of installation, operation, maintenance, repair, and replacement of a public recreational trail for public non-motorized use of the Easement. All improvements deemed necessary or desirable by the City for such use of the Easement shall be borne by the City at no cost of expense to the Grantor.

Exhibit A >

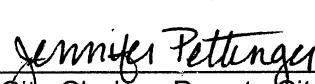
2. The Grantor reserves and shall retain the right to the use and occupancy of such area lying below the Easement for underground utilities and underground drainage improvements insofar as such use and occupancy is consistent with and does not impair or damage the City's use of the Easement.
3. The City shall have and exercise the right of subjacent and lateral support only to the extent necessary for the support of City's improvements within the Easement. It is specifically agreed between the Parties that the Grantor shall take no action within the Easement that would impair the lateral or subjacent support for any improvement installed by the City within the Easement.
4. The City agrees that at such time and in the event that the Easement described in this Easement Agreement is vacated by the City after appropriate action by Council and after written notice to Grantor, such Easement shall terminate and the real property interest represented by such Easement shall revert to the Grantor, its heirs, successors and/or assigns.
5. Each and every one of the benefits and burdens of this Easement Agreement shall inure to and be binding upon the respective legal representatives, heirs, executors, administrators, successors and assigns of the Parties to this Easement Agreement.
6. This Agreement shall be interpreted according to the law of the State of Colorado. Venue for any action arising under this Agreement shall be in the appropriate court for Arapahoe County, Colorado.
7. This Easement Agreement constitutes the whole agreement between the Parties and no additional or different oral representation, promise or agreement shall be binding on the Parties with respect to the subject matter of this Easement Agreement.
8. Nothing in this Easement Agreement is intended to waive any protection afforded to the City, its officials, employees, and agents by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.* or any other applicable law providing immunity to the City, its officials, employees, and agents.
9. Each provision of this Easement Agreement is intended to be severable. If any provision of this Easement Agreement is declared illegal or invalid for any reason, such illegality or invalidity shall not affect the remainder of this Easement Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Easement Agreement as of the day and year written below.

GRANTEE
CITY OF CHERRY HILLS VILLAGE


Mayor

ATTEST:


Jennifer Pettinger
City Clerk or Deputy City Clerk

APPROVED AS TO FORM:


City Attorney

Exhibit A

ATTACHMENT A
Description of Easement

Exhibit A

1100 W LITTLETON BLVD SUITE 210
LITTLETON CO 80120 -2239



CIVIL AND LAND DEVELOPMENT ENGINEERING
LAND SURVEYING

MILLER ENGINEERING
& SURVEYING, INC.

PHONE: 303-770-2015
FAX: 303-770-1272

February 18, 2004

LEGAL DESCRIPTION: A 16.00 FOOT WIDE TRAIL EASEMENT

A 16.00 FOOT WIDE TRAIL EASEMENT OVER AND ACROSS A PORTION OF THE NORTHWEST QUARTER OF SECTION 1, TOWNSHIP 5 SOUTH, RANGE 68 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF CHERRY HILLS VILLAGE, COUNTY OF ARAPAHOE, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NW CORNER OF LOT 4A, THE BUELL MANSION SUBDIVISION FILING 2, AS FILED AT RECEPTION NO. B3176228, PLAT BOOK 246 AT PAGE 57, ARAPAHOE COUNTY, WHICH HAS A NORTH LINE THAT BEARS S89°14'40"E BETWEEN TWO MONUMENTS; THENCE S89°14'40"E ALONG SAID NORTH LINE A DISTANCE OF 247.97 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 4A BEING THE POINT OF BEGINNING; THENCE S89°14'40"E A DISTANCE OF 31.68 FEET; THENCE ALONG A CURVE TO THE LEFT A DISTANCE OF 6.55 FEET HAVING A RADIUS OF 140.00 FEET, A CENTRAL ANGLE OF 02°40'44" AND A CHORD THAT BEARS S51°53'03"E A DISTANCE OF 6.55 FEET; THENCE S42°55'37"W A DISTANCE OF 16.23 FEET; THENCE N89°14'40"W A DISTANCE OF 31.54 FEET; THENCE N47°04'23"W A DISTANCE OF 6.62 FEET; THENCE N42°55'37"E A DISTANCE OF 15.59 FEET TO THE POINT OF BEGINNING. CONTAINING 610 SQUARE FEET OR 0.0140 ACRES, MORE OR LESS.

A circular stamp for a Colorado Registered Surveyor. The outer ring contains the text "COLORADO REGISTERED SURVEYOR" at the top and "27011" at the bottom. The center of the stamp contains the name "STEVEN L. FORVILLE" and the date "2/18/04". Below the stamp, the text "STEVEN L. FORVILLE, R.S. & P.L.S. 27011" is printed.

Exhibit A



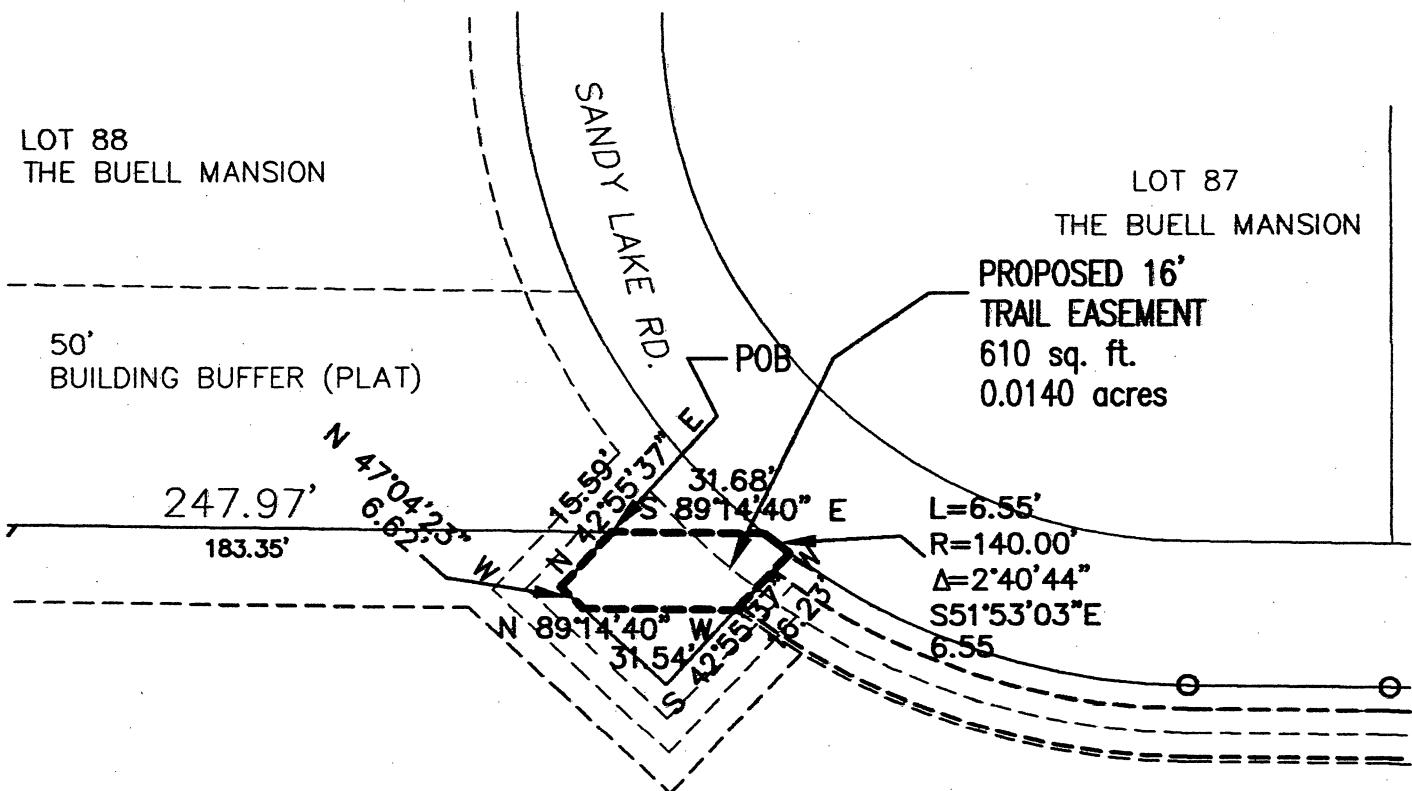
MILLER ENGINEERING
& SURVEYING, INC.

CIVIL AND LAND DEVELOPMENT ENGINEERING
LAND SURVEYING

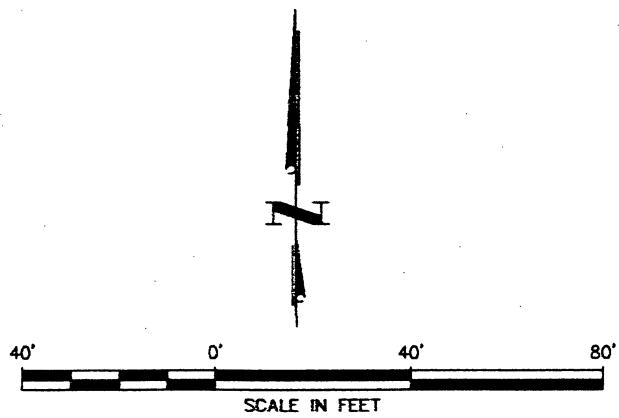
1100 W LITTLETON BLVD SUITE 210

303-770-2015
303-770-1272 FAX

LITTLETON, COLORADO 80120-2239



LOT 4A
THE BUELL MANSION
FILING 2



THIS DRAWING DOES NOT REPRESENT
A MONUMENTED SURVEY AND IS ONLY

PREPARED UNDER MY DIRECT SUPERVISION

