

# ANNUAL PLAN FOR QUINCY FARM – 2023

## INTRODUCTION

Quincy Farm (“QF”) is a 17.55 acre parcel of open space with historical significance that was placed under a conservation easement (“CE”) and gifted to the City of Cherry Hills Village (the “City”) in 2007 for the benefit of the public by Catherine Anderson, subject to a life estate for Cat. Much planning and discussion ensued from that time until Cat’s death in 2016 about how to maximize the benefit of this property to the public, consistent with the terms of the CE. For the five years following Cat’s death until 2021, the City, through the hard work of City Staff (“Staff”) and the Quincy Farm Committee, spent countless hours working to develop plans to make QF an integral part of the community, including collaborating with Colorado Open Lands (“COL”), the grantee under the CE. While many ideas and concepts were vetted and some limited programming took place during this time, QF remained a source of frustration for City Council, Staff, and perhaps most importantly, the public. The primary, although not sole reason for this frustration was the inability of the public to have access to QF because of the inability to agree on the type and amount of access the public could and should have to the property. For without Public Access<sup>1</sup> there was little that could be done on QF. Understandably, the City was unable to justify any additional commitment of significant public resources to the property beyond the amounts already expended when the public was essentially prevented from accessing and enjoying the natural beauty and historic significance of this incredible property, as Cat intended.

In 2021, the City undertook an evaluation and considered various alternatives that might be pursued to unlock the beneficial value of QF to the community. As part of this process, Cherry Hills Land Preserve, Inc. (“CHLP”) made a proposal to the City to develop a plan for, and to manage the activation of QF. As a 501c3 non-profit organization with an established network of volunteers, partners, and donors in the community, CHLP was uniquely qualified to not only provide leadership in the activation of QF but also to foster a private-public funding approach to supporting this activation. Moreover, Cat had shown confidence in CHLP’s stewardship capabilities by expressly designating CHLP as a preferred substitute Grantee under the CE.

After reviewing the alternatives, City Council directed Staff to develop a Memorandum of Understanding (“MOU”) with CHLP around two central ideas:

- 1) CHLP to originate ideas in planning for the future of QF, with City Council adopting the role of reviewer; and
- 2) CHLP to present an annual plan for Council consideration and approval, with i) planning for QF based on the programming of the property anticipated for the

---

<sup>1</sup> As used in this Annual Plan, “Public Access” means open access for the substantial and regular use by the general public consistent with the Conservation Values of the CE, in accordance with the requirements of 26 CFR §1.170A-14(d)(2)(ii) and as further defined in this Annual Plan.

upcoming year, and ii) the uses related to the programming to inform the potential capital projects and maintenance levels anticipated for the upcoming year.

CHLP and the City entered into such an MOU in December 2021 providing that CHLP, in collaboration with Staff, activate QF by developing and implementing annual plans, including i) structured programs proposed for the year, ii) capital improvements to support those programs, iii) a budget for such programs and capital improvements specifying the amount of funding to be provided by CHLP and the amount requested to be provided by the City, and iv) a list of potential grants that could be pursued. (See Attachment A - MOU)

This document represents the first such annual plan under the MOU prepared by CHLP in collaboration with Staff.

## VISION

*Quincy Farm will be an integral part of the educational and recreational infrastructure of the City of Cherry Hills Village and a source of community pride.*

The full potential of the Vision will be realized through a continuing partnership between the City and CHLP, consistent with the Conservation Values specified in the QF Conservation Easement (See Attachment B – Conservation Easement). Public Access to QF, each and every public program, and any site alteration to support such programs will be designed to strengthen these Conservation Values, all of which require a substantial public benefit.

To paint a picture of how this Vision might play out, imagine a visit to QF in 2025. What follows is what you might encounter at QF on such a visit. This should be viewed in terms of what is possible, as opposed to what is cast in stone.



## **A Visit to Quincy Farm in 2025**

As you approach QF from the intersection of Quincy Avenue and the High Line Canal, you encounter two of the elements that visually anchor the site on each side of the High Line - the Hopkins House and the distinctive gates leading to the Barnyard.

Interpretive signage on the High Line explains the historical background of QF and the significance of the extraordinary gift from Cat to the Cherry Hills Village Community.

Additional signage helps you understand the historical significance of the Hopkins House, an excellent example of high style classic cottage architecture of the late 19<sup>th</sup> century and one of the only surviving structures of its kind left in Arapahoe County. The House is used as a caretaker's house to provide "eyes on the site."

As you move in a southerly direction down the High Line you will encounter a pedestrian bridge to the left which leads to the East Area and the Barnyard of QF, which forms the core of the QF learning campus and the site of most of its structured educational and community programs. Interpretive signage introduces the historical importance of QF and specifically the structures in the Barnyard and its surrounding open space.

The central visual element of the Barnyard is the Big Barn. While the exterior look of the Big Barn is unchanged, the interior has been modified to provide all-weather, multipurpose program space for educational programs and a limited number of community events.

Other structures in the Barnyard, such as the Small Barn, have been repaired to ensure their continued preservation and use. The 1953 East Area House in the Barnyard serves as a visitor welcome center during the times of scheduled programs and for "open house" days and to provide on-site restroom facilities.

Beyond the Barnyard, the large pasture areas have been managed to encourage wildlife-friendly weed mitigation, soil restoration, composting, and creating a natural short-grass prairie behind the Big Barn.

Returning to the High Line and entering the West Area of QF, you are visually introduced to the central elements of the West Area which have been designed to provide a natural landscape to complement the historical landscape of the Hopkins House and the Barnyard.

The Main Residence and garage have been removed from the site since they don't support the long-term goal of making the West Area a natural landscape.

With the natural landscape of the West Area opened, a simple system of trails allows you to access the natural landscape areas, as well as the Pond from the High Line, which has been rehabilitated so that it has become an attractive wildlife habitat. In the early morning you will have an opportunity to encounter blue herons, white pelicans, ducks, and songbirds from a simple viewing platform next to the pond.

The variety of natural landscapes, open meadows filled with native grasses and wildflowers, and thick tree line with its owl population provide a richness to each individual visit to this part of QF. Visual access to the western horizon and the tree line has been enlarged through sensitive landscape maintenance and management. Since the West Area is focused on providing encounters with nature and wildlife, access is *limited* to trails and clearly designated viewing areas to enhance this experience.

If you approach QF from the southern end of the High Line adjacent to the Kent Denver parking lot you will encounter similar interpretive signage explaining the historical and natural importance of the site and then will experience the site in reverse order.

Your visitor experience has been designed not only to reinforce QF's Conservation Values of

- Providing recreation and education,
- Maintaining open space,
- Enhancing natural areas, and
- Maintaining historical heritage

but also, to strengthen a sense of connection with the natural and historical richness of the local area, spark curiosity about larger issues of sustainability and conservation, and promote a sense of responsibility for these values in the future.



### **How Will the Vision Be Realized**

The primary vehicle for realizing the Vision will be through an annual planning partnership between the City and CHLP, as outlined in the MOU. These annual plans, of which this 2023 Annual Plan is the first, will be done with a keen awareness of, and commitment to the CE and the protection of the Conservation Values described therein, including plans for public access to QF.

## 2023 ANNUAL PLAN

### **Guiding Principles Underlying the Preparation of the 2023 Annual Plan**

- All collaborative planning efforts will be respectful of the constraints outlined in the CE and its statement of Conservation Values, and the historic qualities of the site as described in its listing on The National Register of Historic Places and will draw on the distinctive historical and natural assets of QF.
- The educational programs at QF will drive priorities for the maintenance, repair, and capital improvements of the site.
- CHLP will be responsible for the costs of the educational programming at QF.
- The City will continue to provide basic maintenance and repairs to the site infrastructure (utilities, landscape maintenance) which may include basic maintenance of the exterior of the structures.
- The City and CHLP will share the cost of capital improvements necessary to support educational programs at QF on a project-by-project basis that will be included in each Annual Plan budget for QF.
- All public visitation to QF will be limited to pedestrian traffic; no motor vehicles or bicycles will be allowed. The only exceptions will be for any service, programming, or police vehicles, or for vehicles or bicycles used by the caretaker residing in the Hopkins House (if any). Bicycle racks will be provided at the entrance to nature trails and to the Barnyard. Dogs will not be permitted on QF (unless part of a structured program).
- No provision is being made for the overnight housing of animals in the Barnyard in 2023. However, as part of the ongoing program planning and evaluation process, consideration of bringing a small number of animals will be evaluated as 2023 unfolds, and on a year-by-year basis in the future (e.g., backyard chicken program, sustainable goat grazing program).
- No single organization can reasonably staff up to provide the expertise in the wide variety of subject matter required to present exemplary programs at QF. For this reason, CHLP will continue to utilize a variety of partnerships in the planning and execution of its programs at QF (e.g., Denver Audubon Society, Nature's Educators, Happy Busy Bees, etc.). In addition, CHLP will be seeking additional strategic partnerships to access appropriate subject matter expertise to assure a high level of program quality.
- The City and CHLP will replace the MOU with a written agreement providing for the long-term relationship between the parties, including clarifying roles, responsibilities, and obligations, reporting requirements, etc.
- CHLP will include providing Public Access to the West Area in its 2024 Annual Plan.

### **Public Access**

Public Access to QF is essential to realizing the Vision for QF and its educational, recreational, and historical value. Without such access, the City will be unable to justify the allocation of public funds towards QF to enhance the Conservation Values, CHLP will be unable to raise private funds to do likewise, and the “2025 visit” described in the Vision section will never happen. Moreover, without Public Access the Conservation Values prescribed in the CE will not

meet the tests for the Conservation Purposes (Conservation Values in the CE) under the Federal statutes and regulations.

### **Public Access Hours and Limitations**

While the CE states that “[n]othing contained herein shall be construed as affording the public access to the remainder of [QF],” it goes on to provide that “the [City] may permit public access to [QF] on such terms and conditions as it deems appropriate, provided that such access is not inconsistent with the preservation and protection of the Conservation Values of [QF].” (see §6.F of CE)

While Public Access is not inconsistent with the Conservation Values, that does not mean that Public Access should be unlimited, or “unfettered.” CHLP proposes that, like all City parks and trails, limitations be placed on Public Access to QF generally, and that the West Area be subject to more heightened limitations. This would include limitations on hours of access, areas of access, permitted activities, as well as the commitment of the monitoring resources of the City.

CHLP proposes that Public Access be implemented at QF beginning on January 1, 2023, subject to the following limitations:

- **East Area** – sunrise to sunset, daily. Public Access will be further limited to paths around buildings and to the pasture area, with no access to buildings unless as part of a structured program activity.
- **Canal Area** – No change to current status - 6 am to 11 pm, daily.
- **West Area** – There will be no change to Public Access to the West Area on January 1, 2023, i.e. Public Access will remain prohibited. However, the public will be able to access the West Area as part of scheduled programs that will occur from time to time on the West Area great lawn, nature trail or within the Main Residence. A plan (including procedures and restrictions) for Public Access to the West Area will be developed and included in CHLP’s 2024 Annual Plan.

The public will access both the East Area and the West Area (for structured programs only) via a foot path off the High Line Canal and will also be able to access the East Area from the driveway off Quincy Avenue. To access the great lawn and gardens section of the West Area, visitors will proceed south along the inactive driveway past the Main Residence. To access the nature trail traversing the pasture and wooded area, visitors will walk across the inactive driveway to the trail’s entrance at the edge of the pasture on the West Area, and after walking along the trail for about one-third of a mile will come to the end of the trail exiting onto the great lawn. Visitors will exit QF by once again using the footpath to connect back to the High Line Canal. (See Map – Figure 1, below)

As noted previously in the Guiding Principles section, all public visitation to QF will be limited to pedestrian traffic only, as no motor vehicles or bicycles will be permitted on QF. The only exceptions will be for any service, programming, or police vehicles, or for vehicles or bicycles used by the caretaker residing in the Hopkins House (if any). Bicycle racks will be available at the three entrances to QF for those cycling to QF. While leashed dogs are allowed in the City’s parks, dogs will not be allowed in QF at all except for dogs owned by the caretaker.

Figure 1  
Access

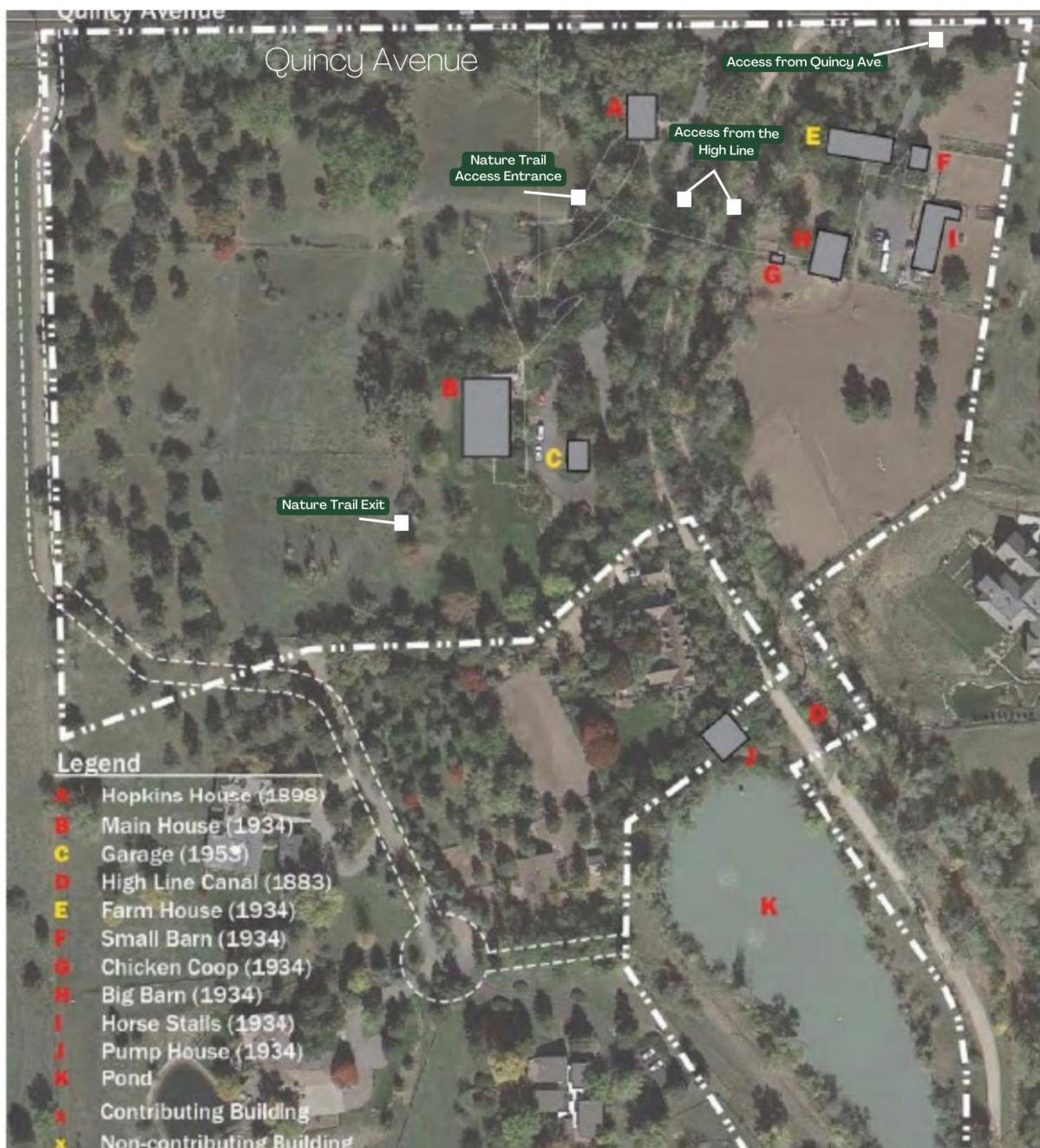


Figure 2  
Signage



## **Signage**

Signs enumerating the rules applicable to QF will be installed at all access points to the East Area and the West Area, as well as at the entrance of the nature trail. (See Map - Figure 2 – above) Interpretive signs along the nature trail highlight the importance of the tree canopy, the varied tree species, historic irrigation ditches, and the Great Horned Owls, not only for educational purposes but as a reminder to visitors of the importance of the Conservation Values being preserved at QF.

In addition to signs advising visitors of the rules and restrictions applicable to QF, the City will also periodically publish these rules and restrictions in *The Village Crier*, the City's official publication that is sent to all residents monthly, as well as on the City's website. CHLP will also post these rules on its QF website.

## **Monitoring and Enforcement**

The City, unlike private land owners subject to a conservation easement, has its own police force currently comprised of 28 members (23 sworn officers) as well as code enforcement officers. The City has over 55 acres of park land and 26 miles of trails that City police routinely patrol to ensure that no one is engaged in activity that is outside of the City's municipal code provisions governing the use of its parks, trails, and open space. In addition, the City has a Parks Division responsible for the care and maintenance of its parks, trails and open space, as well as a Parks, Trails and Recreation Commission comprised of citizen commissioners who work closely with the Parks Division Staff to ensure that the City's citizens have a positive experience on the City's parks, trails, and open space. The City has for years been among the safest municipalities in Colorado, and vandalism and/or lawless behavior in City parks and trails is virtually nil, due in no small measure to these resources.

As part of CHLP's and the City's Plan to activate the property in 2023, the City will provide regular patrol of QF. In addition, members of City Staff will inspect QF routinely to ensure that the public is adhering to the rules established for access to QF. Prior to opening, there will be an information session with police and code enforcement to ensure that all officers understand the limitations on each specific section of QF to enforce proper use by visitors. CHLP and City Staff will routinely evaluate the monitoring reports and adjust monitoring requirements to ensure any activity does not negatively impact the Conservation Values in any material way. In addition, the installation of CCTV cameras to assist in monitoring the property will be evaluated during 2023.

Finally, the possibility exists to retain a "caretaker" who would live at the Hopkins House and would be charged with "keeping eyes on the property." CHLP and Staff will undertake to evaluate the propriety of installing a caretaker on the property with a view to making a recommendation to Council by late 2022/early 2023.

## Public Access Procedures

CHLP will develop in conjunction with City Staff detailed procedures associated with Public Access to QF that will be modified from time-to-time to ensure that any activity does not negatively impact the Conservation Values in any material way. Such procedures will include, but not be limited to, specific areas where access is and is not permitted, enforcement, physical structures, staff communication for opening/closing areas, and rules signs and locations.

## 2023 Initiatives

The following is an outline of specific actions and programs proposed for 2023 in support of the overall Vision. (A summary of actions and programs completed during 2022 to date can be found in Attachment C to this Plan.)

### Outreach

- Utilize the new Quincy Farm website and other vehicles of communication with the community to promote 2023 programs and build awareness of QF.
- CHLP launched an Ambassador program in 2022 initially involving over 100 community leaders who will collaborate and unite to spread the word in support of the QF story. CHLP will continue to strengthen and expand this effort to protect and preserve the future of QF.



## Programs

<u>Program</u>	<u>Description</u>	<u>Partner</u>	<u>Location</u>	<u>Quarter</u>
● Blue Bird House Installation	Installation of blue bird houses at QF for the spring migration	Denver Audubon	West	First
● Monthly Beekeeping Discussion with Beekeeper	Ins and Outs of beekeeping from Master Beekeepers Joe and Debbie Komperda	Happy Busy Bees	East	Second and Third
● Spring Trail Walk	Volunteer Day at QF and spring activities for whole family	Happy Busy Bees	East and West	Second
● Garden Mania	Sharing the joy of gardening with adults and kids, planting demonstrations and composting tricks and tips	TBD	East	Second
● Creeks and Critters	Catching crawdads in Little Dry Creek	Denver Audubon	Little Dry Creek	Third
● Night Ninja Owls	Learn about our resident QF owls	Denver Audubon	West	Third
● Rocky Mountain Goat Yoga	Enjoy a yoga session with Dwarf Nigerian Goats	Rocky Mountain Goat Yoga	East	Second
● Green Thumbs Program	Explore one of America's favorite veggies	TBD	East	Third
● Goat Walkabout on High Line	Walk the High Line with a herd of Dwarf Nigerian Goats	Rocky Mountain Goat Yoga	East	Second
● Summer Bioblitz	Catalogue the flora and fauna at QF	University of Denver	East and West	Third
● Community Fairy Garden	Come create the first CHV Fairy Garden at QF	CHLP	East	Second

● Summer Stargazing	See the fall position of constellations and planets in the dark sky at QF	TBD	West	Third
● Hummingbird Attractions in Your Garden	Learn how to increase hummingbird population in your backyard	Denver Audubon	West	Third
● Plein Air Art Series	Plein Air Art instruction	TBD	East and West	Third
● Summer and Fall Photography Days (2 events)	Novice and experts can explore QF with their cameras	CHLP	East and West	Second and Third
● Summer Bird Walk	Bring your binoculars and ears to find our favorite QF residents	Denver Audubon	East and West	Second
● Colorado Water: Local Challenges and Innovative Solutions	Speaker Series	TBD	West	Third or Fourth
● The Science of Soil: Why Turning Dirt to Soil Benefits Everything	Speaker Series	TBD	West	Second
● Trail Walk	Fun family event with our QF conservation partners	TBD	East and West	Third

## **Site Improvements**

- Install interpretive signage at both the East Area and West Are that will include a map of the site as well as an explanation of the historical importance of QF and the significance of this gift from Cat Anderson to the Cherry Hills Community. Signs will also enumerate the rules applicable to visiting QF. (See Map – Figure 2, page 8)
  - East Area Entrance sign (monument sign)
- Install interpretive signage that identifies and provides information about the key elements of the site; (See Map – Figure 2, page 8)
  - The Hopkins House (historical) interpretive sign
  - Barnyard (historical) interpretive sign
  - Pond flat panel sign
  - Nature Trail (entrance) map sign
  - Nature Trail (exit) sign
- Rules and Regulations signs will be installed to inform the public of permitted activities and restrictions: (See Map – Figure 2, page 8)
  - East Area (off Quincy) Rules & Regulations and map
  - East Area (off High Line) Rules & Regulations and map
  - West Area (off High Line) Rules & Regulations and map
  - Nature Trail Rules & Regulations (combine with trail entrance panel sign)
- Make necessary repairs to the Barnyard to assure a safe and secure environment for visitors.
  - Repair/replace gates to Barnyard
  - Straighten and/or repair/replace as needed railroad ties along driveway
  - Maintain natural grass areas around East Area House
  - Paint lean-to shed and install stone/brick flooring
  - Remove hay scale and regrade
  - Remove Russian Olive trees, and consider replacement with other species
- Carry out a feasibility study to ascertain costs for the adaptive use of the Big Barn as an all-weather, multipurpose program and events space that can serve as a lecture hall, classroom, and activity space where children, families, and adults can hear lectures and attend seminars on subjects related to the Conservation Values, meet to further common interests on topics related to the Conservation Values, and participate in hands-on activities inspired by the Conservation Values.
- Pending results of the feasibility study, prepare architectural and construction drawings to renovate and repair Big Barn.
- Confirm and/or update costs for the refurbishing of the Pond to provide a more desirable habitat for wildlife.
- Determine whether to install a caretaker in Hopkins House after January 2023 and, if thought fit, proceed to do so.

## Fundraising and Grants

With the development of each Annual Plan, once costs of various site improvements are determined discussions can take place between the City and CHLP as to how to share those costs on a project-by-project basis, and which improvements are best accomplished by private fundraising, and which are best funded through the City or by public/private sector grants. It is understood that to a large extent the schedule for bringing QF to life will depend on the pace, extent, and success of both public expenditure and private fundraising.

To assist in CHLP fundraising efforts, the City and CHLP will develop and establish donor acknowledgement criteria to recognize donor contributions at QF.

While CHLP's primary source of funding for 2023 will be private fundraising from individuals, a wide variety of funding sources for future programming and capital projects will be pursued in 2023. Working in tandem with CHLP, CHV Staff will also pursue public funding sources in support of QF in future years.

A partial listing of foundations to be explored by CHLP include:

- The Armstrong Foundation: Previous funder of CHLP programs
- Tuchman Foundation: Previous funder of CHLP programs
- Walton Family Foundation: Previous funder of CHLP programs
- Gates Family Foundation: Funder of educational programs enriching Colorado quality of life
- El Pomar Foundation: Funder of a variety of educational and community development programs in Colorado
- History Colorado/State Historical Fund: Planning and implementation grants for historic preservation in Colorado
- Xcel Energy Foundation: Funds environmental education programs
- Arapahoe County Open Space Fund: Funds planning and implementation enhancing open space in the County
- Great Outdoors Colorado: Funds recreation and open space in Colorado
- Denver Foundation: Funds a variety of educational and community development activities
- Boettcher Foundation: Funds innovative programs that shape community cohesion
- Anschutz Family Foundation: Funds programs that strengthen families and communities
- Colorado Arts Council: Funds programs that encourage the arts in local communities
- Colorado Humanities Council: Funds programs in Colorado history

Partnerships to be explored in 2023 include:

- Denver Audubon: Build on existing partnership
- Kent-Denver School: Building on existing partnership
- The Nature Conservancy (Colorado): Partners with local non-profit organizations in funding environmental education
- Denver Museum of Nature and Science: Partners with local non-profits with an interest in informal science education

- History Colorado: Partners with local non-profits with an interest in Colorado history and historic preservation
- High Line Canal Conservancy: Build on existing partnership
- Denver Botanic Gardens: Interest in sustainability in gardening and agriculture
- Cherry Hills Village Beekeepers: Build on existing partnership
- Nature's Educators: Build on existing partnership
- CSU Extension: Partners with local organizations on programs relating to agriculture, animal husbandry, and sustainability

## 2023 Budget

Item <b>CHLP QF Operating Costs</b>	Estimated Amount	CHLP Contribution	City Contribution
QF Website	\$ 750	\$ 750	0
QF Outreach	\$ 7,000	\$ 7,000	0
Donor Management System	\$ 3,200	\$ 3,200	0
Development	\$15,000	\$15,000	0
QF Programming	\$14,000	\$14,000	0
CHLP Exec. Dir./Staff	\$50,000	\$50,000	0
<b>Total Operating</b>	<b>\$89,950</b>	<b>\$89,950</b>	<b>0</b>
<b>City Operating Costs</b>			See separate staff memo
Item <b>East Area Capital</b>	Estimated Amount	CHLP Contribution	City Contribution
Feasibility Study Interior & Exterior Big Barn	\$25,000	\$25,000	0
Construction Documents for Big Barn (Architectural/MEP/Structural)	\$30,000	0	\$30,000
Paint lean-to shed and install stone/brick flooring	\$ 3,000	\$ 3,000	
Monument Sign at East Entrance	\$ 10,000	\$ 3,000	\$ 7,000

Historical Barnyard Interpretive Sign	\$ 5,000	\$ 1,800	\$ 3,200
Rules & Regulations and Map East Area (High Line)	\$ 1,000	\$ 300	\$ 700
Rules & Regulations and Map East Area (Quincy)	\$ 1,000	\$ 300	\$ 700
<b>Item</b>			
<b>West Area Capital</b>			
Hopkins House Interpretive Sign	\$ 5,000	\$ 1,800	\$ 3,200
Nature Trail Rules & Regulations and Map Entrance Sign	\$		City already has sign
Nature Trail Exit Sign	\$ 500	\$ 150	\$ 350
Pond Flat Panel Sign	\$ 700	\$ 200	\$ 500
West Area South High Line Entrance Interpretive Sign (near Kent)	\$ 5,000	\$ 1,800	\$ 3,200
Rules & Regulations and Map West Area	\$ 1,000	\$ 300	\$ 700
<b>Total Capital</b>	\$87,200	\$ 37,650	\$ 49,550

## **PUBLIC ACCESS and the QUINCY FARM CONSERVATION EASEMENT**

As previously noted, CHP's plans for QF are dependent upon Public Access to QF. To ensure that CHP's recommendations for Public Access are consistent with the CE, CHP undertook a comprehensive analysis of the CE and its terms and conditions, including the controlling Federal and state regulations governing such easements. This analysis included consultation with two of Colorado's leading land use attorneys - Rick Johnson of Johnson & Repucci, LLP, and David Foster of Foster Graham Milstein & Calister, LLP.

In addition, CHP and Staff have been working with COL over the past few months to discuss concerns that COL had previously expressed about providing Public Access to QF. Meetings and/or other discussions have been held with COL's Executive Director, certain COL Board members, and COL's Director of Land Stewardship to work through COL's concerns.

### **Purpose of QF Conservation Easement**

The "Purpose" of the CE is to "preserve and protect in perpetuity the Conservation Values of the property" (See §1 of CE) The terms and conditions of the CE were created in accordance with Section 170(h) of the Internal Revenue Code and Section 1.170A-14(d) of the Treasury Regulations. While the CE provides that the Conservation Values shall be "determined by [COL] in its sole discretion (See §2 of CE), *the CE also expressly defines the Conservation Values of the property as the Conservation Purposes under these regulations, such Conservation Purposes necessary in order to create a valid and enforceable conservation easement.* (See Recital C of CE)

### **Federal Conservation Easement Requirements**

Under Federal law, a qualified conservation contribution is i) of a qualified real property interest (Quincy Farm), ii) to a qualified organization (Colorado Open Lands), iii) exclusively for conservation purposes. There are four recognized Conservation Purposes:

- Preservation of land areas for outdoor **recreation** by, or the **education** of, the general public;
- Protection of a **significant relatively natural habitat**;
- Preservation of **open space**; and
- Preservation of an **historically** important land area or certified **historic** structure.

Each of these four Conservation Purposes require:

- A significant public benefit;
- The benefit must flow to the general public; and
- Access for the general public – either physical or visual. If restricted to visual there must be a Conservation Purpose for the restriction.

Essentially, all of these Conservation Purposes, and therefore the Conservation Values under the CE, must allow for Public Access of the property, unless certain conditions are met.

## **Conditions Justifying Restrictions on Public Access and Use Under Federal Law**

*There is no justification for restriction of Public Access for a **recreation** or **education** purpose under Section 1.170A-14(d)(2) of the Treasury Regulations. The CE establishes recreation or education as one of the Conservation Values applicable to QF.*

Public Access can be limited for a **significant relatively natural habitat**. “Significant habitats or ecosystems” include i) habitats for rare, endangered, or threatened species of animal, fish, or plants; ii) natural areas that represent high quality examples of a terrestrial or aquatic community (such as islands that are undeveloped or not intensely developed with a coastal ecosystem relatively intact; and iii) natural areas which are included in, or which contribute to, the ecological viability of a local, state, or national park, nature preserve, wildlife refuge, or other similar conservation area. The CE purports to establish a Conservation Value of a “relatively natural habitat” that is “significant” to QF. However, while the West Area is comprised of several acres of natural fields, woods, and a pond, it does not qualify as a “significant habitat or ecosystem” under the Federal regulations, and thus *Public Access cannot be unreasonably restricted under this Conservation Value, or Purpose*.

A Conservation Value of preservation of **open space** must either be i) in accordance with a clearly delineated Federal, state, or local governmental conservation policy, or ii) for the scenic enjoyment of the public. Both purposes must yield a significant public benefit. The CE establishes open space for scenic enjoyment as one of the Conservation Values applicable to QF (but does not do so in support of a government policy). However, while visual (rather than physical) access to or across the property by the general public is sufficient, it is not sufficient if only a small portion of the property is visible to the public. Very little of the East Area or the West Area (except for the Pond) are visible from the High Line Canal due to screening by heavy shrubbery and trees. While both the East Area and West Area are visible from Quincy Avenue, none of the stunning vistas looking west across the natural fields towards the Rocky Mountains are visible from Quincy Avenue, nor can the character of the farm buildings be readily seen and appreciated from Quincy Avenue because of screening by shrubbery and the distance from the public roadway. As such, *Public Access cannot be unreasonably restricted under this Conservation Value, or Purpose*.

The CE establishes a Conservation Value of preservation of an **historically** important land area or certified **historic** structure applicable to QF since it is listed in the National Register of Historic Places by the U.S. Department of the Interior. For such a Conservation Value some visual access to the property is required to provide a public benefit and that the public benefit may be insufficient if only a small portion of the property is so visible. In particular, where the historic certified structure(s) is not visible from a public way (e.g., the structure is hidden from view by shrubbery, the structure is too far from the public way, or interior characteristics of the structure(s) are the subject of the Conservation Purpose), the general public must be given the opportunity on a regular basis to view the characteristics and features of the property which are to be preserved. The historic structures and land features on the East Area and the West Area are relatively shrouded by trees and shrubs from Quincy Avenue and almost entirely from the High Line Canal and so they cannot be appreciated by the public without access to these

areas. Thus, *there needs to be reasonable Public Access in order for this Conservation Purpose to apply.*

Accordingly, under the Federal law governing conservation easements, the public cannot be denied regular access to QF (i.e., Public Access). However, that does not mean that there cannot or should not be limitations on such access, just as there are limitations on Public Access to the City's other open spaces, parks and trails. Such limitations should be based on the other terms and conditions associated with the Conservation Values of the CE and the City's ordinance.

### **Quincy Farm Conservation Values**

The CE provides that the Purpose of the CE is "to preserve and protect in perpetuity the Conservation Values of the Property," and that this Purpose "is in accordance with §170(h) of the Internal Revenue Code." (See §1 of CE) It goes on to provide that "subject only to the Purpose, the intent is to permit all other uses of the Property that are not inconsistent with the preservation and protection of the Conservation Values." (See §2 of CE)

The CE identifies three categories of Uses that are permitted on the property, presumably within the Federal legal framework for conservation easements. Those are:

- Preservation Uses – while maintaining the property in its substantially open condition with trees, grassed areas, gardens and the pond, the property and its structures may be used as a nature preserve, for historic preservation and interpretation, for gardens, for private and public meetings, gatherings and celebrations, for classes and education, for photography, painting and other artistic endeavors, and for such other uses that help to preserve the Property and instill an appreciation and respect for the natural and human history of the vicinity. (See §5.A of CE)
- Recreation Uses – low-impact recreational uses such as bird watching, hiking, horseback riding and cross-country skiing. Bicycling is only permitted in the Canal Area. (See §5.B of CE)
- Agricultural Uses – agricultural purposes using stewardship and management methods that preserve the natural resources upon which agriculture is based, with a view to preserving soil productivity, maintaining natural stream channels, preventing soil erosion, minimizing invasive species, and avoiding unsustainable livestock grazing practices. (See §5.C of CE)

The CE goes on to specify which Uses are permitted on the three areas of QF, as follows:

- West Area – may be used for Preservation or Agricultural Uses
- East Area – may be used for Preservation, Recreation, or Agricultural Uses
- Canal Area – may be used for Preservation, Recreation, or Agricultural Uses

Implicit in all of these Uses is "education" which, along with "recreation," is a Conservation Purpose under the Federal regulations and a Conservation Value under the CE. As such, the Conservation Value of "recreation or education" applies to QF as a whole.

As the foregoing analysis shows, the Public Access recommendations provided in this Annual Plan would not be inconsistent with the Conservation Values of the CE. Moreover, there are no Uses proposed under this Annual Plan that are not expressly permitted under those specified in the CE.

**MEMORANDUM OF UNDERSTANDING BY AND BETWEEN  
CITY OF CHERRY HILLS VILLAGE AND CHERRY HILLS LAND PRESERVE  
REGARDING QUINCY FARM**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is entered into and made effective as of the date of its mutual execution by the Parties ("Effective Date") by the CHERRY HILLS LAND PRESERVE, INC., a Colorado non-profit corporation ("CHLP") and the City of Cherry Hills Village, a Colorado home rule municipality ("City"). The City and CHLP may be individually referred to as "Party" and collectively referred to as the "Parties" herein.

**RECITALS**

WHEREAS, the City is the owner of a 17.5-acre property gifted to it by Catherine Anderson and known as "Quincy Farm" and which is subject to a Deed of Conservation Easement recorded in the Arapahoe County real property records on December 18, 2007 at Reception Number B7157828 (the "Conservation Easement"); and

WHEREAS, CHLP is a local non-profit organization that focuses on preserving natural landscapes, connecting people to nature, and helping nature thrive in our community; and

WHEREAS, guidelines for maintenance, care and preservation of Quincy Farm are set forth in the Conservation Easement, the listing of Quincy Farm on the National Register of Historic Places, and the Secretary of the Interior's Standards for the Treatment of Historic Properties; and

WHEREAS, the Parties expressly acknowledge that this MOU: (1) is not binding on either Party; and (2) does not commit the City or CHLP to any expenditure of funds; and

WHEREAS, the Parties expressly acknowledge that pursuant to Section 5.1 of the City Charter, only the Mayor is authorized to sign contracts binding the City, and that a mutually enforceable contract regarding a partnership to support Quincy Farm would require subsequent negotiation and formal approval of a binding agreement; and

WHEREAS, the Parties agree to collaborate in an ongoing, long-term process to preserve Quincy Farm and promote uses for Quincy Farm that instill appreciation and respect for the natural and human history of the area, consistent with the terms and conditions of the Conservation Easement.

**1.0 Term; Allocation of Costs and Expenses.**

1.1 This is a non-binding Memorandum of Understanding that is terminable at any time by either Party upon 90 days' notice of termination in accordance with the provisions of Section 3.0 of this MOU.

1.2 Each Party shall be responsible for its own costs and expenses for any matters arising out of or related to this MOU. No Party accepts or assumes any liability for any acts or omissions of another Party.

2.0 Collaborative Efforts.

2.1 Beginning in 2022, CHLP will, in collaboration with City staff, prepare an annual plan for the succeeding calendar year by July 31 ("Plan"). The Plan will contain the following elements:

- A. A list of programs and activities proposed for the year;
- B. A budget (for both operating and capital funds) that will specify the amount of funds to be contributed by CHLP towards the Plan;
- C. Any requests for funds from the City; and
- D. A list of potential grants that could be pursued.

CHLP will present the Plan to the Cherry Hills Village City Council and secure the City Council's approval of the Plan prior to its implementation.

2.2 Pursuant to its 501 (c) (3) tax status, CHLP will place all funds raised for Quincy Farm programs and projects into a restricted dedicated account to be used solely for those purposes.

2.3 To ensure a high level of continuing collaboration, the City and CHLP will immediately form a Quincy Farm Team ("Team") made up of City staff appointed by the City Manager, and CHLP staff and board members as appointed by the CHLP Board of Directors. The Team will meet at least monthly.

2.4 Cherry Hills Land Preserve.

2.4.1. Public Access CHLP will immediately collaborate with the City to work with Colorado Open Lands on establishing the parameters for public access to Quincy Farm.

2.4.2. Community Awareness CHLP will, as soon as practicable after execution of this MOU, plan and execute a program to build greater awareness of Quincy Farm. CHLP will identify the Quincy Farm Project as a collaborative partnership between the City and CHLP in all promotional materials. CHLP will secure the City's prior approval for all media promotions, advertisements, and other notices or invitations.

2.4.3. Staff and Volunteer Support CHLP will provide volunteers, training and supervision as agreed upon in support of the annual plans.

2.4.4 Capital Projects CHLP will contribute to capital projects as agreed in support of the annual plans.

2.4.5. Identification of City CHLP will identify the City as a partner on all joint projects. As part of this collaboration, CHLP will secure advance City approval on

all media promotions that are agreed upon by the City and CHLP.

## 2.5 City of Cherry Hills Village

2.5.1 Property Responsibilities The City will provide utilities, water, and electricity to the property and preserve, protect, and maintain the land and its structures consistent with the terms and conditions of the Conservation Easement. The City will also continue to insure the Quincy Farm property in an appropriate manner.

2.5.2 Oversight The City will provide oversight for all capital projects occurring at Quincy Farm.

2.5.3 Identification of CHLP The City will identify CHLP as a partner on joint Quincy Farm projects when applicable. Partnership identification may include CHLP logos on signs, media, and other communications. As part of this collaboration, the City shall secure advance approval from CHLP on all media promotions that are agreed upon by the City and CHLP.

2.5.4 Annual Permit The City will create a comprehensive annual permit program for CHLP's programming and events at Quincy Farm.

## 3.0 Notices

3.1 Any notices pursuant to this MOU shall be made in writing and either delivered directly, sent by certified or registered mail, return receipt requested, or sent by USPS Express Mail to the following:

City: City of Cherry Hills Village  
2450 E. Quincy Avenue  
Cherry Hills Village, Co 80113  
Attn: City Manager

With a Copy to: Michow Cox & McAskin, LLP  
6530 S. Yosemite St., Suite 200  
Greenwood Village, CO 80111  
Attn: Kathie Guckenberger, Esq.

CHLP: Cherry Hills Land Preserve  
P.O. Box 522  
Englewood, CO 80151-0522

3.2 All notices shall be deemed to be provided on the date of the return receipt or acknowledgment of delivery.

3.3 As a courtesy, notices shall also be sent by email.

4.0 Amending MOU.

4.1 No modification of this MOU shall be effective unless agreed to in writing by each Party.

5.0 Provisions Non-Binding.

5.1 Nothing in this MOU is intended to create binding obligations upon the City or CHLP. Notwithstanding this provision, the City and CHLP each acknowledge their intent to cooperate in good faith to accomplish the goals of this MOU.

*Remainder of page left blank intentionally – signature page follows*

*Signature page for MOU between City of Cherry Hills Village and CHLP*

CITY OF CHERRY HILLS VILLAGE,  
a Colorado home rule municipal corporation

BY:   
Chris Cramer, City Manager

Date: 12-10-21, 2021

ATTEST:

  
Laura Gillespie, City Clerk

APPROVED AS TO FORM:

  
Kathie Guckenberger, City Attorney

CHERRY HILLS LAND PRESERVE,  
a Colorado non-profit corporation

By:   
ANNE BRETZ CARPENTER  
Printed Name

VP PROGRAMS  
Title

Date: December 9, 2021

AFTER RECORDING RETURN TO:  
 MS. MELINDA BECK  
 FAEGRE & BENSON  
 1700 LINCOLN STREET  
 3200 WELLS FARGO CENTER  
 DENVER, CO 80203

## DEED OF CONSERVATION EASEMENT [CATHERINE H. ANDERSON PROPERTY]

Any time the Property is transferred by Grantor to any third party, Grantor shall pay a transfer fee of  $\frac{1}{4}$  of 1% of the sale price to Grantee and notify Grantee pursuant to the requirements of Section 10 of this Deed.

1-28

THIS DEED OF CONSERVATION EASEMENT ("Deed") is granted on this 14<sup>th</sup> day of December, 2007, by **CATHERINE H. ANDERSON**, whose address is 4400 East Quincy Ave., Englewood, CO 80113 ("Grantor"), to **COLORADO OPEN LANDS**, a Colorado non-profit corporation ("Grantee"), whose address is Suite 320, 274 Union Boulevard, Lakewood, Colorado 80228, collectively the "Parties".

### RECITALS:

**A. Description of Property.** Grantor is the owner of the fee simple interest in the subject Property legally described in **Exhibit A** and depicted in **Exhibit B**, both attached hereto and made a part of this Deed, which consists of approximately 17.555 acres of land, together with existing improvements (as further described in Section 4(A)), water and mineral rights, located in Arapahoe County, State of Colorado (the "Property").

**B. Qualified Organization.** Grantee is a "qualified organization," as defined in §170(h) of the Internal Revenue Code and a charitable organization as required under §§38-30.5-104(2), Colorado Revised Statutes (C.R.S.).

**C. Conservation Purposes.** The Conservation Purposes set forth in this section may hereinafter be collectively referred to as the "Conservation Values." According to Section 170(h)(4)(A) of the Internal Revenue Code and Section 1.170A-14(d) of the Treasury Regulations, the Conservation Values of a qualified conservation contribution may be for one or more of the following: to preserve land for outdoor recreation by or education of the general public; to protect relatively natural habitat of fish, wildlife or plants; to preserve open space; and to preserve historically important land or structures.

**Recreation or Education** [§ 1.170A-14(d)(2)]. The Highline Canal, with its public trail, traverses the Property. The Highline Canal, which was built between 1879 and 1883, extends for more than 66 miles from Waterton Canyon on the South Platte River, through Arapahoe, Denver and Adams Counties. Starting in 1970 the maintenance road along the Canal was opened to public use. A portion of the trail passes through this Property and is utilized by hundreds of people every week for walking, jogging, hiking, bicycle riding, and horseback riding and is available for the substantial and regular use of the public. Significant natural areas, wetland areas and a pond exist on the Property adjacent to the trail, providing a natural area recreation corridor for public use. Public use of the Highline Canal (the "Canal Area") is permitted subject to rules and regulations established by the City and County of Denver, Colorado, acting by and through its Board of Water Commissioners ("Denver Water"), or its licensees, as described in the Easement Agreement recorded on October 20, 1993 in Book

7198 at Page 466, in the records of the Arapahoe County, Colorado Clerk and Recorder (the “**Denver Water Easement**”).

**Relatively Natural Habitat** [§ 1.170A-14(d)(3)]. The Property contains wetlands, riparian areas, a pond, and natural areas that provide food, shelter, breeding ground, and migration corridors for several wildlife species. The Property serves as natural habitat for several bird species, including waterfowl, shorebirds, hawks and neo-tropical migrants. The habitat on the Property is also “significant” as required by the Treasury Regulations, as it represents wildlife habitat in an urban area, and is the first verified and documented breeding site in Colorado for the Hooded Merganser.

**Open Space** [§ 1.170A-14(d)(4)]. The Property qualifies as open space because it will be preserved for the scenic enjoyment of the general public and will yield a significant public benefit.

Scenic enjoyment. The Property adds to the scenic character of the local rural landscape in which it lies, contains a harmonious variety of shapes and textures, and provides a degree of openness, contrast and variety to the overall landscape. The Property is visually accessible to the general public from the public Highline Canal Trail which traverses the Property and from Quincy Avenue, which adjoins the Property. There are scenic vistas of the Front Range of the Rocky Mountains from the Property.

Significant public benefit. The Highline Canal Trail through the Property is utilized by thousands of people every year. There is a strong likelihood that development of the Property would lead to or contribute to degradation of the scenic and natural character of the area. Preservation of the Property will continue to provide an opportunity for the general public to appreciate its scenic and recreational values.

It should also be noted that the terms of the Easement do not permit a degree of intrusion or future development that would interfere with the essential scenic quality of the land.

**Historic** [§ 1.170A-14(d)(5)(ii)]. The Property qualifies as an historically important land area because it is an independently significant land area and is listed in the National Register of Historic Places by the United States Department of the Interior.

These Conservation Values are of great importance to Grantor, Grantee, the residents of Arapahoe County, residents of the greater metropolitan Denver area, and residents of the State of Colorado.

**D. State Policy Concerning Conservation Easements.** C.R.S. §§33-1-101, provides in relevant part that “it is the policy of the state of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors.” C.R.S. §§38-30.5-102, provides for the creation of conservation easements to maintain land “in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural, horticultural, wetlands, recreational, forest or other use or condition consistent with the protection of open land . . .”.

**E. Other Supporting Government Policy.**

- City of Cherry Hills Village Resolution No. 13, Series of 2006 supporting Open Space, which recognizes the need to preserve the Highline Canal Corridor and other areas that are:
  - Lands which maintain urban open space, natural areas, water quality, urban wildlife habitat and movement corridors, views, trail corridors, floodplains and wetlands;
  - Lands which serve to maintain community identity; and
  - Lands for passive and active recreational needs including, but not limited to, walking, cycling, horseback riding, cross country skiing, photography and nature studies
- The Arapahoe County Comprehensive Plan which provides in part that the intent of Arapahoe County is to use "open space as a means to help...maintain rural character, conserve wildlife habitat...and provide opportunities for...wildlife observation."
- The Arapahoe County Comprehensive Plan Goals NCR 1, provides in part that it is the goal of Arapahoe County to "conserve its natural areas and resources that provide habitat and maintain environmental quality."

**F. Documentation of Present Conditions.** The Conservation Values and the characteristics, current use, and status of improvements on and development of the Property as of the date of this Deed are further documented in a **"Present Conditions Report,"** dated August, 2007 and prepared by LREP, Inc., which report is acknowledged as accurate by Grantor and Grantee. The Present Conditions Report has been provided to both Parties and will be used by Grantee to assure that any future changes in the use of the Property will be consistent with the terms of this Deed. However, the Present Conditions Report is not intended to preclude the use of other evidence to establish the condition of the Property as of the date of this Deed.

**G. Charitable Donation.** Grantor intends to create a conservation easement under C.R.S. §§38-30.5-101 *et seq.*, and hereby makes a charitable gift of the property interest conveyed by this Deed to Grantee.

**H. Gift to Cherry Hills Village.** In order to further assure preservation of the Conservation Values of the Property, after granting this Easement Catherine H. Anderson the Grantor intends to donate the Property to the City of Cherry Hills Village. The Property will be donated subject to reservation of a life estate for the benefit of the Grantor (the **"Life Estate"**) which will allow Grantor to continue to live on the Property, subject to the terms of this Easement. This Easement has been granted subject to the terms of two existing leases (the **"Leases"**): the lease to Jeri Neff for the Hopkins House located on the West Area (the **"Hopkins House Lease"**), and the lease to Cynthia Norton Gray for the house on the East Area (the **"East Area House Lease"**). The Parties acknowledge that during the Life Estate, Catherine H. Anderson, as life tenant, is

responsible for complying with the terms and conditions of this Deed that are applicable to the Grantor; after termination of the Life Estate, the City of Cherry Hills Village, as remainderman, shall be responsible for complying with the terms and conditions of this Deed that are applicable to the Grantor.

#### ACKNOWLEDGEMENT OF INTENT:

As a guide to the interpretation of this Deed and administration of the Conservation Easement created by this Deed by future generations, Grantor and Grantee, for themselves, and for their successors and assigns, herein expressly declare their agreement and dedication to the following purpose and intent:

1. ***Purpose.*** The purpose (the “**Purpose**”) of this Easement (defined below) is to preserve and protect in perpetuity the Conservation Values of the Property. This Purpose is in accordance with §170(h) of the Internal Revenue Code. In order to achieve this Purpose, Grantor intends to convey this Deed to Grantee to ensure that the Conservation Values of the Property will be preserved and protected forever.

2. ***Intent.*** Subject only to the Purpose set forth above, the intent of the Parties is to permit all other uses of the Property that are not inconsistent with the preservation and protection of the Conservation Values as determined by Grantee in its sole discretion and that are not expressly prohibited herein. Nothing in this Deed is intended to compel a specific use of the Property, such as agriculture, other than the preservation and protection of the Conservation Values.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Grantor and Grantee mutually agree as follows:

1. ***Conveyance of Easement.*** Grantor voluntarily grants and conveys to Grantee and Grantee voluntarily accepts, a perpetual Conservation Easement in gross, an immediately vested interest in real property defined by C.R.S. §§38-30.5-101, *et seq.*, and of the nature and character described in this Deed, for the purpose of preserving and protecting the Conservation Values of the Property in perpetuity (“**Easement**”).

2. ***Rights of Grantee.*** To accomplish the Purpose of this Easement the following rights are hereby conveyed to Grantee:

A. To preserve and protect the Conservation Values of the Property;

B. To enter upon the Property at reasonable times in order to monitor Grantor’s compliance with and otherwise enforce the terms of this Easement; provided that, except in cases where Grantee determines that immediate entry is required pursuant to those provisions in Section 8, such entry shall be upon at least 48 hours prior notice to Grantor, and Grantee shall not unreasonably interfere with Grantor’s use and quiet enjoyment of the Property;

C. To prevent any activity on or use of the Property that is inconsistent with the Purpose of this Easement and, except as limited by Section 7 below, Grantee may require the restoration of such areas or features of the Property that are damaged by an inconsistent activity or use; and

Nothing in this Section shall preclude the right of Grantee to enforce the preservation and protection of the Conservation Values of the Property or any other provisions of this Deed.

3. ***Rights Retained by Catherine H. Anderson.*** Catherine H. Anderson retains the right to occupy the Property pursuant to the terms of the Life Estate, to comply with the terms of the Leases, and to perform any act not specifically prohibited or restricted by this Easement. These ownership rights include, but are not limited to, the retention of the economic viability of the Property, provided that such acts and uses are not inconsistent with the preservation and protection of the Conservation Values. During the Life Estate Catherine H. Anderson, as life tenant, shall be the Grantor hereunder, and shall have all of the rights and responsibilities of the Grantor hereunder.

4. ***Structures, Areas.*** For the purposes of this Easement the Parties have identified three areas (the “Areas”) on the Property as depicted on the attached **Exhibit B**. The Areas are: (1) the “**West Area**” which lies west of the Highline Canal; (2) the “**East Area**” which lies east of the Highline Canal, and (3) the “**Canal Area**” which encompasses the Highline Canal. The structures and improvements which exist on the Areas at the time of granting of this Easement are described as “**Existing Improvements**”. The Parties agree that the current and permitted uses of and improvements to the Property are not inconsistent with the preservation and protection of the Conservation Values and are permitted, and also agree that the Grantor may charge fees for use of the Property. Without limiting the generality of any of the foregoing, Grantor and Grantee hereby acknowledge and agree:

A. ***West Area - Structures and Uses.*** The West Area may be used for Preservation Uses as described in Paragraph 5(A), below, subject to the limitations described in Paragraph 4(A)(4), below, and for Agricultural Uses that are described in Paragraph 5(C), below. The existing and permitted structures within the West Area and their permitted uses are described as follows:

(1) ***Hopkins House.*** At the time of granting of this Deed on the West Area there is a single family residence (the “**Hopkins House**”) of approximately 1400 square feet, which has been leased for caretaker residence use pursuant to the Hopkins House Lease. Without the express written permission of the Grantee, no demolition, construction, alteration, or remodeling or any other thing shall be undertaken or permitted to be undertaken on the Property which would affect either the present facade or increase or decrease the height of the Hopkins House, including without limitation anything which would alter the external appearance of the Hopkins House, as depicted in the Present Conditions Report. The reconstruction, repair, or refinishing of the present facade, damage to which has resulted from casualty loss, deterioration, or wear and tear, and including damage

from natural causes (aka “Acts of God”) shall be permitted provided that such reconstruction, repair, or refinishing is performed according to The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, issued and as may from time to time be amended by the U.S. Secretary of Interior, or similar standards acceptable to Grantee (hereinafter, collectively the “**Standards**”), subject to the prior written approval of Grantee, and in a manner which maintains or recreates, as the case may be, a substantially similar appearance of the present façade. The Hopkins House may be used for a caretaker residence for a caretaker of the Property or for one or more of the Preservation Uses, described in Paragraph 5(A), below.

(2) **Main Residence and Detached Garage.** At the time of granting of this Deed on the West Area there is a single family residence of approximately 3600 square feet (the “**Main Residence**”), and a detached garage of approximately 700 square feet.

(a) During the Life Estate Catherine H. Anderson or a caretaker may occupy the Main Residence for residential purposes, and may maintain, repair and replace the Main Residence and the detached garage (but shall not enlarge those structures), at their current locations without further permission of the Grantee. If the Main Residence or detached garage are replaced, any replacement structures shall be in the same architectural style as the existing structures to the extent reasonably possible.

(b) After termination of the Life Estate the Main Residence may be used only as a caretaker’s residence for a caretaker of the Property or as a nature center/interpretive facility. The Main Residence and the detached garage may be maintained, repaired and replaced (but not enlarged), at their current location, without further permission of the Grantee. Alternatively, if the Main Residence and detached garage are demolished or removed and no new structures are constructed in their place, then the area shall be re-graded to a natural contour, replanted and thereafter maintained in native or other non-invasive vegetation.

(3) **Pond.** At the time of granting of this Deed there exists a Pond, a pump house and a well near the south end of the West Area. Grantor may maintain, repair, replace or remove the pump house without further permission of Grantee. If Grantor determines that it is too expensive to maintain and fill the pond, upon notice to but without further permission of Grantee the pond may be drained, provided that the area shall be re-graded to a natural contour, by filling in the existing area without materially affecting the existing contour and slopes, and replanted and thereafter maintained in native or other non-invasive vegetation. In addition, the regrading and re-contouring must be accomplished in a manner that does not alter the existing natural drainage flow across the Property.

(4) ***Limitations on Preservation Use.*** The Property shall be managed in accordance with a “**Management Plan**”, which shall be prepared by Cherry Hills Village, and approved by Grantee, within one (1) year after termination of the Life Estate. The West Area shall be managed primarily as a natural area with limited public access. The East Area shall be managed for Preservation Uses, Recreational Uses and Agricultural Uses described herein.

B. ***East Area – Structures and Uses.*** The East Area may be used for Preservation Uses, Recreation Uses and Agricultural Uses that are described in Paragraph 5(A), 5(B) and 5(C), below. At the time of granting of this Deed on the East Area there is a single family residence of approximately 1182 square feet (“East Area House”), a 1495 square foot barn (“Big Barn”), a 1207 square foot barn (“Horse Barn”), a 465 square foot wood frame barn (the “Small Barn”), and a 73 square foot chicken coop (“Chicken Coop”). The total square footage of the existing East Area structures is approximately 4421 square feet; for purposes of this Easement the “Maximum East Area Square Footage” shall be 4500 square feet. Grantor may maintain, repair, replace, relocate or reconstruct the existing East Area structures anywhere within East Area, or construct replacement structure(s) within the East Area, provided that no indoor riding arenas shall be permitted and at no time shall the total square footage of structures exceed the Maximum East Area Square Footage. Notwithstanding the foregoing, Grantor may not demolish the Big Barn unless it is destroyed by casualty or deteriorated by the passage of time to the degree that it is rendered unsafe for use. The East Area House may only be occupied for residential purposes by a caretaker of the Property. In addition, the structures within the East Area may be used for the Preservation Uses, Recreational Uses or Agricultural Uses described herein.

C. ***Canal Area – Structures and Uses.*** At the time of granting of this Deed on the Canal Area there is a bridge connecting the East Area to the West Area of the Property (“**Bridge**”). Grantor may maintain, repair and replace the bridge on the Canal Area upon notice to but without further permission of the Grantee. Grantor may also maintain the pathway on the Canal Area. The Canal Area may be used for the Preservation, Recreational and Agricultural Uses described below, and any uses which are permitted or required under the Denver Water Easement, described above, subject to the other limitations contained herein.

D. ***Notification of Replacement or Enlargement.*** If any improvements are replaced or enlarged in a manner not requiring Grantee’s approval, Grantor shall notify Grantee of the replacement or enlargement so that its records may be updated.

E. ***Definition of Floor Area.*** For purposes of Section 4, floor area is defined as all residential or non-residential finished or unfinished space, covered and enclosed within two or more walls, but does not include residential covered or uncovered decks or patios.

F. ***Other Improvements.***

(1). ***Road Construction and Paving.*** Grantor may maintain the existing pavement or otherwise resurface those roads, driveways or parking areas in the West Area that are already paved as of the date of this Deed. Grantor shall not pave or otherwise place any impermeable surface on any roads, driveways or parking areas that are unpaved as of the date of this Deed without Grantee's prior written approval. In addition, the Grantor may maintain the Bridge and the road and trail along the Highline Canal and around the pond in the Pond Area, and may relocate the driveway in the East Area. The location of the roads, trails and Bridge are generally depicted on the attached **Exhibit B**. No such roads or driveways shall be wider than necessary to provide access or to meet local codes for width of access to improvements.

(2). ***Fences.*** Existing fences may be repaired and replaced, and new fences may be built anywhere on the Property for purposes of reasonable and customary management of livestock and wildlife not inconsistent with the preservation and protection of the Conservation Values without any further permission of Grantee. No white fences are permitted on the Property; all fencing shall be constructed of natural materials, such as split rail and wooden posts, and shall be unpainted.

(3). ***Utilities.*** Existing utilities may be repaired and replaced in the same location with a similar structure without any further permission of Grantee. Grantor may install new underground utility lines to serve the uses permitted on the Property without restriction.

(4). ***Billboards and Signs.*** Grantor may place identification and informational signs on the Property. Grantor shall not construct, maintain, or erect any signs or billboards on the Property that are inconsistent with the preservation and protection of the Conservation Values.

(5). ***Recreational and Educational Improvements.*** Grantor may construct small recreational and educational improvements on the Property that are not inconsistent with the preservation and protection of the Conservation Values only with the prior written approval of Grantee.

(6). ***Other Improvements.*** The construction or reconstruction of any other improvement on the Property is prohibited unless Grantee determines in its sole discretion that the proposed construction is not inconsistent with the preservation and protection of the Conservation Values.

5. ***Resource Management.*** Grantor recognizes the importance of good resource management and stewardship to preserve and protect the Conservation Values. To this end, the following uses of the Property shall be conducted in accordance with the provisions below. In the event Grantee believes any resource management practice(s) are not consistent with the preservation and protection of the Conservation Values, Grantee may request that Grantor and

Grantee shall, at Grantor's expense, consult with a mutually agreed upon resource management professional. This professional will provide written recommendations for said resource management practice(s) not inconsistent with the preservation and protection of the Conservation Values.

A. ***Preservation Uses.*** The Parties intend that the Property remain in its substantially open condition with trees, grassed areas, gardens and the pond, and that only the permitted structures described herein shall be constructed or maintained on the Property. The Property, and the structures permitted thereon, may be used as a nature preserve, for historic preservation and interpretation, for gardens, for private and public meetings, gatherings and celebrations, for classes and education, for photography, painting and other artistic endeavors, and such other uses as help to preserve the Property and instill an appreciation and respect for the natural and human history of the vicinity (collectively the "**Preservation Uses**").

B. ***Recreational Uses.*** Low-impact recreational uses such as bird watching, hiking, horseback riding and cross-country skiing are permitted on the Property; bicycling is permitted only on the Canal Area of the Property. Public Use of the Canal Area is permitted subject to the terms of the Denver Water Easement. These uses are referred to as the "**Recreational Uses**".

C. ***Agricultural Uses.*** The Property may be used for agricultural purposes, subject to the limitations in this Easement. All agricultural uses shall be conducted using stewardship and management methods that preserve the natural resources upon which agriculture is based. Long term stewardship and management goals include preserving soil productivity, maintaining natural stream channels, preventing soil erosion, minimizing invasive species, and avoiding unsustainable livestock grazing practices. The construction and maintenance of agricultural ditches, stock ponds or other agricultural water features is permitted. Maintenance of the Highline Canal in accordance with the Denver Water Easement is permitted. Maintenance of the pond is permitted. These uses are referred to as the "**Agricultural Uses**".

D. ***Trees, Shrubs, Bushes.*** Trees, shrubs and bushes on the Property (except the Canal Area) may be cut to control insects and disease, to control invasive non-native species, and to prevent personal injury and property damage. Tree thinning activities on the Property (except the Canal Area) may take place to maintain the character and nature of the habitat. Trees, shrubs, bushes and other growth within the Canal Area may only be removed in accordance with the terms of the Denver Water Easement, described above.

E. ***Minerals and Other Deposits.*** The exploration, development, mining or other extraction of minerals of any kind or description, including oil, coal gas, hydrocarbons, coal, peat, sand, gravel, rock or soil, is prohibited.

F. ***Water Rights.***

(1). ***Owned Water Rights.*** Grantor owns the non-tributary and not

non-tributary water rights appurtenant to the Property (“**Owned Water Rights**”). The Owned Water Rights are currently accessed through a well (Permit No. 8283) and are used to irrigate the Property and for water storage in the pond described in Section 4.A(3). Grantor agrees not to approve, consent to, or undertake any action that would result in the transfer, encumbrance, sale, lease, abandonment, change of current use, or other separation of the Owned Water Rights from the Property, except as otherwise provided in Section 4.A(3), and unless otherwise approved by Grantee.

(2). ***Leased Water Rights.*** Grantor is the shareholder of an entity that is the lessee of certain leases entered into with the Denver Water Board, and Grantor is permitted to use those water rights described in the attached **Exhibit C-1** and made a part of this Deed (collectively, the “**Leased Water Rights**”). The Leased Water Rights are beneficially used on the Property as set forth in C.R.S. Section 38-30.5-102. Grantor shall have the right to improve, maintain, repair, relocate and reconstruct facilities related to the Leased Water Rights (such as ditches, wells and reservoirs). If Grantor transfers the Property to a successor or assign, Grantor shall use Grantor’s best efforts to cause the assignment of the Leased Water Rights to the new owner of the Property, however, Grantor does not represent or warrant that the Denver Water Board will approve, accept or honor any such assignment of the Leased Water Rights. The Leased Water Rights are currently used to irrigate the Property. Grantor agrees not to approve, consent to, or undertake any action that would result in the transfer, encumbrance, sale, lease, abandonment, change of current use or other separation of the Leased Water Rights from the Property, unless otherwise approved by Grantee. Notwithstanding any of the foregoing to the contrary, Grantor shall not be required in any one (1) year to use the Leased Water Rights to irrigate any portion of the Property. If Grantor wishes not to irrigate for a period of more than one (1) year, Grantor shall obtain Grantee’s approval, to be granted if Grantee determines that failure to irrigate is not inconsistent with the preservation and protection of the Conservation Values. If at any time the Denver Water Board does not approve the assignment of all or a part of the Leased Water Rights to a successor Grantor, the provisions of this Section 5.F(2) shall no longer apply to such portion of the Leased Water Rights for which the Denver Water Board has not approved an assignment, unless and until the successor Grantor or its successors and assigns subsequently obtain a right to all or such portion of the Leased Water Rights through a valid assignment approved by the Denver Water Board, which right neither the successor Grantor nor its successors and assigns shall have the obligation to obtain.

(3). ***Excluded Water Rights.*** Grantor is also the lessee of certain additional water rights owned by the Denver Water Board and more specifically described in the Lease attached hereto as **Exhibit C-2** as the “**Excluded Water Rights**.” The Excluded Water Rights shall be expressly excluded from and shall not in any way be subject to or encumbered by this Deed.

G. ***Habitat Improvements.*** Habitat improvement and maintenance activities may be permitted upon Grantee's approval and determination that said improvements and activities are not inconsistent with the preservation and protection of the Conservation Values. Notwithstanding the foregoing, Grantor may replant native grasses anywhere on the Property that currently consists of non-native grasses without Grantee's approval.

6. ***Restricted Practices.***

A. ***Subdivision.*** Grantor and Grantee agree that the division, subdivision or de facto subdivision of the Property, whether by legal or physical process, into two or more parcels of land or partial or separate interests (including, but not limited to, condominium interests or the partition of undivided interests) is prohibited. At all times the Property shall be owned and conveyed as a single parcel which shall be subject to the terms and conditions of this Easement.

B. ***Surface Disturbance.*** Except as permitted within this Deed, any alteration of the surface of the land, including without limitation, the movement, excavation or removal of soil, sand, gravel, rock, peat or sod, that is inconsistent with the preservation and protection of the Conservation Values, is prohibited.

C. ***Existing Water Features.*** Except as permitted within this Deed, alteration, impairment, modification or adverse change in or to existing ponds, wetlands or stream channels that is inconsistent with the preservation and protection of the Conservation Values, is prohibited.

D. ***Commercial or Industrial Activity.*** Industrial uses are prohibited. Commercial uses inconsistent with the preservation and protection of the Conservation Values of this Deed are prohibited. However, fees may be charged for the activities and uses that are permitted herein. No fee shall be charged for use of the Highline Canal, except to the extent such fee is permitted or required under the Denver Water Easement.

E. ***Feed Lot.*** The establishment or maintenance of a feed lot is prohibited. For purposes of this Deed, "feed lot" is defined as a permanently constructed confined area or facility within which the Property is not grazed or cropped annually, and which is used and maintained continuously and exclusively for purposes of feeding livestock. Nothing in this section shall prevent Grantor from seasonally confining livestock into an area, corral or other facility for feeding, or from leasing pasture for the grazing of livestock owned by others.

F. ***Public Access.*** Public access is permitted on the Highline Canal trail on the Canal Area, subject to rules and regulations established in the Denver Water Easement. Nothing contained herein shall be construed as affording the public access to the remainder of the Property, although the Grantor may permit public access to the Property on such terms and conditions as it deems appropriate, provided that such access is not inconsistent with the preservation and protection of the Conservation Values of the Property.

G. ***Trash.*** The dumping or accumulation of any kind of trash, sludge, or refuse on the Property is prohibited, except for farm-related trash and refuse produced on the Property, provided that such dumping or accumulation is not inconsistent with the preservation and protection of the Conservation Values. The storage or accumulation of agricultural products and by-products on the Property is permitted in accordance with all applicable government laws and regulations.

H. ***Hazardous Materials.*** Grantor may use agri-chemicals (organic agri-chemicals to the extent reasonably possible) on the Property in accordance with all applicable federal, state or local laws and manufacturer's specifications. Otherwise, the treatment, permanent storage, disposal or release of hazardous materials on, from or under the Property is prohibited. For the purpose of this Deed, hazardous materials shall mean any hazardous or toxic material or waste that is subject to any federal, state, or local law or regulation. Notwithstanding anything in this Deed to the contrary, this prohibition does not impose any liability on Grantee for hazardous materials, nor does it make Grantee an owner of the Property, nor does it permit or require Grantee to control any use of the Property that may result in the treatment, storage, disposal or release of hazardous materials within the meaning of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA").

I. ***Weed Control.*** The Property shall be managed to control noxious weeds to the extent reasonably possible. Grantor shall utilize natural and organic weed control methods to the extent reasonably possible.

J. ***Other Restricted Uses.*** Golf courses, sod farms, helicopter pads, airstrips and ball fields are prohibited.

7. ***Responsibilities of Grantor and Grantee Not Affected.*** Other than as specified herein, this Deed is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligations of Grantor as owner of the Property. Additionally, unless otherwise specified below, nothing in this Deed shall require Grantor to take any action to restore the condition of the Property after any Act of God or other event over which Grantor had no control. Grantor shall continue to be solely responsible and Grantee shall have no obligation for the upkeep and maintenance of the Property and Grantor understands that nothing in this Deed relieves Grantor of any obligation or restriction on the use of the Property imposed by law. Among other things, this shall apply to:

A. ***Taxes.*** Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If Grantee is ever required to pay any taxes or assessments on its interest in the Property, Grantor will reimburse Grantee for the same. If for any reason Grantor fails to pay any taxes, assessments or similar requisite charges, Grantee may pay such taxes, assessments or similar requisite charges, and may bring an action against Grantor to recover all such taxes, assessments and similar charges plus interest thereon at the rate charged delinquent property taxes by the county assessor's office in which the Property is located.

B. *Liability.* To the extent allowed by law, if allowed at all, Grantor shall indemnify, defend, and hold Grantee and its members, officers, directors, employees, agents, and contractors (collectively, the "Indemnified Parties") harmless from and against any and all loss, damage, cost, or expense, including reasonable attorneys' fees, arising from or in any way related to: (i) injury to or the death of any person, or damage to property, occurring on or about or related to the Property, except to the extent due to the acts or omissions of the Indemnified Parties; (ii) the obligations under this Section 7 or (iii) the presence or release of hazardous materials on, under, or about the Property under Section 6(F) and (iv) the violation or alleged violation of, or other failure to comply with any state, federal, or local law, regulation, or requirement, including, without limitation, CERCLA and state hazardous waste statutes, by any person other than any of the Indemnified Parties, in any way affecting, involving, or relating to the Property. Grantee shall indemnify, defend and hold Grantor and its assigns, successors and heirs harmless from and against any and all loss, cost or expense, including reasonable attorney's fees, arising from or in any way related to the injury to or death of any person, or damage to property, occurring on or about or related to the Property arising out of the Indemnified Parties' actions on the Property.

8. *Enforcement.* Grantee shall have the right to prevent and correct or require correction of violations of the terms of this Deed and Purposes of this Easement. In those cases where Grantee determines that immediate entry is required to inspect for, prevent, terminate, or mitigate a violation of this Easement, Grantee may enter the Property without advance notice but shall provide notice to Grantor as soon as possible. Grantee may notify Grantor in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall immediately cease the alleged violation and either (a) if necessary, restore or remediate the Property to its condition prior to the violation; (b) provide a written plan for restoration and remediation of the Property acceptable to Grantee; (c) provide written documentation, acceptable to Grantee, that the activity is permitted and is not a violation. If Grantor is unable or unwilling to cease the immediate alleged violation, and comply with (a), (b) or (c) of the previous sentence, both Parties agree to resolve the dispute through mediation, or court procedures. At any point in time, the Parties may take appropriate legal action including an injunction to stop the alleged violation.

Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs and expenses of suit, and attorneys' fees and any costs of restoration necessitated by Grantor's violation of the terms of this Easement, shall be borne by Grantor. The Parties will share equally in the mediation fees. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including the right to recover any damages for loss of Conservation Values. Enforcement of the terms of this Easement shall be at the discretion of Grantee, and the failure of Grantee to discover a violation or to take action shall not waive any of Grantee's rights, claims or interests in pursuing any such action at a later date.

9. *Transfer of Easement.* Grantee shall have the right to transfer this Easement to the Cherry Hills Land Preserve, Inc., a Colorado non-profit corporation, with the permission of

Grantor which permission shall not be unreasonably withheld. In addition, Grantee shall have the right to transfer this Easement subject to Grantor's approval not to be unreasonably withheld, to any public agency or private non-profit organization that, at the time of transfer, is a "qualified organization" under § 170(h) of the U.S. Internal Revenue Code, and under C.R.S. §§38-30.5-101, *et seq.*, only if Grantee requires and the agency or the organization expressly agrees as a condition to the transfer, that the conservation purposes set forth in the Recitals to this Easement continue to be carried out and only if the agency or the organization expressly agrees to assume the responsibility imposed on Grantee by this Easement. Grantee shall notify Grantor in advance of any proposed transfers. If Grantee ever ceases to exist or no longer qualifies under federal or state law, a court with jurisdiction shall transfer this Easement to another qualified organization having similar purposes and that agrees to assume the responsibility.

10. ***Transfer of Property.*** Any time the Property or a portion thereof is transferred by Grantor to any third party, Grantor shall pay a transfer fee of 1/4 of 1% of the purchase price to Grantee to be used for the purpose of the defense of conservation easements or for other purposes consistent with Grantee's mission. Grantor shall notify Grantee in writing within (5) business days after closing using the form in **Exhibit D** attached hereto. The document of conveyance shall expressly refer to this Deed of Conservation Easement. Said transfer fee shall be waived if the Property is transferred to The Conservation Fund, the City of Cherry Hills Village or Grantor's immediate family members, heirs or beneficiaries.

11. ***Real Property Interest.*** The granting of this Deed immediately vests Grantee with a property interest. Grantor and Grantee also agree that this Easement shall have a fair market value determined by multiplying the fair market value of the Property unencumbered by the Easement (minus any increase in value after the date of this Easement attributable to improvements) by the ratio of the value of the Easement at the time of this Easement to the value of the Property, without deduction for the value of the Easement, at the time of this Easement. Pursuant to Treasury Regulation § 1.170A-14(g)(6)(ii), Grantor and Grantee further agree that this percentage shall remain constant.

12. ***Termination of Easement.*** This Easement may only be terminated or extinguished by judicial proceedings by a court of competent jurisdiction. The total loss of all the Conservation Values on the Property is the only grounds under which this Deed can be terminated. Should this Easement be extinguished, sold for public use, taken for public use, or terminated, whether in whole or in part, Grantee shall be paid proceeds equal to the aforementioned percentage of the fair market value of the Property, unless otherwise provided by Colorado law. Grantee's use of the proceeds shall comply with Treasury Regulation § 1.170A-14(g)(6)(i).

13. ***Perpetual Duration.*** This Easement shall be a servitude running with the land in perpetuity. The provisions of this Deed that apply to Grantor or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear; provided, however, that each party's rights and obligations under this Easement shall terminate (as to such party, but not as to such party's successor, who shall be bound as provided herein) upon a transfer of the party's entire interest in this Easement or the

Property, except that liability of such transferring party for act or omissions occurring prior to such transfer shall survive the transfer.

14. ***Change of Circumstance.*** The fact that any use of the Property that is prohibited by this Easement, or any other use as determined to be inconsistent with the Purpose of this Easement, may become economically more valuable than permitted uses has been considered by the Grantor in granting this Easement. It is the intent of both Grantor and Grantee that such circumstances shall not justify the termination or extinguishment of this Easement pursuant to Section 12. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Easement or be considered grounds for its termination or extinguishment pursuant to Section 12.

15. ***Notices.*** As specified herein, any notices required by this Deed shall be sent as appropriate to the following Parties or their successors in writing. All Parties shall be notified of any change of address. During the Life Estate of Catherine H. Anderson any notices required hereunder shall also be given to the City of Cherry Hills Village, so that it may protect its remainder interest as successor Grantor hereunder.

Grantor (Life Tenant):

Catherine H. Anderson  
4400 East Quincy Ave.  
Englewood, CO 80113  
(303) 771-4113

Successor Grantor (Remainderman):

City of Cherry Hills Village  
2450 E. Quincy Ave.  
Cherry Hills Village, CO 80113  
Attention: City Manager

Grantee: Colorado Open Lands  
274 Union Blvd., Suite 320  
Lakewood, CO 80228  
(303) 988-2373

16. ***Liens on the Property.***

A. ***Current Liens.*** There are no mortgages or deeds of trust encumbering the Property at the time of granting of this Easement.

B. ***Subsequent Liens.*** No provisions of this Deed should be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing. Any mortgage or lien arising from such a borrowing is subordinate to this Easement.

17. ***No Merger.*** Unless the Parties expressly state that they intend a merger of estates or interests to occur, then no merger shall be deemed to have occurred hereunder or under any document executed in the future affecting this Easement.

18. ***Grantor's Representations and Warranties.***

A. Except as provided in Section 16, Grantor warrants that Grantor has good and sufficient title to the Property, free from all liens and encumbrances securing monetary obligations except *ad valorem* property taxes for the current year, and hereby promises to defend title to the Property against all claims that may be made against it by any person claiming by, through, or under Grantor.

B. Grantor represents and warrants that, without investigation and to the best of her knowledge:

(1) No hazardous substance or toxic waste exists nor has been generated, treated, stored, used, disposed of, deposited, or transported, in, on, or across the Property, and that there are no underground storage tanks located on the Property, except for septic tanks located on the Property;

(2) Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;

(3) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property; and

(4) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use.

19. ***Acceptance.*** Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Deed.

20. ***General Provisions:***

A. ***Severability.*** If any provision of this Deed, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Deed, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

B. ***Captions.*** The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

C. ***Waiver of Defenses.*** Grantor hereby waives any defense of laches, estoppel or prescription and acknowledges and agrees that the one-year statute of limitation provided under C.R.S. § 38-41-119 does not apply to this Easement, and Grantor waives any rights of Grantor pursuant to such statute.

D. ***Controlling Law and Interpretation.*** This Easement shall be performed and broadly interpreted under the laws of State of Colorado, resolving any ambiguities and questions of the validity of specific provisions in favor of maintaining the Purpose of this Deed. Any decisions resolving such ambiguities shall be documented in writing.

E. ***Counterparts.*** The Parties may execute this instrument in two or more counterparts which shall, in the aggregate, be signed by all Parties; each counterpart shall be deemed an original instrument as against any party who has signed it; all counterparts, when taken together, shall constitute this instrument.

F. ***Amendment.*** This Easement may be amended only with the written consent of the Grantor and the Grantee. No amendment shall be allowed that will confer a private benefit to the Grantor or any other individual greater than the benefit to the general public (see IRS Reg. 1.170A-14(h)(3)(i)) or result in private inurement for a Board member, staff or contract employee of Grantee (see IRS Reg. 1.501(c)(3)-1(c)(2)), or affect the qualifications of this Easement under any applicable laws. Any amendment must not be inconsistent with the preservation and protection of the Conservation Values of the Property and shall not affect the perpetual duration of the Easement. Grantee shall have the right to charge a fee to Grantor for time and costs associated with any amendment. Any amendment must be in writing, signed by both Parties, and recorded in the official records of Arapahoe County, Colorado.

G. ***Entire Agreement.*** This instrument sets forth the entire agreement of the Parties with respect to the terms of this Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the terms of this Easement, all of which are merged herein.

21. ***Development Rights.*** Grantor hereby grants to Grantee all development rights except as specifically reserved herein, and the Parties agree that such rights are terminated and extinguished.

22. ***Recording.*** The Grantor shall record this Deed in timely fashion in the official records of Arapahoe County, Colorado, and Grantee may re-record it at any time as may be required to preserve its rights in this Easement.

23. ***No Third Party Beneficiary.*** This Deed is entered into by and between Grantor and Grantee, and has been consented to by the City of Cherry Hills Village, and is solely for the

benefit of Grantor, Grantee, the City of Cherry Hills Village as successor Grantor, and their respective successors in interest and assigns, and does not create rights or responsibilities in any third parties.

24. *Grantee Acknowledgement of Donation.* Grantee acknowledges receipt and acceptance of this Easement encumbering the Property described herein, for which no goods or services were provided.

25. *Annual Appropriations.* In the event the Property is conveyed to the City of Cherry Hills Village or any other public entity, and in the event that obligations under the Conservation Easement are deemed to be multi-fiscal year obligations, the financial obligations of Grantor shall extend only to monies duly and lawfully appropriated and budgeted by Grantor and encumbered for the purpose of this Conservation Easement, pursuant to C.R.S. Sec. 29-1-101, et seq., as amended.

TO HAVE AND TO HOLD, this Deed of Conservation Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor and Grantee, intending to legally bind themselves, have set their hands on the date first written above.

**GRANTOR:**

Catherine H. Anderson

Catherine H. Anderson

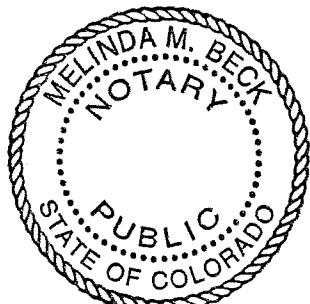
STATE OF COLORADO )  
CITY AND ) ss.  
COUNTY OF DENVER )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of December, 2007, by Catherine H. Anderson, as Grantor.

Witness my hand and official seal.

My commission expires:

Melinda M. Beck  
Notary Public

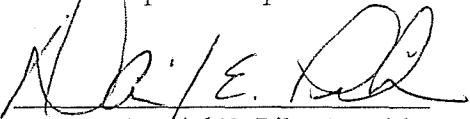


My Commission Expires 08/25/2008

GRANTEE:

COLORADO OPEN LANDS,  
a Colorado non-profit corporation

By



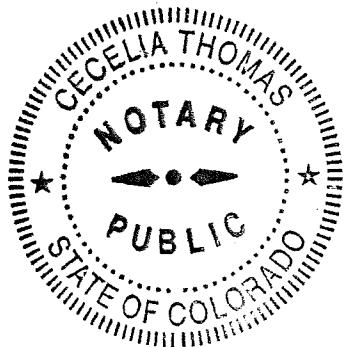
Daniel E. Pike, President

STATE OF COLORADO )  
 )  
COUNTY OF JEFFERSON ) ss.  
 )

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of December, 2007, by Daniel E. Pike as President of Colorado Open Lands, a Colorado non-profit corporation.

Witness my hand and official seal.

My commission expires: 11-21-2008

  
Cecelia Thomas  
Notary Public

## EXHIBIT A

### Legal Description of the Property (2 pages)

A TRACT OF LAND LOCATED IN THE NW1/4 OF SECTION 7, T5S, R67W OF THE 6TH P.M., COUNTY OF ARAPAHOE, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 7, THENCE N89°21'30"E, 494.00 FEET ALONG THE NORTH LINE OF THE NW1/4 OF SAID SECTION 7 TO THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL) IN THE ARAPAHOE COUNTY RECORDS, SAID POINT BEING TRUE POINT OF BEGINNING.

THENCE S00°38'30"E, 30.00 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE S01°38'00"E, 716.60 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL) TO THE SOUTHWEST CORNER OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE N70°39'10"E, 285.26 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE N88°36'10"E, 223.72 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE N47°30'20"E, 168.32 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL) TO THE NORTHWEST CORNER OF THAT TRACT OF LAND DESCRIBED IN BOOK 7666 AT PAGE 25 IN THE ARAPAHOE COUNTY RECORDS;

THENCE N69°14'19"E, 50.00 FEET ALONG THE NORTHERLY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 7666 AT PAGE 25 IN THE ARAPAHOE COUNTY RECORDS TO THE NORTHEAST CORNER OF SAID TRACT OF LAND DESCRIBED IN BOOK 7666 AT PAGE 25;

THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 7666 AT PAGE 25, 78.71 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE NORTHEAST, SAID ARC HAVING A RADIUS OF 343.39 FEET, A CENTRAL ANGLE OF 13°07'59" AND BEING SUBTENDED BY A CHORD THAT BEARS S27°19'40"E, 78.54 FEET;

THENCE S33°53'40"E, 119.21 FEET ALONG THE EASTERLY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 7666 AT PAGE 25 IN THE ARAPAHOE COUNTY RECORDS TO THE SOUTHEAST CORNER OF SAID TRACT OF LAND DESCRIBED IN BOOK 7666 AT PAGE 25;

THENCE S56°06'20"W, 50.00 FEET ALONG THE SOUTHERLY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 7666 AT PAGE 25 IN THE ARAPAHOE COUNTY RECORDS TO THE SOUTHWEST CORNER OF SAID TRACT OF LAND DESCRIBED IN BOOK 7666 AT PAGE 25, SAID POINT ALSO BEING ON THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 25;

THENCE S45°33'30"W, 37.00 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE S09°00'00"E, 23.00 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE S53°36'50"W, 131.19 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE S00°15'00"E, 154.00 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE S35°26'40"E, 386.50 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE N89°42'00"E, 135.73 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE N00°01'40"W, 208.31 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE NORTHWESTERLY ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL), 102.30 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE WEST, SAID ARC HAVING A RADIUS OF 165.49 FEET, A CENTRAL ANGLE OF 35°25'00" AND BEING SUBTENDED BY A CHORD THAT BEARS N17°44'10"W, 100.68 FEET;

THENCE N35°26'40"W, 191.41 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE N33°53'40"W, 80.83 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE N62°37'00"E, 100.65 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE N33°53'40"W, 156.66 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL) AND ALONG SAID BOUNDARY LINE EXTENDED NORTHWESTERLY;

THENCE N54°46'08"E, 219.53 FEET TO A POINT ON SAID BOUNDARY LINE OF THAT TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL);

THENCE N08°28'30"E, 493.03 FEET ALONG THE BOUNDARY LINE OF SAID TRACT OF LAND DESCRIBED IN BOOK 5259 AT PAGE 138 (ANDERSON PARCEL) TO A POINT ON THE NORTH LINE OF THE NW1/4 OF SAID SECTION 7;

THENCE S89°21'30"W, 1044.80 FEET ALONG THE NORTH LINE OF THE NW1/4 OF SAID SECTION 7 TO THE TRUE POINT OF BEGINNING.

LEGAL DESCRIPTION PREPARED BY:

MATHEW E. SELDERS  
COLORADO LICENSE NO. 27275  
1800 38TH STREET  
BOULDER, CO 80301  
303-442-4338

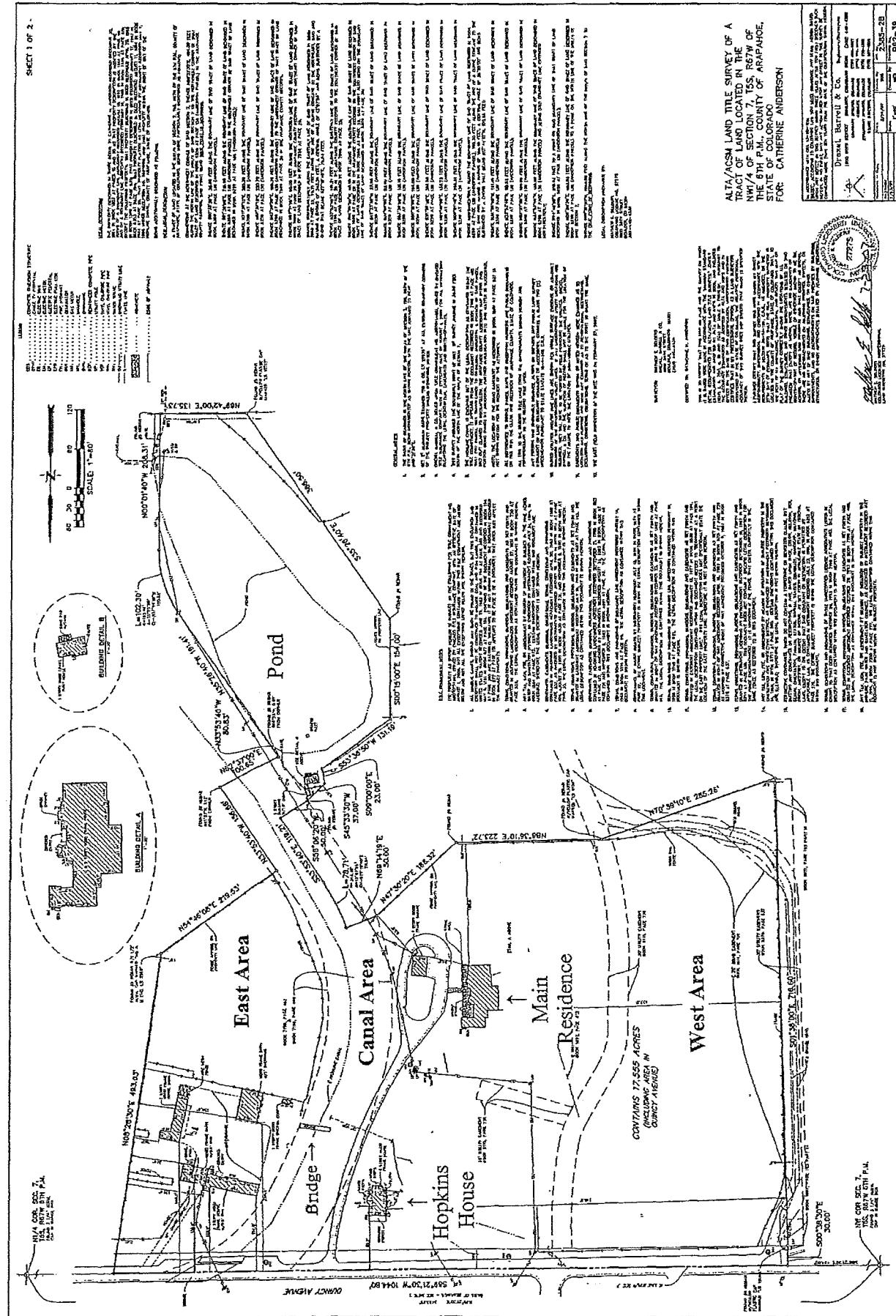


EXHIBIT B

**EXHIBIT C-1**

Leased Water Rights

1. 9.43 acre feet of water in the Antero Reservoir.
2. 14.16 acre feet of water in the Highline Canal.

**EXHIBIT C-2**

Excluded Water Rights

(Lease Agreement Account No. 00409A, 2 pages, attached)

## LEASE AGREEMENT

(RAW WATER)

Account No. 004094

LESSOR: CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, acting by and through its Board of Water Commissioners, 1600 W. 12th Avenue, Denver, Colorado 80254 (hereinafter "Board")

LESSEE(S): Catherine H. Anderson  
4400 East Quincy Avenue  
Englewood, CO 80110 Telephone: 771-4113

STRUCTURE: HIGH LINE CANAL Headgate: 76 + 00

NATURE AND AMOUNT SHARES \_\_\_\_\_ ACRE-RIGHTS 5.0  
OF WATER LEASED: INCHES OTHER

PROCESSING FEE: \$ 100.00 ANNUAL RENTAL - RATE: \$ 16.00 per acre-right  
TOTAL: \$ 180.00

DATE OF LEASE: April 1, 1984 ANNUAL RENEWAL DATE: April First

Communication regarding this lease should be directed to the Board's Planning and Water Resources Division - Telephone: 623-2500, Ext. 270.

For and in consideration of the premises and promises set forth herein and the performance thereof, the parties agree as follows:

1. The Board hereby leases to the Lessee the right to use that proportional share of water flowing in the above listed structure, which is represented by the indicated interest of the Board for irrigation purposes only, for a period of one year beginning on the date of this agreement and terminating as above set forth, renewable for succeeding one year periods until terminated.

The water to be so used by Lessee shall be diverted out of the headgate enumerated above. The diversion facilities are to be set and used under the direction, control and supervision of the Board's designated representatives. Nothing herein contained shall be construed as requiring the Board to construct any new or enlarged outlet or diversion facilities or to maintain same, except at the sole expense of Lessee. Board has no responsibility for facilities outside Board property.

2. Lessee shall pay to the Board the processing fee and the annual rental set forth above, which annual rental is subject to change from time to time in the sole discretion of the Board. Notice of increase in rental shall be given to the Lessee no later than thirty (30) days prior to the annual renewal date. Payment of the processing fee and first year rental shall be made upon execution of this lease and the annual rental shall thereafter be made on or before April 20 of each succeeding year.

3. This lease shall be considered as renewed annually hereafter upon payment by the Lessee of the annual assessment on or before the 20th day of April of each year and if the Board does not receive such payment this lease shall automatically terminate. Board further reserves the right to terminate this lease (1) at the expiration of any annual period or by giving thirty (30) days notice thereof to the Lessee; (2) at any time if the water so leased is required for Board purposes; (3) for failure of Lessee to abide by Board Rules and regulations and Ditch or Reservoir Company rules when applicable; or (4) for any other breach of this agreement by Lessee. No refund shall be made to Lessee of any moneys paid if this lease is terminated under (1), (3), and (4) above. If terminated under (2) pro rata refund will be made.

4. Lessee shall be subject to the Operating Rules and other regulations of the Board, and any applicable Ditch or Reservoir Company regulations, as the same may be amended from time to time insofar as such rules are applicable and lessee is responsible for informing himself of such Rules and Regulations.

5. Board does not guarantee delivery of any specified quality or quantity of water and Lessee is entitled only to that water which would have been available to the Board under the shares listed above. Should the supply of water in the structure be insufficient to supply the users therefrom to the full amount of the water so leased from the Board, the operating authority may make such deliveries as will permit the best use of available supply to all users and the Board shall not be liable for any claims or damages resulting therefrom.

6. This lease is and shall be considered performable in the City and County of Denver, notwithstanding the fact that it may be necessary to take action in furtherance thereof elsewhere.

7. This lease or the use of the water hereby leased by this lease may not be assigned without prior written approval of the Board.

8. This agreement is made under and conformable to the provisions of the Charter of the City and County of Denver which control the operation of the Denver Municipal Water System. Insofar as applicable, said Charter provisions are incorporated herein and made a part hereof and shall supersede any apparently conflicting provision otherwise contained in this contract.

IN WITNESS WHEREOF, the within agreement has been executed as of the day and year first above written.

APPROVED:

K. J. Mitchell

Planning Division

CITY AND COUNTY OF DENVER, acting  
by and through its BOARD OF WATER  
COMMISSIONERS, LESSOR

By: John K. Miller  
Manager

APPROVED AS TO FORM:

Michael J. Waller  
Legal Division

REGISTERED AND COUNTERSIGNED:  
Auditor  
CITY AND COUNTY OF DENVER

By: Michael J. Waller  
Manager

Catherine H. Anderson  
LESSEE

DISTRIBUTION:

Original	- Secretary's File
Copy	- Central Records
	- Lessee(s)
	- Accounting
✓	- Planning
	- Plant
	- Auditor

2126P

## EXHIBIT D

## Sample Notice of Transfer of Property

To: Colorado Open Lands ("Grantee")  
From: [Insert name of fee owner] ("Grantor")

Pursuant to Section 10 of the Deed of Conservation Easement recorded (date) under reception number                   , Grantee is hereby notified by Grantor of the transfer of the fee simple interest in the subject Property legally described in **Exhibit A** attached hereto effective [insert date of closing] to [insert name of new Grantor], who can be reached at [insert name, legal address, phone and fax number]. Also pursuant to Section 10 of the aforementioned Deed of Conservation Easement is attached a copy of the new ownership deed.

**GRANTOR:**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_.

Witness my hand and official seal.

My commission expires:

---

Notary Public

Date:

## Attachment C

### Summary of 2022 Accomplishments (through August 2022)

We have had a successful summer of Programming – CHLP will have had over 400 participants by fall 2022 in our Quincy Farm Programming including:

- Spring Trail Walk
- Wildscaping 101: Native Plants for Birds
- Goat Roundup
- Bird Walks
- Monthly Beekeeping Discussion with our Master Beekeeper
- Green Thumbs Program - 2 Classes
- Goat Advocacy at Quincy Farm
- Goat Yoga and Goat Walkabout
- Goat Grazing Public Hours - Weekly
- Hummingbirds of the Front Range
- Stargazing Evening
- Upcoming Fall Trail Walk

Quincy Farm has 4 new hives that are producing honey and have been a part of our beekeeping programming.

Quincy Farm has developed a partnership with Rocky Mountain Goat Yoga and has initiated goat grazing days to help with the weeds on the East Area Pasture.

#### QF improvements

- Cleanup continues to happen on the East Area for safety
- The lean-to has been cleaned out by CHV staff to prepare an all-weather space for programming for the spring of 2022. CHLP is working on donations of stone for flooring and painting of the inside of the lean-to
- Weed wranglers has treated for noxious weeds on the west side
- Eco resource solutions is continuing algaecide and beneficial bacteria treatments to the pond
- Broken fencing has been repaired