

DEED OF CONSERVATION EASEMENT

38th & Tower

THIS DEED OF CONSERVATION EASEMENT is made this ____ day of February, 2019, by Castle Hill Corporation, a Colorado Corporation, having its address at 1520 E. Maplewood Ct. Centennial, CO 80121 (“Grantor”), in favor of the Adams County Board of County Commissioners, a political subdivision of the State of Colorado, having its address at 4430 South Adams County Parkway, Brighton, CO 80601 (“Grantee”).

RECITALS:

A. Grantor is the sole owner in fee simple of approximately 2.7 acres of real property located in Adams County, Colorado, more particularly described in **Exhibit A** attached hereto and generally depicted on the map attached hereto as **Exhibit B**, both of which are incorporated herein by this reference (the “Property”).

B. Upon execution of this Deed of Conservation Easement, Grantor will transfer the Property to the City of Aurora (“Aurora”) and upon transfer of the Property to Aurora, Aurora agrees to assume Grantor’s rights and obligations under this Deed. The Property will be managed by Aurora’s Parks, Recreation and Open Space Department (the “Parks, Recreation and Open Space Department”). Aurora will acquire the Property subject to this Conservation Easement.

C. The Property possesses natural, scenic, open space, educational, and recreational values (collectively, “Conservation Values”) of great importance to Aurora, Grantor, the citizens of Aurora and Adams County, and the people of the State of Colorado. In particular, the Property contains the following characteristics, which are also included within the definition of Conservation Values:

i. Natural: The Property is located adjacent to the historic High Line Canal and serves as a natural buffer to the corridor. The Property is primarily grassland and serves as wildlife habitat for several species including but not limited to migratory songbirds, eastern cottontail rabbits.

ii. Scenic: The Property provides access to and is visible from the High Line Canal greenway corridor, which is actively utilized by residents of Aurora, Adams County, the City & County of Denver, and the State of Colorado.

iii. Open Space: The Property is immediately surrounded to the west, and north by existing open space and park lands and is connected by 71 miles of the High Line Canal to the regional system of trails, greenway corridors and public lands. Protection of the Property enhances the conservation values of the greater area by expanding, buffering and establishing a contiguous landscape of managed open space.

iv. Outdoor Recreation and Education of the General Public: The Property will provide public access for passive outdoor recreation and education, and trail connections to High Line Canal Greenway Corridor for the use and enjoyment of the general public.

D. Grantor intends that the Conservation Values be preserved and protected, and that any uses be prohibited that would substantially diminish or impair the Conservation Values or that otherwise would be inconsistent with the Purpose of this Easement, as defined in Paragraph 1 below. The parties acknowledge and agree that uses expressly permitted by this Easement and the current land use patterns, including, without limitation, those relating to recreation and education existing at the time of this grant, do not significantly impair or interfere with the Conservation Values and are consistent with the Purpose of the Easement.

E. Grantor further intends, as owner of the Property, to convey to Grantee the right to preserve and protect the Conservation Values in perpetuity.

F. Grantee is a political subdivision of the State of Colorado with an open space program dedicated to land conservation, and as such qualifies under Sections 170(b)(1)(A)(v) and 170(h) of the Internal Revenue Code of 1986.

G. Grantee is also a governmental entity as required under C.R.S. § 38-30.5-101 et seq.), which provides for conservation easements to maintain land and water in a natural, scenic or open condition, for wildlife habitat, or for agricultural and other uses or conditions consistent with the protection of open land in Colorado.

H. Funding for this project has been provided in part by an Adams County Open Space grant funded by the Adams County Open Space Sales Tax which was passed by the Adams County voters in 1999, and reauthorized in November 2004, to be extended until December 31, 2026. The adopted Adams County Open Space Policies and Procedures require projects receiving passive funds for land acquisition to preserve the Property in perpetuity with a conservation easement. The parties acknowledge Aurora's intent to utilize the property as open space with associated passive recreation uses.

I. Grantee agrees by accepting this Easement to preserve and protect in perpetuity the Conservation Values for the benefit of this and future generations;

NOW, THEREFORE, in consideration of the above and the mutual covenants, terms, conditions, and restrictions contained herein, and pursuant to the laws of the State of Colorado, and in particular C.R.S. § 38-30.5-101 et seq., Grantor hereby voluntarily grants and conveys to Grantee a conservation easement in gross in perpetuity over the Property of the nature and character and to the extent hereinafter set forth ("Easement").

1. Purpose. The purpose of this Easement is to ensure that the Conservation Values are preserved and protected in perpetuity (“Purpose”). To effectuate the Purpose of this Easement, Grantor and Grantee intend to permit only uses of the Property that do not substantially diminish or impair the Conservation Values and to prevent any use of the Property that will substantially diminish or impair the Conservation Values. Notwithstanding the foregoing, nothing in this Easement is intended to compel a specific use of the Property other than the preservation and protection of the Conservation Values.

2. Baseline Documentation Report. The parties acknowledge that a written report will be prepared, reviewed, and approved by both parties within one year of the conveyance date of this Easement (the “Baseline Report”). A copy of the Baseline Report shall be kept on file with both parties and by this reference made a part hereof. The parties acknowledge that the Baseline Report is intended to establish the condition of the Property as of the conveyance date of this Easement, and both parties have acknowledged the same in a signed statement, a copy of which is attached hereto as Exhibit C. The parties further agree that the existence of the Baseline Report shall in no way limit the parties’ ability to use other pertinent information in resolving any controversy that may arise with respect to the condition of the Property as of the conveyance date of this Easement.

3. 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 to monitor Grantor’s compliance with and, if necessary, to enforce the terms of this Easement; provided that such entry shall be upon prior reasonable 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
- d. To require the restoration of such areas or features of the Property that may be damaged by any inconsistent use.

4. Reserved Rights. Grantor reserves to Grantor, and to Grantor’s agents, contractors, successors, and assigns, all rights accruing from Grantor’s ownership of the Property, including the right to engage in or permit or invite others, including members of the general public, to engage in all uses of the Property that are not prohibited or restricted herein and that do not substantially diminish or impair the Conservation Values. Without limiting the generality of the foregoing, the Grantor reserves the following:

- a. The right to allow non-commercial, passive recreational activities, such as horseback riding, hiking, cross-country skiing, mountain biking, cycling, picnicking

and other similar low-impact recreational uses, to be enjoyed by the public. Notwithstanding the foregoing, the use of motorized wheelchairs or other mobile devices by disabled persons and other persons as may be required by the Americans With Disabilities Act, on trails and other publicly accessible areas is allowed;

b. Grantor may construct hard or soft surface trails on the Property in a manner that does not substantially diminish or impair the Conservation Values of the Property;

c. The right to manage wildlife under circumstances where public health and safety are in jeopardy and for natural resource purposes in cooperation with Colorado Parks and Wildlife. Grantor may allow trapping as deemed necessary for permitted wildlife management goals, and/or to study threatened or endangered species or species proposed for listing; provided, however, that wildlife management on the Property shall not impair or significantly impact the Conservation Values, nor interfere with the public recreation use of the Property;

d. The right to construct recreational and educational public improvements (the "Public Improvements"), upon advance written approval from Grantee. Public Improvements may include, but are not necessarily limited to:

- (i) A parking area to provide access to the High Line Canal trail
- (ii) Educational kiosks, wayfinding signage and interpretive features;
- (iii) Trash receptacles;
- (iv) Picnic tables;
- (v) Shade structures; and
- (vi) Benches.
- (vii) Nature play
- (viii) Restroom

e. The right to remove and manage noxious and nuisance weeds and vegetation, and to restore the Property to a shortgrass prairie community.

f. Notwithstanding the provisions of Paragraph 5(h) below, Grantor and Grantee acknowledge that the existing driveway on the southwestern edge of the Property provides permanent ingress and egress to the property and the alignment is permitted under this Deed. Should Aurora's Master Street Plan change in such a way that alters the approved alignment, Aurora shall notify Grantee for review and approval of the modified alignment in accordance with Paragraph 7 below.

5. Prohibited and Restricted Uses. Any activity on or use of the Property inconsistent with the Purpose of this Easement is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited: or restricted as set forth below:

a. Development Rights. To fulfill the Purpose of this Easement, Grantor hereby conveys to Grantee all development rights deriving from, based upon or attributable to the Property in any way (“Grantee’s Development Rights”), except those expressly reserved by Grantor herein, and the parties agree that Grantee’s Development Rights shall be held by Grantee in perpetuity in order to fulfill the Purpose of this Easement, and to ensure that such rights are forever released, terminated and extinguished as to Grantor, and may not be used on or transferred off of the Property to any other property or used for the purpose of calculating permissible lot yield of the Property or any other property.

b. Construction of Buildings and Other Structures. The construction of any building, structure or other improvement is prohibited except in accordance with this Paragraph (5).

c. Residential, Recreational, and Commercial Improvements. Under no circumstances shall any new residential structures be constructed on the Property. Under no circumstances shall any new recreational building, structure or improvement be built on the Property, including but not limited to, athletic fields, golf courses or ranges, race tracks, airstrips, helicopter pads, or shooting ranges except as specifically reserved in Paragraph 4(b) and Paragraph 4(d) above. Under no circumstances shall any new commercial buildings, structures, or improvements be built on the Property.

d. Fences. New fences may be constructed on the Property and existing fences may be repaired or replaced for purpose of reasonable and customary management of livestock and wildlife, or for separation of ownership and uses. Construction of fences other than those covered by this subparagraph (d) is prohibited.

e. Subdivision. The Parties 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 provisions of this Easement. Ownership of the single parcel by joint tenancy or tenancy in common is permitted; provided, however, that Grantor shall not undertake any legal proceeding to partition, subdivide or divide in any manner such undivided interests in the single parcel.

f. Timber Harvesting. Trees may be cut to control insects and disease, to control invasive non-native species, and to prevent personal injury and property damage. Dead trees may also be cut for firewood and other uses on the Property. Any commercial timber harvesting on the Property is prohibited.

g. Mining. To the extent allowed by law, the mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other mineral substance of any kind or description, using any surface mining method is prohibited.

h. Paving and Road and Trail Construction. Except as specifically reserved in Paragraphs 4(b) and 4(d) above, no portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other paving material, nor shall any road or trail be constructed without Grantee's review and approval.

i. Trash. The dumping or accumulation of any kind of trash or refuse on the Property, including but not limited to household trash and hazardous chemicals, is prohibited. Trash containers used on the Property shall be wildlife resistant to prevent potential human-wildlife conflicts.

j. Motorized Vehicles. Motorized vehicles may be used only in conjunction with activities permitted by this Easement, including activities consistent with the customary management and maintenance of the Property, and in a manner that does not substantially diminish or impair the Conservation Values. Grantor agrees to reclaim the Property if vehicle use causes damage to the Property. Off road vehicle courses for snowmobiles, all-terrain vehicles, motorcycles, or other motorized vehicles are prohibited. Notwithstanding the foregoing, the use of motorized wheelchairs or other mobile devices by disabled persons and other persons as may be required by the Americans With Disabilities Act, on trails and other publicly accessible areas is allowed.

k. Commercial or Industrial Activity. No industrial uses shall be allowed on the Property. Commercial uses are allowed, as long as they are conducted in a manner that is consistent with § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto, are consistent with the Purpose of the Easement, and do not substantially diminish or impair the Conservation Values. Without limiting other potential commercial uses that meet the foregoing criteria, the following uses are allowed:

(1) Fee-based educational or recreational programs for the general public that are formally sponsored or operated by Grantor.

(2) Special use/special events. Use of the Property for special use/events is allowed, as long as the use or event is reviewed and approved through the Parks, Recreation and Open Space Department and the event/use is deemed to be consistent with the Purpose of this Easement

l. Signage or Billboards. No commercial signs, billboards, awnings, or advertisements shall be displayed or placed on the Property, except for appropriate interpretive signs, park identification signs, park regulations and rules signs, signs regarding the use of the Property for hunting, fishing or other low impact recreational uses, and signs informing the public of the status of ownership. No signs shall significantly diminish or impair the Conservation Values. Grantor shall erect one or more signs visible from the nearest public roadway, or from an alternative location approved by Grantee, identifying Grantee's Grant and investment in this Property to the public.

7. Grantor Notice and Grantee Approval. The purpose of requiring Grantor to notify Grantee prior to undertaking certain permitted activities is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the Purpose of this Easement. Whenever notice is required, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the Purpose of this Easement. Where Grantee's approval is required, Grantor shall not undertake the requested activity until Grantor has received Grantee's approval in writing. Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request therefor and submittal of sufficient supporting details as described above. Grantee's approval shall not be unreasonably withheld and may only be withheld only upon Grantee's reasonable determination that the activity as proposed would substantially diminish or impair the Conservation Values or would be inconsistent with the Purpose of this Easement. Such determination shall be evidenced in writing by Grantee to Grantor.

8. Enforcement. If Grantee finds what it believes is a violation of this Easement, Grantee shall immediately notify Grantor in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall either:

a. Restore the Property to its condition prior to the violation; or

b. Provide a written explanation to Grantee of the reason why the alleged violation should be permitted, in which event both parties agree to meet as soon as possible to resolve their differences. If a resolution cannot be achieved at the meeting, both parties agree to meet with a mutually acceptable mediator to attempt to resolve the dispute. Grantor shall discontinue any activity that could increase or expand the alleged violation during the mediation process. Should mediation fail to resolve the dispute, Grantee may, at its discretion, take appropriate legal action. When, in Grantee's opinion, an ongoing or imminent violation could irreversibly diminish or impair the Conservation Values, Grantee may, at its discretion, take appropriate legal action without pursuing mediation. If a court with jurisdiction determines that a violation is imminent, exists, or has occurred, Grantee may get an injunction to stop such violation, temporarily or permanently. A court may also issue an injunction to require Grantor to restore the Property to its condition prior to the violation.

9. Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs of suit and reasonable attorneys' fees, and any costs of restoration necessitated by Grantor's violation of the terms of this Easement shall be borne by Grantor. If Grantor prevails in any action to enforce the terms of this Easement, Grantor's costs of suit, including, without limitation, reasonable attorneys' fees, shall be borne by Grantee.

10. No Waiver or Estoppel. Forbearance by Grantee to exercise its rights under this Easement in the event of a violation of any term shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent violation of the same or any other term of this Easement or of any of Grantee's rights under this Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any violation by Grantor shall impair such right or remedy or be construed as a waiver. Grantor hereby waives any defense of laches, estoppel, or prescription, including the one year statute of limitations for commencing an action to enforce the terms of a building restriction or to compel the removal of any building or improvement because of the violation of the same under C.R.S. § 38-41-119, *et seq.*

11. Acts Beyond Grantor's Control. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes. Notwithstanding the foregoing, the Grantor shall take reasonable efforts to prevent third parties from performing, and shall not knowingly allow third parties to perform, any act on or affecting the Property that is inconsistent with the Purpose of this Easement. Notwithstanding the foregoing, Grantor shall be responsible for preventing activities by third parties on or affecting the Property that may violate the terms of this Easement.

12. Access. The general public shall have access to the Property, subject to any regulations by Grantor necessary and appropriate to protect public health and safety.

13. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including weed control and eradication and including the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor.

14. Taxes. As a government agency, Grantor is exempt from taxation. In the event that the Grantor or a subsequent owner of the Property is subject to taxation, Grantor (or its successor-in-interest in the Property) shall pay before delinquency all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property by competent authority (collectively "taxes"), including any taxes imposed upon, or incurred as a result of, this Easement, and shall furnish Grantee with satisfactory evidence of payment upon request.

15. Hold Harmless. To the extent allowed by law, Grantor shall hold harmless, indemnify, and defend Grantee and the members, directors, officers, employees, agents, and contractors and the heirs, representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or

judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations specified in Paragraph 9 herein; and (3) the presence or release of hazardous or toxic substances on, under or about the Property. For the purpose of this paragraph, hazardous or toxic substances shall mean any hazardous or toxic substance that is regulated under any federal, state or local law. Without limiting the foregoing, nothing in this Easement shall be construed as giving rise to any right or ability in Grantee, nor shall Grantee have any right or ability, to exercise physical or managerial control over the day-to-day operations of the Property, or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended. Nothing herein is intended to be or shall be construed to be a waiver of governmental immunity under C.R.S. Section 24-10-101, *et seq*, as amended.

16. Real Property Interest. This Easement constitutes a real property interest immediately vested in the Grantee, the value of which has not been determined as of this date. Should the Easement be taken for the public use or otherwise terminated according to Paragraph 17 below, Grantee shall be entitled to compensation for its interest, which shall be determined by a qualified appraisal that establishes the ratio of the value of the Easement interest to the value of the fee simple interest in the Property as of the date of the taking or termination (the "Easement Value Ratio"). The Easement Value Ratio shall be used to determine the Grantee's compensation according to the following Paragraph 17.

17. Condemnation or Other Extinguishment. If this Easement is taken, in whole or in part, by exercise of the power of eminent domain, or if circumstances arise in the future that render the Purpose of this Easement impossible to accomplish, this Easement can only be terminated, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. Each party shall promptly notify the other party in writing when it first learns of such circumstances. Grantee shall be entitled to full compensation for its interest in any portion of this Easement that is terminated as a result of condemnation or other proceedings. Grantee's compensation shall be an amount at least equal to the Easement Value Ratio, multiplied by the value of the unencumbered fee simple interest in the portion of the Property that will no longer be encumbered by this Easement as a result of condemnation or termination. Grantee shall use its proceeds in a manner consistent with the conservation purposes of this Easement or in accordance with the passive uses described in Resolution 99-1 which can be found on files with the Adams County Clerk and Recorder's Office at Reception Number C059056.

18. Assignment.

a. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that:

(1) is a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder;

(2) is authorized to acquire and hold conservation easements under Colorado law;

(3) agrees in writing to assume the responsibilities imposed on Grantee by this Easement.

b. If Grantee desires to transfer this Easement to a qualified organization having similar purposes as Grantee, but Grantor has refused to approve the transfer, a court with jurisdiction shall transfer this Easement to another qualified organization having similar purposes that agrees to assume the responsibility imposed on Grantee by this Easement, provided that Grantor has adequate notice of and an opportunity to participate in the court proceeding leading to the court's decision on the matter.

c. Upon compliance with the applicable portions of this Paragraph 18, the parties shall record an instrument completing the assignment in the records of the county or counties in which the Property is located. Assignment of the Easement shall not be construed as affecting the Easement's perpetual duration and shall not affect the Easement's priority against any intervening liens, mortgages, easements, or other encumbrances.

19. Subsequent Transfers. Grantor shall incorporate by reference the terms and conditions of this Easement in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property. Except for a transfer of the Property to the City of Aurora, Grantor further agrees to give written notice to Grantee of the transfer of any interest at least forty-five (45) days prior to the date of such transfer and may be required to pay the Grantee an Additional Grantee Refund under Paragraph 20 below. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Easement or limit its enforceability in any way.

20. Additional Grantee Refund. By means of an Adams County Open Space Funds grant ("County Grant"), Adams County has provided partial consideration for Grantor's acquisition of fee title to the Property, and/or partial real estate interest in the Property above and beyond this Easement; therefore, any voluntary sale, conveyance, transfer, or other disposal of all or any portion of Grantor's interest in the Property ("Sale"), excluding any lease of the Property to a third party in the ordinary course of using the Property for permitted purposes, shall constitute a material change to the County Grant that shall require prior written Grantee approval and may require a separate refund to the Grantee of an amount to compensate the Grantee for use of Adams County Open Space Funds (the "Additional Grantee Refund"), in addition to any payment that the Grantee may be entitled to receive under Paragraphs 16 and 17 above.

a. Amount. The amount of the Additional Grantee Refund shall be based

upon a percentage of Grantor's net proceeds from the Sale (which shall be defined as the fair market value of the property being sold in the Sale, minus direct transaction costs) ("Net Proceeds"). The Additional Grantee Refund shall be determined by multiplying the Net Proceeds by sixty two point eight percent (62.8%), Adams County's portion of the original acquisition of fee title to the Property. The Additional Grantee Refund shall be paid to the Grantee in cash or certified funds on or before the effective date of the Sale. Grantee shall use its proceeds in a manner consistent with the conservation purposes of this Easement or in accordance with the passive uses described in Resolution 99-1 which can be found on file with the Adams County Clerk and Recorder's Office at Reception Number C059056.

b. Possible Exception to Refund Requirement. If Grantee, in its sole discretion, determines that the Sale does not significantly alter or impair the conservation purpose of this easement, Grantor may not be required to pay the Grantee an Additional Grantee Refund.

21. Notices. Any notice, demand, request, consent, approval, or communication that either party is required to give to the other in writing shall be either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

Castle Hill Corporation
1520 E. Maplewood Ct.
Centennial, CO 80121

and

City of Aurora
Parks Recreation and Open Space Department
15151 E. Alameda Parkway, Suite 4600
Aurora, Colorado 80012

and

City of Aurora
c/o: Real Property Services
15151 E. Alameda Pkwy., Suite 3200
Aurora, Colorado 80012

To Grantee:

Adams County
4430 South Adams County Parkway
Brighton, CO 80601

or to such other address as either party from time to time shall designate by written notice to the other.

22. Grantor's Title Warranty. Grantor warrants that Grantor has good and sufficient title to the Property and hereby promises to defend the same against all claims whatsoever.

23. Recording. Grantor shall record this instrument in a timely fashion in the official records of each county in which the Property is situated, and may re-record it at any time as may be required to preserve its rights in this Easement.

24. General Provisions.

a. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Colorado.

b. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Easement shall be liberally construed in favor of the grant to effect the Purpose of this Easement and the policy and purpose of C.R.S. §38-30.5-101, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

c. Severability. If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Easement, 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.

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

e. Joint Obligation. The obligations imposed upon the Grantor and Grantee of this Easement shall be joint and several in the event that more than one entity or individual holds either interest at any given time.

f. Non-Merger. If Grantee wishes to acquire fee title to the Property or any additional interest in the Property (such as a leasehold), Grantee must first transfer the Easement to another qualified organization consistent with Paragraph 18 above.

g. Successors. The covenants, terms, conditions, and restrictions of this Easement shall be binding upon, and inure to the benefit of, the parties hereto and

their respective personal representatives, heirs, successors, and assigns and shall continue as a servitude running in perpetuity with the Property.

h. Termination of Rights and Obligations. Provided a transfer is permitted by this Easement, a party's rights and obligations under this Easement terminate upon transfer of the party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

i. 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.

j. No Third-Party Beneficiaries. This Easement is entered into by and between Grantor and Grantee, and is solely for the benefit of Grantor, Grantee, and their respective successors and assigns for the purposes set forth herein and does not create rights or responsibilities in any third parties beyond Grantor, Grantee.

k. Amendment. If circumstances arise under which an amendment to or modification of this Easement or any of its exhibits would be appropriate, Grantor and Grantee may jointly amend this Easement so long as the amendment (a) is consistent with the Conservation Values and Purpose of this Easement, (b) does not affect the perpetual duration of the restrictions contained in this Easement, (c) does not affect the qualifications of this Easement under any applicable laws, and (d) complies with Grantee's procedures and standards for amendments (as such procedures and standards may be amended from time to time. Any amendment must be in writing, signed by both parties, and recorded in the records of the Clerk and Recorder of the county or counties in which the Property is located. In order to preserve the Easement's priority, the Grantor shall obtain subordinations of any liens, mortgages, easements, or other encumbrances. Nothing in this paragraph shall be construed as requiring Grantee to agree to any particular proposed amendment.

l. Change of Conditions. A change in the potential economic value of any use that is prohibited by or inconsistent with this Easement, or a change in any current or future uses of neighboring properties, shall not constitute a change in conditions that makes it impossible for continued use of the Property for conservation purposes and shall not constitute grounds for terminating the Easement in whole or in part.

m. Authority to Execute. Each party represents to the other that such party has full power and authority to execute, deliver, and perform this Easement, that the individual executing this Easement on behalf of said party is fully empowered and authorized to do so, and that this Easement constitutes a valid and legally binding obligation of said party enforceable against said party in accordance with its terms.

TO HAVE AND TO HOLD unto Grantee, its successors, and assigns forever.

IN WITNESS WHEREOF Grantor and Grantee have executed this Deed of Conservation Easement on the day and year first written above.

GRANTEE:

BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, COLORADO

Steven J. O’Dorisio, Chair

Date

ATTEST:

JOSH ZYGIELBAUM,
CLERK AND RECORDER

Approved as to form:

Deputy Clerk

Adams County Attorney’s Office

EXHIBIT A
(Property Description)

PARCEL B:

COMMENCING AT THE PREVIOUSLY DESCRIBED "POINT A"

THENCE ALONG A LINE PARALLEL WITH AND DISTANT 2,143.50 FEET EASTERLY FROM THE WESTERLY LINE OF SAID SOUTHWEST QUARTER SOUTH 00°00'18" EAST, A DISTANCE OF 141.51 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF SAID HIGHLINE CANAL AND THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID PARALLEL LINE SOUTH 00°00'18" EAST, A DISTANCE OF 665.49 FEET TO SAID NORTHERLY RIGHT-OF-WAY OF EAST 38TH AVENUE BEING A LINE PARALLEL WITH AND DISTANT 60.00 FEET NORTHERLY FROM THE SOUTHERLY LINE OF SAID SOUTHWEST QUARTER;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY, SOUTH 89°05'29" WEST, A DISTANCE OF 60.59 FEET TO THE EASTERLY RIGHT-OF-WAY OF SAID HIGHLINE CANAL;

THENCE ALONG THE SOUTHERLY AND SAID EASTERLY RIGHT-OF-WAY THE FOLLOWING EIGHT (8) COURSES:

1. NORTH 41°06'59" WEST, A DISTANCE OF 44.76 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 452.65 FEET;
2. NORTHWESTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22°22'30", AN ARC LENGTH OF 176.77 FEET;
3. NORTH 18°44'29" WEST, A DISTANCE OF 101.62 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE EASTERLY HAVING A RADIUS OF 235.57 FEET;
4. NORTHERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 36°42'33", AN ARC LENGTH OF 150.93 FEET;
5. NORTH 17°58'01" EAST, A DISTANCE OF 9.57 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 357.03 FEET;
6. NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 31°05'46", AN ARC LENGTH OF 193.77 FEET;
7. NORTH 49°03'46" EAST, A DISTANCE OF 48.03 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 172.64 FEET;
8. NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 25°12'42", AN ARC LENGTH OF 75.97 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 2.467 ACRES, (107,463 SQUARE FEET), MORE OR LESS.

EXHIBIT B
(Property Map)

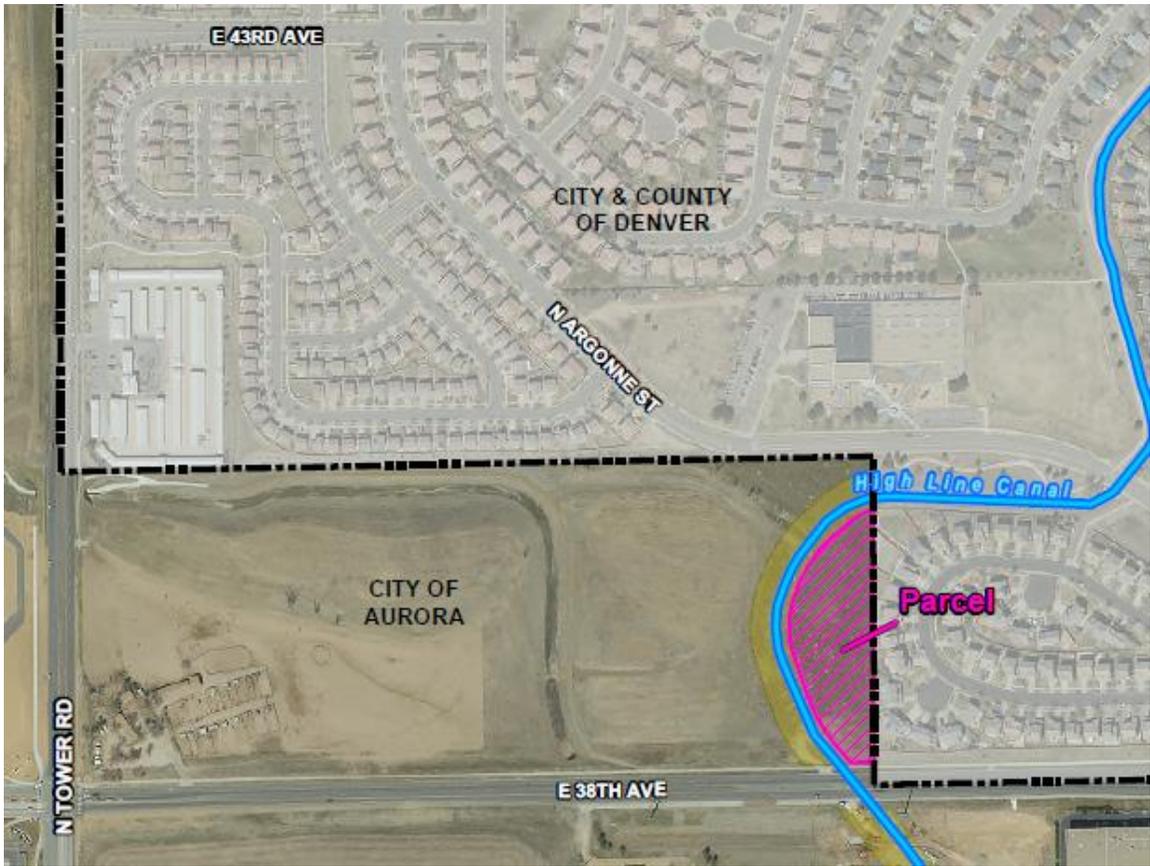


EXHIBIT C
(Baseline Documentation Acknowledgement)

Grantor and Grantee acknowledge that the Baseline Documentation Report for the 2.7 acre, more or less, 3800 Tower Property will be created within one calendar year from the date this Easement is recorded with the Adams County Clerk and Recorder's Office.

GRANTOR

GRANTEE

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____