

BOARD OF COUNTY COMMISSIONERS FOR
ADAMS COUNTY, STATE OF COLORADO

RESOLUTION APPROVING THE DEED OF CONSERVATION EASEMENT ON THE
MCKAY OVERLOOK PROPERTY

Resolution No. 2014-108

WHEREAS, Adams County voters approved an Open Space Sales Tax on November 2, 1999, to be used in accordance with Resolution 99-1; and,

WHEREAS, the City of Westminster received an Open Space Sales Tax grant on May 23, 2012 for the acquisition of 8.756 acres at 144th Avenue and Zuni Street, adjacent to the 126-acre McKay Lake Open Space area; and,

WHEREAS, pursuant to the Open Space Sales Tax Policies and Procedures, upon acquisition of the McKay Overlook property, Westminster is required to place a conservation easement on the property to preserve passive use of the property in perpetuity; and,

WHEREAS, Westminster has acquired the McKay Overlook property; and,

WHEREAS, Westminster has signed the conservation easement indicating their approval; and,

WHEREAS, Adams County wishes to approve the conservation easement; and,

WHEREAS, the conservation easement will be effective as of the date that Adams County signs the easement.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners, County of Adams, State of Colorado, that the McKay Overlook Conservation Easement, a copy of which is attached hereto and incorporated herein by this reference, be and hereby is approved.

BE IT FURTHER RESOLVED that the Chairman is authorized to execute said Conservation Easement on behalf of Adams County.

Upon motion duly made and seconded the foregoing resolution was adopted by the following vote:

Henry _____ Aye
Tedesco _____ Aye
Hansen _____ Aye

Commissioners

STATE OF COLORADO)
County of Adams)

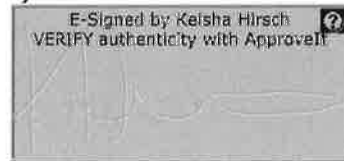
I, Karen Long, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Adams County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Brighton, Colorado this 24th day of February, A.D. 2014.

County Clerk and ex-officio Clerk of the Board of County Commissioners
Karen Long:



By:



Deputy

NO DOC FEE REQUIRED

DEED OF CONSERVATION EASEMENT IN GROSS

THIS DEED OF CONSERVATION EASEMENT is made this 26th day of March 2014, by the City of Westminster, having its address at 4800 West 92nd Avenue, Westminster, Colorado 80031 ("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 certain real property 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. The acquisition of the Property was partially funded 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 Grantor's intent to utilize the property as open space with associated passive recreation uses.
- C. The Property possesses natural, scenic, open space, and/or recreational values (collectively, "Conservation Values") of great importance to Grantor, the people of Adams County and the people of the State of Colorado. In particular, the Property provides the following conservation values:
 - 1) Natural: The Property is adjacent to McKay Lake, providing additional buffer habitat between the reservoir and existing open space and Zuni Street.
 - 2) Scenic: The Property provides a visual buffer both into and out of the existing McKay Lake Open Space area.
 - 3) Open Space: The Property is directly adjacent to existing open space and will create a larger open space area open to the general public.
 - 4) Recreational: The Property provides passive recreational opportunities including biking, horseback riding, hiking, cross-country skiing, wildlife watching, and other similar low-impact recreational and educational uses.
- D. Grantor intends that the Conservation Values of the Property 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 purposes of this Easement. The parties acknowledge and agree that the current land use patterns, including, without limitation, improvements located on the Property at the time of this grant, do not significantly impair or interfere with the Property's Conservation Values and are consistent with purposes 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 of the Property in perpetuity.
- F. Grantee is a publically supported, tax-exempt municipal government, qualified under Section 170(h) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto.
- G. Grantee is also a governmental entity as required under C.R.S. § 38-30.5-104. Grantee has an Open Space Program whose primary purpose is to preserve natural open space, improve the quality of life in communities and protect natural and historic resources for future generations.
- H. Grantee agrees by accepting this Easement to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values of the Property 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 PERPETUAL conservation easement in gross 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 preserve and protect the Conservation Values of the Property in perpetuity. To achieve this Purpose, Grantor intends to convey this Deed of Conservation Easement to Grantee to ensure that the Conservation Values of the Property will be preserved and protected forever. Subject to the purpose of this Easement, Grantor and Grantee intend to permit only uses of the Property which do not substantially diminish or impair the Property's Conservation Values and to prevent any use of the Property that will substantially impair or interfere with protecting the Property's Conservation Values. It is the intent of the Grantor to preserve the Property in its natural, scenic, and/or open space condition to preserve the open space character, wildlife habitat, and scenic qualities of the Property. Notwithstanding the foregoing, nothing in this Easement is intended to compel a specific use of the Property, such as agriculture, other than the preservation and protection of the Property's Conservation Values.

2. Rights of Grantee. To accomplish the purpose of this Easement the following rights are conveyed to Grantee by this Easement:

- 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 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.

3. Reserved Rights. Grantor reserves to itself, its successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited or restricted herein and that do not substantially diminish or impair the Property's Conservation Values. Other agreed upon reserved rights are as follows:

- a. The right to allow non-commercial, non-motorized, 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. Two existing residential structures exist on the Property. Grantor will continue to lease out these structures until such time as funding is available to remove said structures. Once removed, the area will be revegetated and returned to a more natural state.
- c. Subject to Grantee approval, construction of new paved or unpaved trail(s).
- d. Portions of the property are currently planted with corn to minimize weed growth. The City will discontinue the farming of corn on the property once funds are available to revegetate the property with native grasses.
- e. Placement of interpretive signage.
- f. Placement of Open Space fencing and signage as determined appropriate by Grantor.

4. Prohibited and Restricted Uses. Except as provided in paragraph 3 above,

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:

- a. Development Rights. Grantor hereby grants to Grantee all development rights except as otherwise expressly reserved by Grantor herein, and the parties agree that such rights are hereby released, terminated and extinguished, and may not be used on or transferred off of the Property to any other property adjacent or otherwise or used for the purpose of calculating permissible lot yield of the Property or any other property.
- b. Existing Structures and Improvements. Two residential structures currently exist on the western portion of the Property. Grantee intends to lease out these structures until funds become available to remove the structures. At that time, the area will be revegetated and returned to a more natural state.
- c. Construction of Buildings and Other Structures. The construction of any parking lots, restroom facilities, picnic areas, or other similar improvements shall not be allowed without the express written approval of the Grantee.
- d. New Structures and Improvements. Under no circumstances shall any recreational building, structure or improvement, except as provided in paragraph 3, be built on the Property, including but not limited to, athletic fields, golf courses or ranges, race tracks, airstrips, helicopter pads, or shooting ranges. No new residential buildings shall be allowed.
- e. Fences. The construction or reconstruction of any fences shall not be permitted, except to repair or replace existing fences, to build new fences for purposes of reasonable and customary management of livestock and wildlife; to build, repair or replace fences for purposes related to future trails located on the property; or for separation of ownership and uses.
- f. Subdivision. Any division or subdivision of title to the Property, whether by physical or legal process, is prohibited
- g. 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. No commercial timber harvesting shall be allowed.
- h. Mining.

(1) 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. Mining utilizing methods other than surface mining

may be permitted if the method of extraction has a limited, localized impact on the Property that is not irretrievably destructive of the Conservation Values. No extraction permitted pursuant to this paragraph shall occur without prior written notice to and approval of Grantee, which notice shall include a description of the type of extraction, the areas within which such extraction shall occur, and the anticipated impact thereof. Any lease, surface use agreement, or other conveyance by Grantor to a third party of mineral rights subsequent to the date of recording of this Easement shall be subject to the restrictions of this Easement and shall so state, shall contain terms consistent with the provisions of this Easement, and a copy of the same shall be provided to Grantee prior to its execution by Grantor for Grantee's review and approval.

(2) Grantor agrees that by granting this Easement to Grantee, it has granted to Grantee a portion of its rights as owner of the surface of the Property on which the exploration, development, operations and reclamation of any minerals (including but not limited to oil and gas, helium, carbon dioxide and coalbed methane) may be conducted ("Surface Owner"). Grantor intends that Grantee, in addition to its interest as a holder of this Easement, shall have the rights of a Surface Owner to receive notices of proposed mineral activities and to take appropriate action to protect the Purpose of this Easement. Accordingly, Grantor agrees: (i) to provide Grantee with any notices Grantor receives related to the exploration, development, operations and reclamation of any minerals; and (ii) that Grantee must approve in advance in writing any lease or agreement pertaining to use of the surface or subsurface of the Property for the exploration, development, operations and reclamation of any minerals, including any agreement permitted or required of a Surface Owner under C.R.S. §34-60-101 et seq., as amended from time to time, and rules and regulations promulgated thereunder ("Surface Use Agreement"), between Grantor and owners or lessees of minerals (including but not limited to oil and gas, helium, carbon dioxide and coalbed methane), which approval Grantee may withhold in its reasonable discretion if it determines that the proposed surface use would substantially diminish or impair the Conservation Values, is inconsistent with the preservation of the Conservation Values, is inconsistent with the terms of this Easement, or is not permitted under the terms of the mineral reservation or severance or the mineral lease.

(3) At the time of granting the Easement, the Property is subject to an Oil and Gas Lease ("Lease") with Vessels Oil & Gas Company that grants to Vessels Oil & Gas Company ("Lessee") the right to access the Property to explore for and extract oil and gas from the Property (recorded in Adams County on September 18, 1989 in Book 3602 at Page 677). Grantee agrees that the Lease does not provide for exploration or extraction of Minerals in a manner that is irretrievably destructive of or will significantly impair or interfere with the Conservation Values of the Property. Grantor shall not amend the Lease without the prior written approval of Grantee, which Grantee may grant or deny in its discretion. Grantor and Grantee agree that a former oil and gas well located on the Property has caused damage that is currently being remediated by the Lessee pursuant to Colorado Oil and Gas Conservation Commission regulations. Following the full

mitigation of damage, Grantor, at its sole cost, agrees to return the site to its natural state to the extent possible.

- i. Paving and Road Construction. No portion of the Property shall be paved nor shall any road be constructed without the prior written approval of Grantee, except as allowed under subparagraph 3.c. above. Grantee shall give such permission within a reasonable time, unless Grantee determines that the proposed paving or covering of the soil, or the location of any road, will substantially diminish or impair the Conservation Values of the Property or is otherwise inconsistent with this Easement, and such permission shall not be unreasonably withheld.
- j. Trash. The dumping or uncontained accumulation of any kind of trash or refuse on the Property, including but not limited to household trash and hazardous chemicals, is strictly prohibited.
- k. Water Rights. No water rights are included with this Easement.
- l. 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 and all off road vehicle use by the public is prohibited.
- m. Commercial or Industrial Activity. No industrial or commercial uses shall be allowed on the Property.
- n. Signs or Billboards. No commercial signs, billboards, awnings, or advertisements shall be displayed or placed on the Property, except for appropriate and customary "no trespassing" signs and signs informing the public of the status of ownership. Subject to the reserved rights under subparagraph 3.f. above, no signs shall significantly diminish or impair the Conservation Values of the Property. Grantor shall erect one or more signs visible from the nearest public roadway, or from an alternative location approved by the Grantee, identifying the Grantee's investment in this Property to the public.

5. Notice of Intention to Undertake Certain Permitted Actions. 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, Grantors 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.

6. Grantee's Approval. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request therefore. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

7. 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. If the condition described in clause (b) above occurs, both parties agree to meet as soon as possible to resolve this difference. If a resolution of this difference cannot be achieved at the meeting, both parties agree to meet with a mutually acceptable mediator to attempt to resolve the dispute. When, in Grantee's opinion, an ongoing or imminent violation could irreversibly diminish or impair the Conservation Values of the Property, Grantee may, at its discretion, take appropriate legal action. 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. If a court with jurisdiction determines that a violation is imminent, exists, or has occurred, Grantee may get an injunction to stop it, temporarily or permanently. A court may also issue an injunction to require Grantor to restore the Property to its condition prior to the violation.

8. Costs of Enforcement. Any costs incurred by Grantee in enforcing the terms of this Easement against Grantor, including, without limitation, costs 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. Costs of suit, including attorneys fees awarded, if any, will be subject to the Colorado Rules of Civil Procedure.

9. Grantee's Discretion. Enforcement of the terms of this Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Easement in the event of any breach of any term of this Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach 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 breach by Grantor shall impair such right or remedy or be construed as a waiver.

10. Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription, including any defenses available under C.R.S. § 38-41-119.

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, 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 public shall generally have access to the Property, at such times and in such manner as Grantor may reasonably prescribe by regulation, so that the Conservation Values of the Property are not impaired.

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.

14. Taxes. Grantor 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. Grantee is authorized but in no event obligated to make or advance any payment of taxes, upon three (3) days prior written notice to Grantor, in accordance with any bill, statement, or estimate procured from the appropriate authority, without inquiry into the validity of the taxes or the accuracy of the bill, statement, or estimate.

15. Hold Harmless. To the extent allowed by Law, Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal 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 7 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 Deed 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.

16. Real Property Interest. This Easement constitutes a real property interest

immediately vested in Grantee. The parties stipulate that this Easement has a fair market value equal to seventy percent (70%) of the full fair market value of the Property, as unencumbered by this Easement. Full fair market value of the property shall be determined with a qualified appraisal commissioned by the Grantor. A qualified appraisal is one that is prepared by an independent appraiser in accordance with the IRS definitions of a qualified appraisal, specific about the full fair market value of the property, and effective within one year of the full fair market valuation of the property. For the purposes of this Easement, the ratio of the value of the Easement to the value of the Property as unencumbered by this Easement shall remain constant, notwithstanding anything in the Grantor's appraisal to the contrary.

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 or extinguished, 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 compensation in accordance with applicable law, after the satisfaction of prior claims, from any sale, exchange, condemnation, or other involuntary or voluntary conversion of all or any portion of the Property subsequent to such termination or extinguishment. Grantee's compensation shall be seventy percent (70%), an amount equal to Grantee's real property interest in the property, 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 file with the Adams County Clerk and Recorder's Office at Reception Number C0590506.

18. Assignment. This Easement is transferable, but Grantee may assign its rights and obligations under this Easement only to an organization that (a) 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, (b) is authorized to acquire and hold conservation easements under Colorado law, and (c) agrees to assume the responsibility imposed on Grantee by this Easement. Grantee agrees to give written notice to Grantor of the transfer of this Easement at least forty-five (45) days prior to the date of such transfer.

19. Subsequent transfers. Grantor shall incorporate the terms and conditions of this Easement in any deed or other legal instrument by which they divest themselves of any interest in all or a portion of the Property. 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. 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. 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: City Manager
City of Westminster
4800 West 92nd Avenue
Westminster, CO 80031

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.

21. 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 from persons claiming by, through, or under Grantor.

22. Subsequent Liens on the Property. No provisions of this Easement shall be construed as impairing the ability of Grantor to use this Property as collateral for subsequent borrowing, provided that any mortgage or lien arising from such a borrowing would be subordinated to this Easement.

23. Recording. Grantee shall record this instrument in 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, and venue for any dispute shall be in Adams County, 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. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
- f. Joint Obligation. If more than one owner owns the Property at any time, the obligations imposed by this Easement shall be joint and several upon each of the owners.
- g. Non-Merger. No merger shall be deemed to have occurred hereunder or under any documents executed in the future affecting this Easement, unless the parties expressly state that they intend a merger of estates or interests to occur.
- h. 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.
- i. Termination of Rights and Obligations. 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.
- j. 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.
- k. No Third Party Beneficiaries. This Easement is entered into by and between Grantor and Grantee, and is solely for the benefit of Grantor and 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 and Grantee.
- l. Amendment. If the circumstances arise under which an amendment to or modification of this instrument would be appropriate, Grantor and Grantee are free to jointly amend this instrument; provided that no amendment shall be allowed that will affect the qualifications of this Easement under any applicable laws. Any amendment must be consistent with the conservation purposes of this Easement and may not affect its perpetual duration. Any amendment must be in writing, signed by both parties, and recorded in the records of the Clerk and Recorder of the County in which the Property is located.

m. 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 or impractical for continued use of the Property for conservation purposes and shall not constitute grounds for terminating the Easement.

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.

BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, COLORADO

[Signature] 3-26-14
Chair Date

ATTEST:

KAREN LONG,
CLERK AND RECORDER



[Signature]
Deputy Clerk

Approved as to form:

[Signature]
Adams County Attorney's Office

CITY OF WESTMINSTER, COLORADO

[Signature] 12/24/13
City Manager Date

ATTEST:

Approved as to form:

[Signature]
City Clerk

[Signature]
City Attorney's Office

Exhibit "A"

Legal Description

Parcel A:

Lots 1 and 3, Block 1, Barnett Estates, a subdivision of the NW1/4, Section 21, Township 1 South, Range 68 West, County of Adams, State of Colorado

and

That part of the Northwest 1/4 of the Northwest 1/4 of Section 21, Township 1 South, Range 68 West of the 6th P.M. , Adams County, Colorado, described as follows:

Beginning at the Northwest corner of said Section 21 from which the North 1/4 corner of said Section 21 bears S89°40'01"E a distance of 2619.24 feet; thence S00°06'30"W along the West line of said Section 21 a distance of 890.0 feet to the North line of the tract of land described in the Quit Claim Deed recorded August 16, 1932 in Book 205 at Page 85, Adams County records, Chicago Title and Trust Company, Grantor, and the Farmers Reservoir and Irrigation Company, Grantee; thence along the Northerly line of said tract described in Book 205 at Page 85 the following bearings and distances; N75°32'30"E a distance of 1065.0 feet; thence N20°38'30"W a distance of 163.0 feet to the Northeast corner of L and L Tract recorded as File 12, Map 130, Adams County records and the True Point of Beginning; thence continuing along the Northerly line of said tract described in Book 205 at Page 85 by the following bearings and distances:

N20°38'30"W a distance of 264.00 feet;

N74°50'02"E a distance of 427.49 feet to the existing McKay Lake boundary fence; thence by the following bearings and distances along said fence:

S35°35'35"W a distance of 157.32 feet;

S11°15'03"W a distance of 117.20 feet;

S24°05'35"W a distance of 113.65 feet to the Easterly extension of the North line of said L and L Tract; thence S85°34'30"W along said Easterly extension of the Northerly line of said L and L Tract a distance of 159.16 feet to the True Point of Beginning, County of Adams, State of Colorado, Except that portion no longer subject to the deed of trust as a result of Adams County District Court Civil Action No. 2009CV342, Rule and Order in Condemnation, entered August 31, 2009 at Recorded September 4, 2009 at Reception No. 2009000066655, real property records, Adams County, Colorado,

And Except that portion no longer subject to the Deed of Trust as a result of Partial Release of Deed of Trust recorded May 26, 2011 at Reception No. 2011000033703.

also known by street and number as: 14330 Zuni Street and, 2000 West 144th Avenue, Broomfield, CO 80023

Attachment B
City of Westminster
McKay Overlook
Site Map



144th Ave

Trailhead-
Parking Lot






8.756 Total Acres

Buildings
To Be
Demolished

Zuni St

Floating
Fishing Pier

McKay Lake

-  McKay Overlook Property
-  Open Space
-  Existing Trails
-  Proposed Trails
-  Streams

