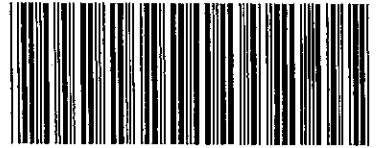


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Ms. Cheryl Matthews  
Douglas County  
100 Third Street  
Castle Rock, CO 80104

**AMENDED AND RESTATED**  
**DEED OF CONSERVATION EASEMENT**

agle Mountain Property North Parcel – Douglas County)

THIS AMENDED AND RESTATED DEED OF CONSERVATION EASEMENT (the "Easement") is made this 3rd day of August, 2007, by **EAGLE MOUNTAIN PRESERVE, LLC**, a Colorado limited liability company, Attention: Mr. Rex Weimer, 8480 East Orchard, #1100, Greenwood Village, CO 80111 (the "Grantor"), in favor of the (1) **BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO** (the "County"), the address of which is 100 Third Street, Castle Rock, CO 80104, and (2) **THE CONSERVATION FUND** a Maryland nonprofit corporation, having an address 1655 North Fort Myer Drive, Suite 1300, Arlington, VA 22209-3199, Attention: General Counsel (collectively the "Grantee"). The following exhibits are attached hereto and made a part of this Easement:

- Exhibit A Description of Adjoining 420 acres (Spruce Mountain Parcel)
- Exhibit A-1 Description of 458 acre Eagle Mountain North Parcel (the "Property")
- Exhibit A-2 Description of 512 acre Eagle Mountain South Parcel
- Exhibit A-4 General description of Residential Building Areas
- Exhibit A-5 General description of Ranch Building Area
- Exhibit B-1 Map of Property, including Potential Building Areas
- Exhibit B-2 Location Map for potential Secondary Access Road
- Exhibit B-3 Description of Grantee's Adjacent Property
- Exhibit C Acknowledgement of Baseline Documentation Report
- Exhibit D-1 Permitted Exceptions to Title

OFFICIAL RECORDS  
DOUGLAS COUNTY CO  
JACK ARROWSMITH  
CLERK & RECORDER  
RECORDING FEE: \$236.00  
47 PGS  
# 2007063139  
08/07/2007 03:26 PM

RECITALS:

- A) Eagle Pointe Development, L.L.C., a Colorado limited liability company granted a deed of conservation easement to the Board of County Commissioners of the County of Douglas, State of Colorado, and to The Conservation Fund, a Maryland non-profit corporation, dated January 22, 2003 and recorded January 23, 2003 at Reception No. 2003009368 of the records of the Douglas County, Colorado Clerk and Recorder (the "Original Conservation Easement"). The Original Conservation Easement encumbered 979.79 acres of land more or less.
- B) The property encumbered by the Original Conservation Easement is referred to as the "Eagle Mountain Property" and is comprised of (1) the 458 acre, more or less, "Eagle Mountain North Parcel" which is described on the attached Exhibit A-1, and shown on the attached Exhibit B-1, and (2) the 512 acre, more or less, "Eagle Mountain South Parcel" which is described on the attached Exhibit A-2, and shown on the attached Exhibit B-1. Eagle Mountain Preserve, L.L.C. ("Grantor") is the owner of the Eagle Mountain North Parcel and The Conservation Fund (a "Grantee") is the owner of the Eagle Mountain South Parcel.

**CR 70181100**  
Zellerbach Title Company  
8/2/07

- C) The Grantor and the Grantee wish to merge, supersede and replace the Original Conservation Easement in its entirety with two conservation easements, one encumbering the Eagle Mountain North Parcel owned by Grantor (this “**Restated Eagle Mountain North CE**”), and one encumbering the Eagle Mountain South Parcel owned by The Conservation Fund (the “**Restated Eagle Mountain South CE**”), without interrupting the perpetual duration of the Original Conservation Easement or the property right which vested in the Grantee upon the recording of the Original Conservation Easement. This is being done to eliminate certain development rights and to divide the Original Conservation Easement along ownership boundaries. This Restated Eagle Mountain North CE encumbers the Eagle Mountain North Parcel, which is also referred to as the “**Property**”. The Restated Eagle Mountain South CE is being recorded immediately after the recording of this Easement.
- D) The Eagle Mountain Property is a part of the 1390-acre, more or less, property referred to as the “**Spruce Mountain Ranch**” or the “**Ranch**”.
- E) The Eagle Mountain Property is highly visible from Interstate 25, and from other adjacent and nearby public roads including Noe Road, Douglas County Road 105 and Spruce Mountain Road. There are majestic views of Pikes Peak and the Front Range of the Rocky Mountains from the Ranch, with vistas that are essentially unchanged from the time that European exploration of Colorado began.
- F) The Eagle Mountain Property is substantially undeveloped and contains scenic buttes and mesas, large meadows and substantial areas of native grasses. The Property includes pine and scrub oak groves and significant natural areas that provide habitat for a variety of animals including deer, elk, mountain lion, black bear, small mammals and birds. The Property also provides a wildlife corridor to and from adjacent properties.
- G) The Property possesses natural, scenic, open space, wildlife, aesthetic, ecological and environmental values (collectively the “**Conservation Values**”) of great importance to Grantor, the Grantee, the people of Douglas County and the people of the State of Colorado which are worthy of protection in perpetuity. Grantor and Grantee recognize that economic development of the Property would have an adverse impact on and greatly impair these conservation values. The Property has significant ecological and open space values as defined in C.R.S. § 38-30.5-101, et seq., and provides natural habitat for native plants and animals. The Property also has values as indicated by the following conservation policies:
- 1) The Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C. § § 4201, et seq., the purpose of which is “to minimize the extent to which Federal programs and policies contribute to the unnecessary and irreversible conversion of farmland to non-agricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with States, units of local government and private programs and policies to protect farmland.”

- 2) C.R.S. § 38-30.5-101, et seq., providing for the establishment of conservation easements to maintain land “in a natural, scenic or open condition, or for wildlife habitat, or for agricultural . . . or other use or condition consistent with the protection of open land having wholesome environmental quality or life-sustaining ecological diversity.”
  - 3) C.R.S. § 33-1-101, et seq., which provide in part that “it is the declared policy of the State of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the ...[scenic]... enjoyment of the people of this state and its visitors.”
  - 4) C.R.S. § 35-3.5-101, et seq., which provide in part that “it is the declared policy of the State of Colorado to conserve, protect, and encourage the development and improvement of agricultural land for the production of food and other agricultural products.”
  - 5) The Douglas County Master Plan.
  - 6) Douglas County Resolution No. R-994-062 which encourages the preservation of open space.
- H) In particular, the Property possesses at least the following Conservation Values:
- 1) Scenic and Visual. The Property is highly visible from Interstate 25, and from other adjacent and nearby public roads including Noe Road, Douglas County Road 105 and Spruce Mountain Road. The development of the Property, except as provided herein, would mar the predominantly natural view westward from those public roads. The Property, together with the adjoining properties, provides a large area of open space that protects scenic vistas for the public.
  - 2) Wildlife. The Property and immediate vicinity is home to a diversity of species of wildlife including deer, elk, black bear and mountain lion, together with a wide variety of small mammals, birds and raptors. The Property provides an important wildlife corridor to adjoining properties and other publicly protected properties.
  - 3) Agricultural. The Property has been used for ranching for many years. Preservation of the Property will permit the continuation of ranching, as provided herein.
- I) The parties acknowledge that specific Conservation Values of the Property will be documented in an inventory of relevant features of the Property, which inventory is dated as of the date of the recording of this Easement (the “**Baseline Documentation**”). A copy of the Baseline Documentation will be kept on file at the offices of the Grantor and the Grantee. The Baseline Documentation shall consist of reports, maps, photographs, and other documentation that the parties agree provide, collectively, an accurate representation of the Property at the time of this Easement and which is intended to serve

as an objective information baseline for monitoring compliance with the terms of this Easement and a written acknowledgement and identification of the Baseline Documentation, in the form attached hereto as Exhibit C, shall be signed by both the Grantor and the Grantee.

- J) Grantor intends that the Conservation Values of the Property be preserved and maintained by the continuation of the substantially undeveloped condition of the Property existing at the time of this grant, subject to the exceptions, building sites and uses permitted herein.
- K) Grantor further intends, as owner of the Property, to convey to Grantee the affirmative right to preserve and protect the Conservation Values of the Property in perpetuity exclusively for conservation purposes, subject to the terms and provisions of this Easement.
- L) Grantee, The Conservation Fund, is a publicly supported, tax-exempt nonprofit organization, qualified under Section 501(c)(3) as a qualified organization under Section 170(h) of the Internal Revenue Code, whose primary purpose is the preservation, protection, or enhancement of land in its natural, scenic, historical, agricultural, forested, and/or open space condition.
- M) Grantee, Douglas County, is a governmental entity qualified under Sections 501(c)(3) and 170(h) of the Internal Revenue Code to hold an interest in this Deed of Conservation Easement.

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. Sections 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 and subject to the exceptions, terms and provisions of this Easement and to covenants, conditions, rights, rights-of-way, easements, restrictions and encumbrances of record. This Amended and Restated Deed of Conservation Easement (Restated Eagle Mountain North CE), together with the Restated Eagle Mountain South CE being recorded immediately after this instrument, merge, supersede and replace the Original Conservation Easement in its entirety without interrupting the perpetual duration of the Original Conservation Easement or the property right which vested in the Grantee upon the recording of the Original Conservation Easement.

1. Purpose. It is the purpose of this Easement, subject to the other terms and provisions of this Easement, to assure that the Property will be retained forever predominantly in its natural, scenic, and open space condition, to preserve and protect in perpetuity the wildlife, aesthetic, ecological, environmental and agricultural values and characteristics of the Property, and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. Grantor intends that this Easement will confine the use of the Property to such activities as are consistent with the

purpose of this Easement, provided that any activity on or use of the Property expressly allowed or authorized in this Easement shall be deemed to be consistent with the purposes, terms and provisions of this Easement.

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

- 2.1. To identify, preserve, protect and enhance the Conservation Values of the Property.
- 2.2. To enter upon the Property at reasonable times (ordinarily not more than two times per year) upon prior notice to the Grantor, which will be on no less than 24 hours' prior written notice to Grantor, in order to monitor Grantor's compliance with and otherwise enforce the terms of this Easement, and to observe, study and make educational and scientific observations on the Property; provided, however, that any such right of entry shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property consistent with this Easement. A representative of the Grantor may accompany the Grantee on any visit to the Property permitted under this subparagraph.
- 2.3. To enjoin or prevent any activity on or use of the Property that is in violation of the terms of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any activity or use in violation of this Easement.

3. Parcels, Areas, Subdivision, Structures and Improvements.

3.1. General Designation of Areas. For purposes of this Easement, the Building Areas have been generally designated and are generally described on the attached **Exhibit A-4** and depicted on the attached **Exhibit B-1**:

3.1.1. Residential Parcels. Four (4) parcels (the "**Residential Parcels**"), each encompassing not less than forty (40) acres, are permitted on the Property. The Grantor shall survey the boundaries for any such Residential Parcel and record an amendment to this Easement which depicts and describes the boundaries for such proposed Residential Parcel, prior to the conveyance of any such Residential Parcel into separate ownership. If the Grantor elects to designate less than four Residential Parcels, nonetheless four Residential Building Areas, as described below, are permitted on the Property, and in such event, not more than two (2) of the four (4) permitted Residential Building Areas may be located on a single Residential Parcel.

3.1.2. Potential Building Areas and Residential Building Areas. The parties have designated four (4) "**Potential Building Areas**" in the location generally described and shown on the attached **Exhibits A-4 and B-1**. Within each

Potential Building Area the Grantor may locate a final single 5-acre "**Residential Building Area**", as provided herein.

3.1.3. Relocation of a Potential Residential Building Area to the area West of Cook Creek. At the election of the Grantor one of the Potential Residential Building Areas may be relocated (the "**Relocated Potential Residential Building Area**") to the area of the Property west of Cook Creek upon notice to and approval of the Grantee, which approval shall not be unreasonably withheld. In the event of such relocation, the Ranch Building Area described herein shall at all times thereafter remain a part of the Parcel within which such Relocated Potential Residential Building Area is located.

3.1.4. Agricultural Building Area; Ranch Building Area.

3.1.4.1. Agricultural Building Area. Within the northern portion of the Property depicted on the attached **Exhibit A-5**, the Grantor may also locate a single "**Agricultural Building Area**" of five (5) acres as provided herein. Grantor may increase the size of the Agricultural Building Area to a maximum of ten (10) acres, in which case a corresponding deduction shall be made in the maximum size of the Ranch Building Area hereafter defined.

3.1.4.2. Ranch Building Area. A "**Potential Ranch Building Area**" has been generally located on the Property as shown on the attached **Exhibit B-1**. At the location of the Potential Ranch Building Area the Grantor may locate a final single "**Ranch Building Area**" of not more than 15 acres in size, as provided herein and subject to the adjustment in size as provided in Paragraph 3.1.4.1 above. After designating a final Ranch Building Area, as provided herein, the potential to use the undesignated portion of the Potential Ranch Building Area as the Ranch Building Area shall be extinguished, but the Grantor may locate all or a portion of the Relocated Potential Residential Building Area within such undesignated portion of the Potential Ranch Building Area.

3.1.4.3. Designation of Areas. The Agricultural Building Area and the Ranch Building Area shall be designated at the same time. The total acreage in the Agricultural Building Area and the Ranch Building Area shall not exceed twenty (20) acres.

3.1.5. Open Area. The portion of the Property outside of the Residential Building Areas, the Agricultural Building Area, and the Ranch Building Area (collectively referred to as the "**Building Areas**") and the Flex Sites, is referred to as the "**Open Area**".

- 3.2. Final Designation of Parcels and Building Areas Recording of Amendment. Prior to construction of any improvements in a Building Area the Grantor shall obtain the written approval of the Grantee as provided in Paragraph 6, herein, which Grantee shall not unreasonably withhold or delay, as to the final location of the Building Area as requested by Grantor within the defined areas, and the Residential Parcel (except for the Ranch Building Area) within which such Building Area is located (the "**Location Approval**"). After receiving the Location Approval from the Grantee, the Grantor shall at its cost survey and pin the boundaries of such Residential Parcel and its Residential Building Area (and the Ranch Building Area and Agricultural Building Area, if applicable) (the "**Boundaries**"). Thereafter, the parties shall record an amendment to this Easement evidencing the Boundaries for such parcel and areas, and permanently extinguishing the right to use any undesignated portion of a potential area for construction of improvements. No construction shall be commenced on any parcel (other than roads that have been approved by Grantee as provided in Paragraph 4.6, herein, and have received approval from the Douglas County Engineering Division, if such approval from the Douglas County Engineering Division is legally required) or within any Building Area until after the proper recording of an amendment executed by the parties evidencing the final Boundaries for such parcel and Building Area.
- 3.3. Flex sites. The Grantor may designate at locations to be determined by Grantor (a) two (2) interior areas (the "**Interior Flex Sites**") to be used for developer enhancements, and (b) two (2) areas at the entry to the Property from Noe Road (the "**Entry Flex Sites**"). Collectively the Interior Flex Sites and the Entry Area Flex Sites are referred to as the "**Flex Sites**". The location of the Flex Sites is subject to the written approval of Grantee, which shall not be unreasonably withheld. A maximum of one water feature, which shall not exceed two (2) acres in size (excluding stock watering ponds and one draft pond for fire protection), may be constructed on one of the Flex Sites, as further described below.
- 3.3.1. Entry Area Flex Sites. The Entry Area Flex Sites shall not exceed two (2) acres in size each, except that the Grantor may also add to one of the Entry Area Flex Sites the size of the one permitted water features which shall not exceed an additional two (2) acres, for a total of four (4) acres maximum for an Entry Area Flex Site which contains the water feature. In the Entry Area Flex Sites at the two entry areas to the Property, Grantor may construct entry monumentation, security gate(s), entryway lights, fencing, signage and landscaping and other customary accoutrements, along with one water feature.
- 3.3.2. Interior Flex Sites. The two Interior Flex Sites each shall not exceed one-half (1/2) acre in size (except as provided in this subparagraph if a water feature is added), within which Grantor may construct or install visually attractive amenities and/or decorative objects. As an example, but not by

way of limitation, such amenities might include all or a portion of an old stone or other historic structure (no such structure shall be used for any purpose other than as a decorative structure), a covered viewing area with fireplace and barbeque, water features and other similar items. Stone work, including along cut and fill areas adjacent to roads, and road signage are permitted and may be located in the Open Area and are not considered Flex Sites. At the election of the Grantor one of the Interior Flex Sites may be used for the one water feature permitted in all of the Flex Sites, in which event that Interior Flex Site shall not exceed two (2) acres in total.

3.3.3. Lighting, Construction. Only soft lighting shall be used in the Flex Sites and any lighting shall be shielded so that the light is cast downward. It is the intention of the parties that improvements blend with the natural environment and be in keeping with the western ranching character of the area. Improvements other than buildings, road signage, entryways or windmills shall be no greater than 10 feet in height. Buildings in the Flex Sites shall not exceed 20 feet in height, including the roof, chimney and all appurtenances. Within one of the Interior Flex Sites the Grantor may construct one (1) building not to exceed 700 square feet in size plus a covered patio area which shall not exceed an additional 200 square feet in size; otherwise, no building within the Flex Sites shall exceed 200 square feet in size. Any improvements in the Flex Sites shall be constructed of natural materials and shall blend in with the environment, and the western themed heritage of the area and shall not be of a modern or contemporary nature or character, and shall not include modern sculpture. Windmills shall be constructed of flat finished metal or flat finished painted metal so that they blend in with the natural setting and shall be no more than 35 feet high.

3.4. Subdivision. Each Residential Parcel may be owned and conveyed as a separate parcel. Any other partition, division, subdivision or *de facto* subdivision of title to the Property, whether by physical or legal process, is prohibited. At all times the entire Property shall remain subject to the terms of this Easement.

3.5. Construction Within Building Areas; Designation of Ranch Building Area.

3.5.1. Residential Parcel and Residential Building Area. Prior to any new construction in a Residential Building Area or the Agricultural Building Area the Grantor shall provide the Grantee with copies of construction plans for the structures, for review by the Grantee to ensure compliance with the terms of this Easement and so Grantee can update its records.

3.5.2. Ranch Building Area. Prior to any new construction in the Ranch Building Area the Grantor shall provide the Grantee with copies of construction plans for the structures, for review by the Grantee to ensure



compliance with the terms of this Easement and so Grantee can update its records.

3.5.3. Approvals. All structures shall be constructed in compliance with all applicable Douglas County regulations and all proper reviews and approvals shall be received.

3.6. Structures Permitted on Property.

3.6.1. Structures Permitted in the Residential Building Area and Agricultural Building Area. Within each Residential Building Area the Grantor may construct, maintain, repair, enlarge and/or replace one single-family house with attached garage, one guest house, and recreational structures such as an outdoor tennis court and a swimming pool. No barns, riding arenas or other agricultural structures are allowed, except that within the Agricultural Building Area, Grantor may construct, maintain, repair and replace one barn, one hay barn and one corral of not more than 20,000 square feet immediately adjacent to the barn and fence the corral area, an outdoor arena, and all or a portion of the boundary of the Agricultural Building Area. No indoor riding arenas are permitted on the Property, except within the Ranch Building Area.

3.6.2. Structures in Ranch Building Area. Within the Ranch Building Area the following structures exist at the time of granting of this Easement: a milk barn and two storage sheds (the “**Existing Ranch Structures**”). The Grantor may construct, maintain, repair and/or replace the Existing Ranch Structures, and two additional barns (one horse barn and one hay barn), one indoor riding arena and one outdoor riding arena, a ranch manager’s residence which shall be no larger than 2000 square feet in size (excluding basement and attached garage area), together with customary fencing, corrals, lean-tos, sheds and other agricultural structures for the use of an owner or owners of the Residential Parcels and their guests only. Instead of constructing two new barns, the Grantor may elect to enlarge the existing milk barn, in which case only one additional barn shall be permitted in the Ranch Building Area.

3.6.3. Structures in Open Area. No buildings, structures or improvements shall be constructed in the Open Area, except as permitted in the Flex Sites, and except for (a) up to two stock watering ponds that collectively are not more than two (2) acres in size, (b) stock watering tanks, (c) the fences permitted herein, and (d) one fire draft pond.

3.6.4. Construction of Structures and Barns, including Improvements in Flex Areas. The exterior (but not the frame) of any structures permitted hereunder (except the barns) shall be constructed of natural materials; no

reflective metal roofs are allowed. If painted, the paint shall be non-reflective and shall be earth tone colors. The barns permitted hereunder shall be constructed of wood, or if approved by Grantee, wood-type materials, but in no event shall such barns be constructed of metal. The barns may be stained or painted a natural color or red, using only non-reflective paint.

- 3.7. Utilities. Utilities for service of the permitted structures and uses on the Property may be constructed, repaired and maintained in areas where such utilities presently exist, in areas adjacent to then existing roads, and in the Building Areas and the Open Area, provided that all new utility lines shall be placed underground but fire hydrants and reasonably screened water storage tanks for fire protection purposes, as required by fire officials, may be placed in the Open Area above ground. Grantor may grant all necessary or appropriate easements relating to the foregoing.
- 3.8. Fences. Grantor may construct, repair or replace fences on the boundaries of the Property, and on the boundaries of and within the Building Areas. Grantor may also maintain, repair, replace or relocate the existing cross-fencing, which is described in the Baseline Documentation Report, provided that if fencing is relocated the total amount of cross-fencing shall not be increased by more than 20%. The Grantor may also fence along both sides of the main access road(s) as permitted in Paragraph 4.6.2 herein, to create large pasture areas. The boundaries of the Residential Parcels shall not be separately fenced. In the Open Area of the Property, Grantor may construct agricultural fences only in accordance with this Easement and/or the Grazing Plan, described herein. In the Open Area, fencing shall be only unpainted wood, split-rail, wire strand, barbed wire, plastic strand, round rail, iron, high tensile fencing, or three-rail plastic fencing. Column stone fencing in place of fence posts, not to exceed five feet in height, is permitted. Fencing, except within the Building Areas, shall be constructed in such a manner as to permit the migration of wildlife across the Property (except that this obligation shall not be construed to require any breaks in the fences) and shall be consistent with standards approved by the State of Colorado, Department of Natural Resources, Division of Wildlife. All fencing shall be in accordance with applicable Douglas County regulations. No white fencing is permitted anywhere on the Property.
- 3.9. Boundary Fences. On or before December 31, 2008 at its cost the County shall construct a fence on Grantee's property, which fence may be located on the easterly and southerly boundaries of the Property, or solely within Grantee's Property along those boundaries. The County will install signs on the fence visible on the Grantee's Property indicating that the land behind the sign (the Property) is private property and that trespassing on the Property is prohibited. The County will also install signs in areas within the Grantee's Property where the fence is not visible (because of topography or vegetation) indicating that the

boundary fence is nearby and that the land behind the boundary fence (the Property) is private property and that trespassing on the Property is prohibited. The County will enforce laws which prohibit trespassing on Grantor's Property, to the extent reasonably possible. If significant trespassing occurs from Grantee's Property onto Grantor's Property after County enforcement, then the County and Grantor will meet and discuss solutions to the problem, which solutions may include relocation of portions of the trails on Grantee's Property.

4. Uses. The Property shall be used only for agricultural, single-family residential, and equestrian use and accessory uses, or the other uses permitted herein. Any activity on or use of the Property inconsistent with the purpose of this Easement is prohibited, provided that any activity on or use of the Property expressly allowed or authorized in this Easement shall be deemed consistent with the purpose of this Easement. Without limiting the generality of the foregoing, the following activities and uses are permitted or prohibited as expressly provided below:

- 4.1. Conservation Practices; Grazing. Grantor recognizes the importance of good resource management and stewardship to present and future generations. In keeping with this, grazing of animals is permitted as provided herein, provided that the range is maintained in good condition, the Conservation Values of the Property are protected and the grazing is conducted in accordance with a grazing plan (the "**Grazing Plan**") that will be developed cooperatively by the Grantor, the Grantee, and the Natural Resources Conservation Service ("**NRCS**") (or similar agency), prior to the date of granting of this Easement. The Grazing Plan shall address grazing levels and maintenance of the range in good condition in the Open Area, limitations on fencing in the Open Area, and control of weeds on the Property. It is anticipated that the Ranch Area of the Property will be utilized as a single agricultural parcel and that interior fencing will be kept to a minimum. The Grantor and the Grantee shall review the Grazing Plan on an annual basis as a part of the annual Property monitoring by the Grantee, and such Grazing Plan may be amended within the allowed uses of this Easement. Any amendment must be mutually agreed upon by the Grantor and the Grantee, and if these parties cannot mutually agree, a mutually agreed upon unbiased third party can be called upon to mediate the proposed changes to the Grazing Plan.

- 4.2. Other Buildings and Structures Prohibited. The construction or reconstruction of any building or other structure or improvement, except those permitted in this Easement, is prohibited.

- 4.3. Vegetation. Within the Building Areas the Grantor may plant gardens and non-invasive species of plants and trees, which may include non-native plants. The planting or introduction of any invasive species (such as Russian Olive and Tamarisk, or plants listed on the State of Colorado noxious weed list prepared by the Colorado Department of Agriculture) is prohibited anywhere on the Property. Grantor may plant or relocate native vegetation, such as cottonwoods, aspen,

ponderosa pine, oak, willows and Douglas fir. Hay or forage crops may be grown on the Property, provided however, that no tillage or cultivation is allowed on the Property.

- 4.4. Timber Harvesting. Trees may be cut to control insects and disease, to control invasive non-native species, and to prevent bodily injury and property damage. Dead trees may also be cut for firewood and other uses on the Property. Commercial timber harvesting on the Property is prohibited. No tree farms are permitted on the Property.
- 4.5. Mining. The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other mineral substance, whether by surface or subsurface means, is prohibited, subject to any rights contained in the instruments recorded January 18, 1915 in Book 46 at Page 35, and November 23, 1970 in Book 212 at Page 40. However, this prohibition does not preclude moving of earth for the other uses permitted herein, nor removal of loose rocks for decorative use in the permitted structures on the Property, nor the removal of earth from one location on the Property to another location on the Property, provided that the Grantor shall promptly re-grade and re-seed the disturbed area with natural grasses approved by Grantee, and thereafter maintain the re-seeded area.
- 4.6. Paving, Road and Trail Construction, Access Road.
  - 4.6.1. New Roads and Trails. No new roads (including two-track ranch roads) shall be created or constructed on the Property without the advance written permission of Grantee, which permission Grantee may withhold if Grantee reasonably determines that the proposed road will substantially diminish or impair the Conservation Values of the Property except that roads and trails for lot development shall be permitted for ingress, egress, construction, development, redevelopment and maintenance of (a) improvements on the Residential Parcels, (b) water and water wells now and/or hereafter located in the Open Area, subject to the terms of Paragraph 4.8, pertaining to Water Rights, herein, and (c) two-track ranch roads to the Flex Sites and stock watering ponds. No new trails shall be created or constructed on the Property without the advance written permission of the Grantee which Grantee may withhold in its discretion. However, an unpaved trail is permitted to extend across the Open Area to the southern boundary of the Property in a location agreed upon by Grantor and the County, in order to provide access by owners of Residential Parcels and their guests, to the trail to the summit of Spruce Mountain located on the adjoining property to the south, on such terms as are provided in such agreement.
  - 4.6.2. Roads, Driveways, Paving. Grantor may locate access roads (as described in Paragraph 4.6.3, below) and driveways on the Property in locations which have been approved by Douglas County as required by Douglas

County for approval of the structures permitted herein. The main Access Road(s) and driveways may be paved, or otherwise covered with concrete, asphalt or other paving material. No other portion of the Property (except limited areas adjacent to the permitted structures within the Building Areas, and adjacent to the permitted structures described herein, below, which covering the Grantor may maintain, repair and replace) shall be paved or otherwise covered with concrete, asphalt, or any other paving material except gravel, caliche and/or rock.

- 4.6.3. Access Road from Noe Road. The Grantor may construct access roads (the “**Access Roads**”) to the Property from Noe Road, in locations determined by Grantor and approved by Douglas County Engineering Division, in consultation with Douglas County Open Space and Natural Resources Division. The locations of the Access Roads may be changed by Grantor for emergency, drainage, engineering, monetary or other considerations or based upon the final location of the Building Areas as provided herein. It is the intent of the parties that the Property will be accessed by a single road, as shown on Exhibit B-2, which will provide access for Residential Building Areas 1 through 4. A second access road or a loop road (collectively the “**Second Road**”), may be constructed in the locations shown on the attached Exhibit B-2 if (a) required by the Douglas County Engineering Division; (b) the Residential Parcels which include Residential Building Areas 3 and 4 are sold together to a single buyer; (c) County requirements for a single road make it more expensive to construct than a loop road; or (d) County requirements for a single road require it to be significantly wider than a loop road, such that it negatively effects the scenic Conservation Values of the Property. As shown on Exhibit B-2 the Second Access Road, if required or permitted, would be constructed from Noe Road utilizing the route generally shown on the attached Exhibit B-2 on the east side of Eagle Mountain which route crosses property owned by the Grantee adjacent to the East boundary of the Property (“**Grantee’s Adjacent Property**”) which is described on the attached Exhibit B-3). The Second Access Road would be subject to the following: (a) the Second Access Road shall be located as close to the western boundary of Grantee’s Adjacent Property as grade, terrain and tree cover allow; (b) the location and design of the Second Access Road shall be approved by Grantee, which approval shall not be unreasonably withheld; (c) Grantee shall grant an easement to Grantor, in a form approved by each, for such Second Access Road which easement shall provide that Grantor shall be responsible for maintenance and insurance, and shall indemnify and hold harmless Grantee for use of the easement; and (d) Grantor, at its cost, may construct and maintain a fence on the easterly and southerly side of such road which fence shall be not more than ten (10) feet from the roadway and shall comply with the provisions of

Paragraph 3.8, above.

4.7. Trash; Storage of Vehicles. The dumping or uncontained accumulation of any kind of trash or refuse on the Property is prohibited. The outside storage of abandoned or inoperative vehicles is prohibited. The outside storage of trucks, motor homes, and vehicles larger than commercial automobiles (other than horse trailers, farm or other equipment used in connection with the operation or maintenance of the Property), for extended periods of time is prohibited. Vehicles shall be stored only as permitted herein, and only within the Building Areas.

4.8. Water Rights.

4.8.1. Protected Water: The following water associated with the Property is referred to as the “**Protected Water**” and is considered a part of the Property for the purposes of this Easement: (i) all surface water or water rights; (ii) all tributary water or water rights; (iii) all water from the Dawson aquifer, the undifferentiated Dawson aquifer, and the Lower Dawson aquifer, regardless of how such water may be characterized; and (iv) water and water rights from the Denver aquifer in such amounts as may be necessary to comply with the augmentation requirements set forth in Water Case No. 90CW179, subject to revision of that decree described below.

Grantor shall not separate the Protected Water from title to the Property itself by transfer, encumbrance, lease, sale or otherwise, except as may be necessary to provide water to four (4) home sites on the Residential Parcels and Residential Building Areas associated therewith, and the Ranch Parcels and the Ranch Parcels Building Areas associated therewith. Grantor shall permit development and use of the Protected Water only for continued beneficial use on the Property and shall not develop the Protected Water for export off of the Property. Grantor shall not expand existing irrigation to new areas on the Property without Grantee’s consent. Grantor agrees to apply the Protected Water identified in (i) and (ii) above, solely and continually to beneficial use on the Property to the full extent allowed, so as to avoid any claim of abandonment. Grantor may use the Protected Water on the Property for any of the permitted ranching, residential, or other uses allowed under the terms of this Easement, and under Water Decrees Nos. 86CW056 and 86CW057, District Court, Water Division No. 1, Colorado, and the Augmentation Plan as set forth in Water Case No. 90CW179, District Court Water Division No. 1, Colorado, which Grantor may amend, vacate or replace from time to time upon thirty (30) days’ prior written notice to Grantee, provided that Grantor may make any use of the Dawson aquifer water on the Property consistent with and subject to the terms of this Easement, which uses may include, but are not limited to, limited residential use, limited agricultural uses such as

irrigation or stock watering ponds, and limited uses in Flex Sites, such as for ponds or water features. To the extent that Case No. 86CW57 and/or 90CW179 are amended or vacated so that water from the Denver aquifer is no longer dedicated to use under such decrees, that Denver aquifer water shall become Severable Water. Grantee's participation in any case filed by Grantor pursuant hereto shall be limited to insuring continued compliance with the requirements under this Easement. Under no circumstances shall the Dawson aquifer water become Severable Water or used as augmentation water under any augmentation plan for use off of the Property.

- 4.8.2. Severable Water: The water rights associated with the Property that are not a part of the Protected Water are referred to as the "**Severable Water**". As of the date of recording of this instrument the Severable Water is owned by Spruce Mountain Land and Cattle, LLC, an Illinois Limited liability company (except that Grantor is the owner of a portion of the Severable Water Rights that Grantor acquired pursuant to the Special Warranty Deed recorded on June 6, 2007 as Reception No. 2007045375 of the records of Douglas County). Grantor and Spruce Mountain Land and Cattle, LLC, an Illinois Limited liability company, and the successors and assigns of each, are collectively referred to as the "**Severable Water Owner**". The Severable Water is that portion of the ground water from the Denver aquifer not reserved as augmentation water in Water Case No. 90CW179 and all ground water from the Arapahoe and Laramie Fox-Hills aquifer groundwater associated with the Property, and was adjudicated in Water Case No. 86CW056, District Court, Water Division No. 1, Colorado, and is subject to the Augmentation Plan as set forth in Water Case No. 90CW179, District Court, Water Division No. 1, Colorado. The Severable Water Owner shall retain the rights regarding the Severable Water as established by law and by Water Cases Nos. 86CW056 and 90CW179, subject to revision of that case described above; and the Severable Water Owner may use said Severable Water for any lawful purpose on or off of the Property. Severable Water Owner shall have the right to combine ownership of the Severable Water with ownership of the Property, or to keep the Severable Water severed from ownership of the Property and move its place of use to any location off the Property. The Severable Water Owner shall have the right to use and hereby reserves unto Severable Water Owner, its successors and assigns, the right to use any and all well sites associated with the Severable Water as established by the Water Cases Nos. 86CW056 and 90CW179 as they may be amended from time to time and any new, relocated, additional or supplemental well sites as allowed by the law and said Water Cases. Further, Severable Water Owner reserves unto the Severable Water Owner, its successors and assigns, the necessary easements and rights of way for access and development of well sites designated in Water Cases

Nos. 86CW056 and 90CW179 or to access and develop any new, relocated, additional or supplemental well sites as may be designated for use by the Severable Water Owner under the law and said Water Cases and the **Amended Agreement to Grant Easements** dated effective June, 1, 2007 and recorded on August \_\_\_\_\_, 2007 as Reception No. \_\_\_\_\_ of the records of the Douglas County, Colorado, Clerk and Recorder.

- 4.8.3. Water Rights Restrictions. Use and development of the Severable Water by the Severable Water Owner and by its successors and assigns shall not occur on the adjoining 420-acre Spruce Mountain Parcel, described on the attached **Exhibit A** (except in the area as permitted under the Well Easement Agreement recorded on January 23, 2003 at Reception No. 2003009370 of the records of the Douglas County, Colorado, Clerk and Recorder) and are subject to the “**Water Rights Restrictions**” described in this paragraph. Severable Water Owner retains the right to transfer, sell, encumber, lease or otherwise sever all Severable Water from title to the Property itself; subject however, to any State of Colorado rules and regulations in effect at the time of the use, and subject to the following **Water Rights Restrictions**: (1) water storage facilities and water tanks, electrical transmission and distribution lines, and water pipelines, shall be placed underground; (2) wellheads, pumping equipment, transfer facilities, controls and control panels, pipeline breathers, electrical power transformers and associated power panels, shall either be placed underground (which may include a raised or bermed area that permits drainage by gravity flow from any underground vault) or reasonably screened or concealed from view by the use of existing topography, existing native vegetation, newly planted but native vegetation, and use of natural tone coloring; (3) except as reasonably increased due to technological changes, wellheads shall not exceed three feet in height above grade level, pipeline breathers shall not exceed four feet above grade level, and electrical transformers and associated power panels shall not exceed six feet above grade level; (4) drilling equipment may be located above ground without concealment or screening, provided that such equipment shall be promptly removed after drilling is completed, which ordinarily would be not more than 60 days after drilling is commenced, and such equipment shall not become permanent; (5) travel for the purpose of water development shall be restricted to existing roads to the extent such roads provide direct access to the water facilities; (6) any new well access roads shall be unpaved and should avoid ridge tops and other highly visible areas if possible, unless economic cost differential between the proposed location and an alternative which minimized the effects on the Conservation Values of the Property described in this Easement outweighs the potential degradation of the Conservation Values associated with the proposed location; (7) new facilities, including new



roads, pipelines and utilities, shall not be located in riparian and wetlands areas, except such roads, pipelines and utilities may cross wetlands or riparian areas at approximately ninety degree angles (and except that Severable Water Owner may put Severable Water into Cook Creek for the purpose of transporting it off of the Property); (8) areas of surface disturbance, including temporary roads, such as those associated with drilling, shall be mitigated by promptly restoring soils to the original contours and replanting and re-establishing native vegetation, after consultation with Grantee; (9) any facilities or equipment located above grade shall promptly be removed or cut off to grade once such facilities or equipment are permanently taken out of service and no longer needed; and (10) to the extent feasible without impairing the practical ability to withdraw all of the Severable Water, wellheads shall be located so as to not take away from the overall viewing experience by passengers in automobiles traveling at normal rates of speed by an unbiased independent third party from Interstate 25 Highway, Spruce Mountain Road, Noe Road or County Road 105 (Perry Park Road). Vegetation may be used to reasonably screen or conceal such wellheads from said highway and roads.

4.8.4. Execution by Severable Water Owner. Severable Water Owner has executed this instrument for the purpose of acknowledging and agreeing that the Severable Water Owner, its successors in interest and assigns, and the Severable Water, are subject to and bound by:

4.8.4.1. the provisions and restrictions of this Easement which pertain to the Severable Water Owner, its successors in interest and assigns, and to the Severable Water; and

4.8.4.2. any future amendments, revisions, modifications or restatements of this Easement (a "CE Amendment"), which pertain to Severable Water Owner, its successors in interest and assigns, or to the Severable Water, all of which shall be binding upon and enforceable against Severable Water Owner, its successors in interest and assigns, and against the Severable Water, without such CE Amendment being approved by or on behalf of the Severable Water Owner, and without such CE Amendment being executed by or on behalf of Severable Water Owner, its successors in interest and assigns, provided that no provisions of such CE Amendment which are less favorable to Severable Water Owner, its successors in interest and assigns, shall be enforceable by Grantee, unless such provision has been approved by the Severable Water Owner, as evidenced by its execution of such CE Amendment.

4.8.4.3. Notwithstanding anything to the contrary herein, the execution of this instrument by the Severable Water Owner shall not diminish

or increase the rights of the Severable Water Owner under the Original Conservation Easement, and such rights shall not be diminished or increased without a CE Amendment that is executed by the Severable Water Owner, the Grantor and the Grantee.

- 4.9. Commercial or Industrial Activity; Nuisances. No commercial or industrial uses shall be allowed on the Property, except as provided herein. Examples of such prohibited uses are: commercial feedlots, meat or poultry processing facilities, commercial greenhouses, commercial nurseries, tree farms, sawmills or logging operations or facilities, agricultural products wholesale or retail outlets, concentrated animal feeding operations and other similar intensive agricultural uses, and commercial recreational uses.
- 4.10. No Access to Other Properties; Use of Access; Granting of Easements. Grantor shall not grant or permit access across or parking on the Property to or for the benefit of any other property without the prior written approval of Grantee. Notwithstanding anything herein to the contrary, Grantor may grant easements onto the Property for the location of utilities for use on the Property, as provided herein.
- 4.11. No Transfer of Development Rights. Subject to the terms and provisions of this Easement, Grantor hereby grants to Grantee all development rights to the Property, including any rights accruing under or associated with the Rural Site Plan for 85 sites submitted to Douglas County on October 20, 2001 (the “**Site Plan**”) to the extent that portion of the Site Plan pertains to this Property, the right to grant any access across the Property for the use of any property other than this Property, except for the particular development rights specifically reserved herein, for the limited purpose of ensuring that such rights are forever terminated and extinguished and may not be used on or transferred off of the Property by Grantor or Grantee or any other party to any other property, adjacent or otherwise, or used as a credit for density of development anywhere, by Grantor, Grantee, or any other party. Grantor specifically grants to Grantee any right Grantor has to grant access across its property to or for the benefit of any other Property, for the limited purpose of ensuring that this right is forever terminated and extinguished. Grantee acknowledges that it may not exercise such rights for the benefit of any property other than the Property.
- 4.12. Recreation; Motorized Vehicles. The Property may be used for passive recreational uses such as horseback riding, hiking, cross-country skiing, fishing and hunting in accordance with applicable laws and regulations. Except as otherwise set forth in this Easement, golf courses, aircraft landing facilities, and other intensive or commercial recreational uses of the Property are prohibited. Motorized vehicles may be used (i) on any roads, driveways, access areas and access easements on the Property, regardless of whether such roads, driveways, access areas and access easements are located in the Building Areas or in the Open Area, and (ii) on any portion of the Open Area that is not in use as a road,

driveway, access area or access easement only for agricultural and property management (but not for recreational uses). No snowmobiles, all-terrain vehicles or other off-road vehicles shall be used for recreational purposes on the Property.

- 4.13. Wildlife Habitat. With the prior written approval of the Grantee, which will not be unreasonably withheld, Grantor may make changes to the Property to maintain, improve or enhance wildlife habitat on the Property.
- 4.14. Leases. Grantor agrees not to enter into any lease or other agreement for all or a portion of the Property, unless such lease or other agreement includes reference to this Easement, and unless such lessee or other party agrees in writing to comply with the terms of this Easement. Nonetheless, the Grantor shall remain liable for compliance with all of the terms and conditions of this Easement.
- 4.15. Sales and Marketing. So long as Grantor or Grantor's assigns are actively marketing the first sale of any Residential Parcel after the recording of this Easement, Grantor and Grantor's assigns shall be permitted to post and maintain on the Open Area and the Entry Area Flex Sites signs, sales displays and one or more mobile sales trailers, and to conduct general sales, development, and construction activities to promote the initial sale of the Residential Parcels to the general public or to persons intending to buy such Residential Parcels for their own use. All such activities shall be conducted in accordance with all applicable laws and regulations.
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, Grantor shall notify Grantee in writing not less than thirty (30) 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 therefor. Unless otherwise provided herein, 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 and preservation of the Conservation Values of the Property. If Grantee fails or declines to notify Grantor of any denial of Grantor's request for approval within the thirty-day period provided above, Grantee will be deemed conclusively to have approved Grantor's request.
7. Enforcement. Subject to Grantee's obligations described in paragraph 6, above, Grantee shall have the right to prevent and correct or require correction of violations of the terms and purposes of this Deed. In the case of a reasonable belief that a violation of this Easement may have occurred, and upon not less than 24 hours' prior written notice (which does not have to be given by certified mail), Grantee may enter the Property for

the purpose of inspecting for violations. If Grantee finds what it believes is a violation, 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 which 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 obtain 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. If a violation by Grantor is determined to have occurred, any reasonable costs incurred by the Grantee in enforcing the terms of this Easement against Grantor, including without limitation any reasonable costs of suit and attorneys' fees, and any reasonable 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, or if it is otherwise determined that Grantor has not violated the terms of this Easement, Grantor's reasonable costs incurred as a result of the Grantee's enforcement actions, including, without limitation, any reasonable costs of Grantor's suit or defense, and attorneys' fees, shall be borne by the Grantee, jointly and severally.
9. Grantee's Discretion. Subject to Grantee's obligations described in Paragraph 6, above, 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 estoppel, laches or prescription, subject to Grantee's obligations described in Paragraph 6, above. The failure of Grantee to discover a violation or to take immediate legal action shall not bar it from doing so at a later time and Grantor hereby waives any defense available to Grantor pursuant to C.R.S. Section 38-41-119.
11. Acts Beyond Grantors' 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, as evidenced in the Baseline Documentation, resulting from causes beyond Grantor's control, including, without limitation, acts of God, fire, flood, storm, wind 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.

12. No Public Access Required or Created. Notwithstanding anything herein to the contrary, no right of access by the general public to any portion of the Property is conveyed by this Easement. The Grantee has no right to grant any access to the Property or easements or licenses on the Property by virtue of this Easement. Grantor may permit public access onto the Property for outdoor, environmental, agricultural, historic and other educational purposes, for nature appreciation, for viewing of historic structures, or for such other purposes consistent with the terms of this Easement, and on such terms and conditions as the Grantor deems appropriate.
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 the maintenance of adequate comprehensive general liability insurance coverage. Grantor shall keep the Property free of any mechanics' liens arising out of any work performed for, materials furnished to, or obligations incurred by Grantor which may have priority over the terms of this Easement.
14. Taxes. Grantor shall pay before delinquency all undisputed 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 thirty (30) 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. Responsibility for Actions.
  - 15.1. Grantor, for itself and its successors and assigns, shall hold harmless and indemnify Grantee and its members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively the "**Grantee 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 by Grantor, its successors and assigns, except to the extent due to the negligence or willful misconduct of any of the Grantee Indemnified Parties; (2) the failure by the Grantor to perform the Grantor's obligations hereunder; and (3) the presence or release of hazardous or toxic substances on, under or about the Property, by Grantor, its successors and assigns, unless introduced onto the Property by one or more of the Grantee Indemnified Parties. For the purpose of this paragraph, hazardous or toxic substances shall mean any hazardous or toxic substance which

is regulated under any federal, state or local law.

- 15.2. Grantee shall be responsible for: (1) the negligent actions of its officials, employees, and agents in the performance or failure to perform their obligations pursuant to this Easement; and (2) injury to or the death of any person, or physical damage to any property, proximately caused by any intentional or negligent act or omission of Grantee, its officials, employees, or agents related to or concerning the Property. As to the County, such liability shall not exceed an amount equal to any limits set forth in the Colorado Governmental Immunity Act now existing or as may hereafter be amended, nor confer any rights or benefits on any person or activity not a party to this Agreement. The County does not waive or intend to waive the limitations on liability which are provided to the County under the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S. In assuming responsibility under this paragraph, the Grantee in no way assumes responsibility for the intentional or negligent acts or omissions of Grantor, its officers, employees or agents.
16. Proceeds. This Easement constitutes a real property interest immediately vested in Grantee, which the parties stipulate to 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 grant attributable to improvements) by the ratio of the fair market value of the Easement at the time of this grant to the fair market value of the Property, without deduction for the value of the Easement, at the time of this grant (“**Grantee’s Proceeds**”). For the purposes of this paragraph, the ratio of the value of the Easement to the value of the Property unencumbered by the Easement shall remain constant. To the extent Grantee’s Proceeds exceed the purchase price for the Easement, the Grantee shall use all such proceeds in a manner consistent with the conservation purposes of this Easement.
17. Extinguishment. If circumstances arise in the future such as render the purpose of this Easement impossible to accomplish, this Easement can be terminated or extinguished, whether in whole or in part, only by judicial proceedings in a court of competent jurisdiction. Each party shall promptly notify the other when it first learns of such circumstances. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Colorado law at the time, in accordance with the “Proceeds” paragraph, herein. In the event of condemnation or termination, the County shall be entitled to receive 100% of the Grantee’s Proceeds of condemnation or sale of the Property.
18. Condemnation. If the Easement is taken, in whole or in part, by exercise of the power of eminent domain, Grantee shall be entitled to compensation in the amount of Grantee’s Proceeds.
19. Assignment. This Easement is transferable, but Grantee may assign its rights, with notice to Grantor, and obligations under this Easement only to an organization that is (a) a

qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1954, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and (b) authorized to acquire and hold conservation easements under Colorado law. If assignment is made to an organization other than one of the co-Grantees, then such assignment will be subject to the receipt of the advance written approval of Grantor, which approval shall not be unreasonably withheld. As a condition of such transfer, Grantee shall require that the conservation purposes that this grant is intended to advance continue to be carried out.

20. Subsequent Transfers; Subordination of Mortgages. Grantor agrees to incorporate the terms of this Easement by reference into any deed or other legal instrument by which it divest itself of any interest in all or a portion of the Property, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least fifteen (15) 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, nor shall it invalidate any such transfer. The Grantor covenants and represents that at the time of granting of this Easement any mortgage or deed of trust is and shall be subordinate to the terms of this Easement. No provisions of this Easement shall be construed as impairing the ability of Grantor to encumber the Property with Covenants which are subordinate to the terms of this Easement and/or to use the Property as collateral for subsequent borrowing from time to time, provided that any Covenants, mortgage or lien arising from such a borrowing shall be subordinated to this Easement.
21. Notices. Any notice, demand, request, consent, approval, or communication that either party desires or is required to give to the other shall be in writing and either served personally, sent by facsimile with a confirmation of the sending of the facsimile and a copy sent by regular mail, or sent by overnight courier or by certified mail, return receipt requested, addressed as follows:

To Grantor: at the address shown above

To Grantee:

At the addresses shown above and to:

Board of County Commissioners County of Douglas  
Director of Open Space and Natural Resources  
100 Third Street  
Castle Rock, CO 80104  
Facsimile: 303-663-2064

With a copy to:

Douglas County Attorney

100 Third Street  
Castle Rock, CO 80104  
Facsimile: 303-688-6596

and to:

The Conservation Fund  
1942 Broadway, Suite 323  
Boulder, CO 80302  
Attention: Ms. Sydney Macy  
Facsimile: 303-938-3763

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

22. Recordation. Grantee shall record this instrument in timely fashion in the official records of Douglas County, and may re-record it at any time as may be required to preserve its rights in this Easement.
23. General Provisions.
  - 23.1. Controlling Law. The interpretation and performance of this Easement shall be governed by the laws of the State of Colorado.
  - 23.2. 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. Section 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.
  - 23.3. 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.
  - 23.4. 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.
  - 23.5. No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.
  - 23.6. 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 successors, and assigns and shall continue as a servitude running in perpetuity with the Property.



- 23.7. 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.
- 23.8. 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.
- 23.9. Warranties of Title. Grantor warrants that it has good and sufficient title to the Property, that it has good right, full power and lawful authority to grant and convey this Easement subject only to those Permitted Exceptions described on the attached Exhibit D-1, that any mortgages or liens on the Property are and shall remain subordinate to the terms of this Easement and that the Property is free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances and restrictions of whatever kind or nature whatsoever which are not subordinate to the terms of this Easement, and, subject to the Permitted Exceptions, Grantor hereby promises to warrant and forever defend the title to this Easement in the quiet and peaceable possession of the Grantee, its successors and assigns, against all and every person or persons lawfully claiming the whole or any part thereof. Notwithstanding the foregoing, Grantor does not warrant that fences are located on the boundary of the Property. The parties intend that this Easement encumber the Property, including any and all soil, sand, gravel, oil, natural gas, fuel, or any other mineral substance of any type or character on or thereunder, and the Protected Water Rights described herein, now owned or later acquired.
- 23.10. Non-Merger. Unless the parties expressly state in writing that they intend a merger of estates or interests to occur, then no merger shall be deemed to have occurred hereunder or under any documents executed in the future affecting this Easement.
- 23.11. Compliance with Laws. Although Douglas County has a property interest in this Easement, nothing in this Easement shall be construed to mean that any uses, structures or construction permitted herein have been given approval by the County in its governmental capacity. To the extent that any provision of this Easement differs from the land use regulations of Douglas County, the more restrictive provision shall apply. Grantor shall be solely responsible for obtaining any other approvals necessary for the lawful use of the Property.
24. Amendment. If 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 permit the partition, division, subdivision, or *de facto* subdivision of the Property, other than expressly permitted in this Easement, nor permit any additional residential building areas on the Property, other than expressly permitted in this Easement, nor permit any commercial or industrial uses which are not otherwise permitted herein, nor shall any amendment be allowed that will affect the qualifications of this instrument under any applicable laws. Any amendment must be

consistent with the Conservation Values of this instrument and may not affect its perpetual duration. Any amendment must be in writing, signed by the Grantor and the Grantee, and recorded in the records of the Clerk and Recorder of Douglas County, Colorado.

25. No Third Party Beneficiary. This Easement is entered into by and between the Grantor and the Grantee, and except as provided herein, is solely for the benefit of the Grantor for the period of time that it is an owner of all or a portion of the Property, and the Grantee, and their respective successors in interest and assigns and does not create rights or responsibilities in any third parties.
26. Grantor's Warranties. Grantor represents and warrants that to the best of Grantor's actual knowledge but without any investigation:
  - 26.1. No substance defined, listed, or otherwise classified pursuant to any federal, state or local law or regulation as hazardous, toxic or polluting has been released, generated, treated, stored, used, disposed of, deposited, abandoned or transported in, on, from or across the Property.
  - 26.2. There are no underground storage tanks located on the Property and no underground storage tanks have been removed from the Property in a manner not in compliance with applicable federal, state and local laws and regulations.
  - 26.3. Grantor and the Property are in compliance with all federal, state and local laws, regulations and requirements applicable to the Property and its use.
  - 26.4. There is no pending or threatened litigation or investigations in any way affecting, involving, or relating to the Property; nor have any notices, claims, demands or orders been received, arising out of any violation or alleged violation of, or failure to comply with any federal, state or local law or regulations applicable to the Property and its use.
27. Liability for Period of Ownership Only. The parties shall be liable only for acts or omissions arising while owners of their respective interests in the Property. After conveyance of their respective interests in the Property, each party shall have no further rights, and shall be relieved from any further liability hereunder, arising from and after the date of such transfer.
28. Annual Appropriations. The financial obligations of Grantee shall extend only to monies duly and lawfully appropriated and budgeted by Grantee and encumbered for the purpose of this Easement, pursuant to C.R.S. Sec 29-1-110 as amended.

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

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











**DAVID E. ARCHER & ASSOCIATES, INC.**  
**PROFESSIONAL LAND SURVEYORS & ENGINEERS**  
105 Wilcox Street \* Castle Rock, CO 80104  
PHONE (303) 688-4642 \* FAX (303) 688-4675 \* darchsurv@aol.com

November 21, 2002  
Job No. 99-1308  
Page 1 of 2 pages  
Rev: December 26, 2002

**PROPERTY DESCRIPTION: TRACT 1 (420.00 ACRES)**

A tract of land situated in Sections 15, 21, 22, 28 and 29, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows;

Beginning at the Northeast corner of Section 28 and considering the East line of the North ½ of the North ½ of Section 28 to bear S 00°12'31"E with all bearings contained herein relative thereto;

Thence S 00°12'31"E a distance of 1311.87 feet to the Southeast corner of said North ½ of the North ½;

Thence S 89°57'39"W along the South line of said North ½ of the North ½ a distance of 2515.35 feet;

Thence S 69°15'35"W a distance of 370.00 feet;

Thence S 80°30'00"W a distance of 713.00 feet;

Thence N 26°50'00"W a distance of 158.00 feet;

Thence N 00°45'00"W a distance of 107.00 feet to the South line of the North ½ of the North ½ of Section 28;

Thence S 89°57'47"W along said South line a distance of 1705.15 feet;

Thence along the boundary of Spruce Mountain Estates Unit 2, for the next 8 (eight) courses;

1. Thence N 00°18'36"W a distance of 428.00 feet;
2. Thence S 89°41'24"W a distance of 761.97 feet;
3. Thence S 00°18'36"E a distance of 428.00 feet;
4. Thence S 89°41'24"W a distance of 570.00 feet;
5. Thence S 00°02'00"W a distance of 660.00 feet;
6. Thence S 89°41'24"W a distance of 715.00 feet;
7. Thence N 00°01'40"E a distance of 420.00 feet;
8. Thence S 89°41'24"W a distance of 605.00 feet to the East Right of Way line of County Road 105;

Thence N 00°08'54"W along said East Right of Way line a distance of 157.05 feet;

Thence N 89°41'24"E a distance of 823.61 feet;

Thence N 62°12'56"E a distance of 1184.45 feet;

Thence N 89°41'24"E a distance of 1648.67 feet;

Thence N 01°00'47"E a distance of 224.61 feet;

Thence N 71°12'33"E a distance of 2049.71 feet;

Thence N 47°09'11"E a distance of 1515.52 feet;

Thence N 02°55'38"E a distance of 709.48 feet;



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November 21, 2002  
Job No. 99-1308  
Page 2 of 2 pages  
Rev: December 26, 2002

**PROPERTY DESCRIPTION: TRACT 1 (420.00 ACRES) (Continued)**

Thence N 75°47'24"E a distance of 1942.14 feet;  
Thence N 00°02'55"W a distance of 3572.03 feet;  
Thence S 89°39'06"W a distance of 857.07 feet;  
Thence N 00°21'35"W a distance of 850.45 feet;  
Thence N 43°34'05"E a distance of 1451.97 feet;  
Thence S 88°56'31"E a distance of 608.53 feet to the East line of the West ½ of the Southwest ¼ of Section 15;  
Thence S 00°29'11"E a distance of 2442.17 feet to the Southeast corner of the West ½ of the Southwest ¼ of Section 15;  
Thence S 00°43'51"E a distance of 2635.47 feet to the Southeast corner of the West ½ of the Northwest ¼ of Section 22;  
Thence S 00°43'50"E a distance of 2637.86 feet to the Southeast corner of West ½ of the Southwest ¼ of Section 22;  
Thence N 89°51'16"W a distance of 1336.14 feet to the point of beginning;  
Containing 420.00 acres more or less.  
This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.





**DAVID E. ARCHER & ASSOCIATES, INC.**  
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May 25, 2007  
Job No. 99-1308  
REV: May 29, 2007

**PROPERTY DESCRIPTION: (NEW NORTH PARCEL) - REVISED**

A tract of land situated in Section 16, 21 and 22, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Southeast corner of the West 1/2 of the Southwest 1/4 of Section 15 and considering the East line of said West 1/2 of the Southwest 1/4 to bear N 00°29'11"W with all bearings contained herein relative thereto;

Thence N 00°29'11"W along said East line a distance of 2442.17 feet;

Thence N 88°56'31"W a distance of 608.53 feet;

Thence S 43°34'05"W a distance of 1451.97 feet to the true point of beginning;

Thence S 00°21'35"E a distance of 2195.56 feet;

Thence S 31°41'02"E a distance of 653.28 feet;

Thence S 00°19'10"E a distance of 753.52 feet;

Thence S 50°28'45"W a distance of 821.59 feet;

Thence S 08°27'27"E a distance of 120.95 feet;

Thence S 89°45'49"W a distance of 2611.72 feet;

Thence N 00°15'15"W a distance of 2262.79 feet;

Thence S 89°45'49"W a distance 1195.36 feet;

Thence N 30°20'08"E a distance of 46.34 feet;

Thence N 00°05'01"E a distance of 3443.67 feet to the South Right of Way line of Noe Road;

Thence Easterly along said South Right of Way line for the next 6 (six) courses:

1. Thence N 88°31'31"E a distance of 142.47 feet;

2. Thence S 85°43'37"E a distance of 888.77 feet;

3. Thence S 80°09'04"E a distance of 119.26 feet;

4. Thence S 68°23'15"E a distance of 173.42 feet;

5. Thence S 61°53'53"E a distance of 394.84 feet;

6. Thence S 89°25'21"E a distance of 2380.21 feet;

Thence S 00°21'35"E a distance of 1226.56 feet to the point of beginning;

Containing 458.57 acres, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.

EXHIBIT A-2

DESCRIPTION OF EAGLE MOUNTAIN SOUTH PARCEL

The Eagle Mountain South Parcel consists of the following three tracts which are described on the 3 attached pages:

1. "New South Parcel", 454.22 acres more or less;
2. "Tract 2", 40.00 acres, more or less; and
3. "Northeast Parcel", 18.01 acres more or less.



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May 25, 2007  
Job No. 99-1308

**PROPERTY DESCRIPTION: (NEW SOUTH PARCEL)**

A tract of land situated in Sections 21, 28 and 29, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Beginning at the Southwest corner of Section 21 and considering the West line of the Southwest 1/4 of Section 21 to bear N 00°38'07"W with all bearings contained herein relative thereto;

Thence N 00°38'07"W a distance of 2650.87 feet to the West 1/4 corner of Section 21;  
Thence N 00°47'27"W along the West line of the Northwest 1/4 of Section 21 a distance of 1311.73 feet;

Thence N 59°59'42"E a distance of 327.32 feet;

Thence N 50°34'33"E a distance of 762.58 feet;

Thence N 30°20'08"E a distance of 187.20 feet;

Thence N 89°45'49"E a distance of 1195.36 feet;

Thence S 00°15'15"E a distance of 2262.79 feet;

Thence N 89°45'49"E a distance of 2611.72 feet;

Thence N 08°27'27"W a distance of 120.95 feet;

Thence N 50°28'45"E a distance of 821.59 feet;

Thence N 00°19'10"W a distance of 328.96 feet;

Thence S 89°56'58"E a distance of 505.11 feet;

Thence S 00°02'55"E a distance of 1240.84 feet;

Thence S 75°47'24"W a distance of 1942.14 feet;

Thence S 02°55'38"W a distance of 709.48 feet;

Thence S 47°09'11"W a distance of 1515.52 feet;

Thence S 71°12'33"W a distance of 2049.71 feet;

Thence S 01°00'47"W a distance of 224.61 feet;

Thence S 89°41'24"W a distance of 1648.67 feet;

Thence S 62°12'56"W a distance of 1184.45 feet;

Thence S 89°41'24"W a distance of 823.61 feet to the East Right of Way line of County Highway 105;

Thence N 00°08'54"W along said East Right of Way line a distance of 1400.83 feet to the North line of the Northeast 1/4 of Section 29;

Thence N 89°46'20"E along said North line a distance of 2641.32 feet to the point of beginning;

Containing 454.22, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.



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November 21, 2002  
Job No. 99-1308

**PROPERTY DESCRIPTION: TRACT 2 (40.00 ACRES)**

A tract of land situated in Sections 15, 16, 21 and 22, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Southeast corner of the West ½ of the Northwest ¼ of Section 22 and considering the East line of said West ½ of the Northwest ¼ to bear N 00°43'51"W with all bearings contained herein relative thereto;

Thence N 42°53'40"W a distance of 1174.05 feet to the true point of beginning;

Thence N 89°56'58"W a distance of 505.11 feet;

Thence N 00°19'10"W a distance of 424.55 feet;

Thence N 31°41'02"W a distance of 653.28 feet;

Thence N 00°21'35"W a distance of 1345.11 feet;

Thence N 89°39'06"E a distance of 857.07 feet;

Thence S 00°02'55"E a distance of 2331.19 feet to the point of beginning;

Containing 40.00 acres more or less.

**TOGETHER WITH** an access easement described as follows;

Beginning at the Northwest corner of Tract 2 (described above);

Thence S 00°21'35"E along the West line of Tract 2 a distance of 300.00 feet;

Thence S 89°38'25"W a distance of 60.00 feet;

Thence N 00°21'35"W a distance of 1174.65 feet;

Thence N 43°34'05"E a distance of 1476.17 feet to the South Right of Way line of Noe road;

Thence S 88°05'18"E along said South Right of Way line a distance of 7.04 feet;

Thence S 89°19'17"E along said Right of Way line a distance of 74.71 feet;

Thence S 43°34'05"W a distance of 1651.16 feet;

Thence S 00°21'35"E a distance of 850.45 feet to the point of beginning;

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.



**DAVID E. ARCHER & ASSOCIATES, INC.**  
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May 29, 2007  
Job No. 99-1308

**PROPERTY DESCRIPTION: (NORTHEAST PARCEL)**

A tract of land situated in Sections 15 and 16, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Southeast corner of the West 1/2 of the Southwest 1/4 of Section 15 and considering the East line of said West 1/2 of the Southwest 1/4 to bear N 00°29'11"W with all bearings contained herein relative thereto;

Thence N 00°29'11"W along said East line a distance of 2442.17 feet to the true point of beginning;

Thence N 88°56'31"W a distance of 608.53 feet;

Thence S 43°34'05"W a distance of 1451.97 feet;

Thence N 00°21'35"W a distance of 1226.56 feet to the South Right of Way line of Noe Road;

Thence S 89°25'21"E along said South Right of Way line a distance of 278.56 feet;

Thence S 88°05'18"E along said South Right of Way line a distance of 794.15 feet;

Thence S 89°19'17"E along said South Right of Way line a distance of 544.61 feet to the East line of the West 1/2 of the Southwest 1/4 of Section 15;

Thence S 00°29'11"E a distance of 150.00 feet to the point of beginning;

Containing 18.01 acres, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.



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November 25, 2002  
Job No. 99-1308

**PROPERTY DESCRIPTION: (OF BUILDING ENVELOPE PARCEL 1)**

A tract of land situated in Sections 16 & 21, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Southeast corner of the West ½ of the Southwest ¼ of Section 15, Township 10 South, Range 67 West and considering the East line of said West ½ of the Southwest ¼ to bear N 00°29'11"W with all bearings contained herein relative thereto;

Thence S 85°40'19"W a distance of 1862.54 feet to the true point of beginning;

Thence S 89°38'06"W a distance of 569.39 feet;

Thence N 23°57'45"W a distance of 393.85 feet;

Thence N 00°49'28"W a distance of 312.91 feet;

Thence N 90°00'00"E a distance of 733.84 feet;

Thence S 00°00'00"E a distance of 669.16 feet to the point of beginning;

Containing 10.60 acres, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.



**DAVID E. ARCHER & ASSOCIATES, INC.**  
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November 25, 2002  
Job No. 99-1308

**PROPERTY DESCRIPTION: (BUILDING ENVELOPE – PARCEL 2)**

A tract of land situated in Sections 16 and 21, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows: Commencing at the Northwest corner of Section 21 and considering the West line of the Northwest ¼ of Section 21 to bear S 00°47'27"E with all bearings contained herein relative thereto;

Thence S 84°56'22"E a distance of 3034.14 feet to the true point of beginning;

Thence N 00°00'00"E a distance of 474.01 feet;

Thence N 24°59'45"E a distance of 600.52 feet;

Thence N 88°51'15"E a distance of 262.31 feet;

Thence S 01°08'45"E a distance of 1023.73 feet;

Thence N 90°00'00"W a distance of 536.47 feet to the point of beginning;

Containing 10.73 acres, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.



**DAVID E. ARCHER & ASSOCIATES, INC.**  
**PROFESSIONAL LAND SURVEYORS & ENGINEERS**

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November 25, 2002  
Job No 99-1308

**PROPERTY DESCRIPTION: (BUILDING ENVELOPE PARCEL 3)**

A tract of land situated in Section 21, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows:  
Commencing at the Northwest corner of Section 21 and considering the West line of the Northwest ¼ of Section 21 to bear S 00°47'27"E with all bearings contained herein relative thereto;

Thence S 67°53'17"E a distance of 2964.99 feet to the true point of beginning;

Thence N 66°58'28"E a distance of 510.05 feet;

Thence S 36°46'44"E a distance of 809.93 feet;

Thence S 00°15'17"E a distance of 360.72 feet;

Thence S 89°30'52"W a distance of 439.61 feet:

Thence N 32°23'59"W a distance of 963.67 feet to the point of beginning;

Containing 12.68 acres, more or less;

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.





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PHONE (303) 688-4642 \* FAX (303) 688-4675 \* darchsurv@aol.com

November 25, 2002  
Job No. 99-1308

**PROPERTY DESCRIPTION: (BUILDING ENVELOPE – PARCEL 4)**

A tract of land situated in Sections 21 and 22, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Southeast corner of the West ½ of the Northwest ¼ of Section 22 and considering the East line of said West ½ of the Northwest ¼ to bear N 00°43'51"W with all bearings contained herein relative thereto;

Thence N 56°55'52"W a distance of 1616.13 feet to the true point of beginning;

Thence S 46°18'50"W a distance of 368.56 feet;

Thence N 45°36'12"W a distance of 619.51 feet;

Thence N 14°12'11"E a distance of 576.97 feet;

Thence N 88°38'28"E a distance of 344.94 feet;

Thence S 31°41'02"E a distance of 419.99 feet;

Thence S 00°19'10"E a distance of 388.96 feet to the point of beginning;

Containing 11.41 acres, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.



**DAVID E. ARCHER & ASSOCIATES, INC.**  
**PROFESSIONAL LAND SURVEYORS & ENGINEERS**  
105 Wilcox Street \* Castle Rock, CO 80104  
PHONE (303) 688-4642 \* FAX (303) 688-4675 \* darchsurv@aol.com

November 25, 2002  
Job No. 99-1308

**PROPERTY DESCRIPTION: (RANCH BUILDING AREA)**

A tract of land situated in Sections 16, Township 10 South, Range 67 West of the 6<sup>th</sup> Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Northwest corner of the Southwest  $\frac{1}{4}$  of Section 16 and considering the West line of the Southwest  $\frac{1}{4}$  of Section 16 to bear S 00°04'49"W with all bearings contained herein relative thereto;

Thence N 79°33'23"E a distance of 1364.65 feet to a point on the South Right of Way line of Noe Road and to the true point of beginning;

Thence S 85°43'37"E along said South Right of Way line a distance of 698.95 feet;

Thence S 80°09'04"E along said South right of Way line a distance of 119.26 feet;

Thence S 19°53'34"W a distance of 867.94 feet;

Thence S 88°21'48"W a distance of 519.39 feet;

Thence N 00°00'00"E a distance of 903.46 feet to the point of beginning;

Containing 13.35 acres, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.





DAVID E. ARCHER  
& ASSOCIATES, INC.  
REGISTERED LAND SURVEYOR  
105 WILCOX ST.  
CASTLE ROCK, CO 80104  
PHONE 688-4642

SCALE: 1"=1300'

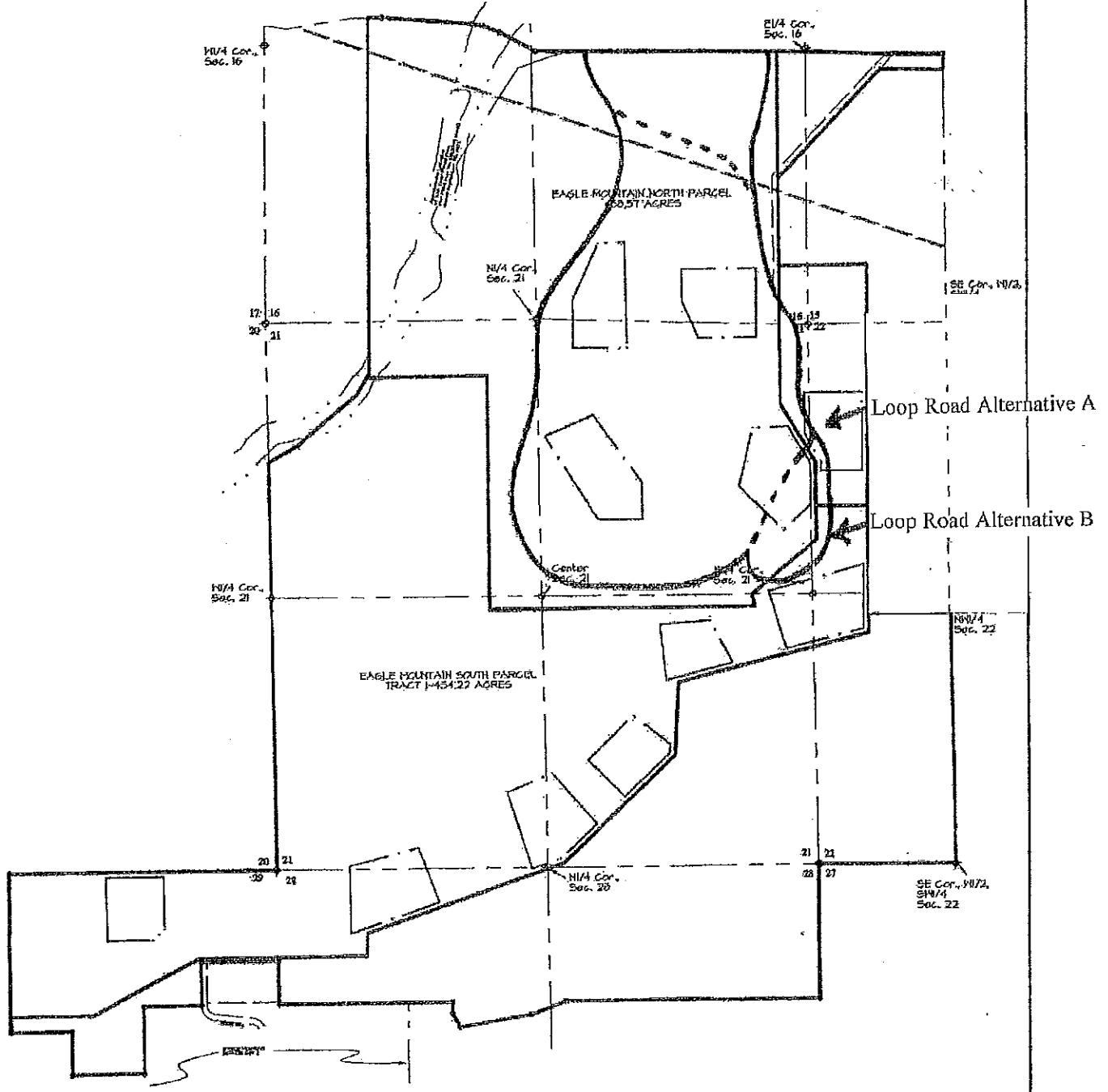
DATE: 7-26-07

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REVISIONS



# EXHIBIT B-2



**EXHIBIT B-3**

**DESCRIPTION OF GRANTEE'S ADJACENT PROPERTY**

The "Grantee's Adjacent Property" includes:

**Tract 2:**

A tract of land situated in Sections 15, 16, 21 and 22, Township 10 South, Range 67 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Southeast corner of the West 1/2 of the Northwest 1/4 of Section 22 and considering the East line of said West 1/2 of the Northwest 1/4 to bear N 00°43'51 W with all bearings contained herein relative thereto;

Thence N 42°53'40"W a distance of 1174.05 feet to the true point of beginning;

Thence N 89°56'58"W a distance of 505.11 feet;

Thence N 00°19'10"W a distance of 424.55 feet;

Thence N 31 °41'02"W a distance of 653.28 feet;

Thence N 00°21'35"W a distance of 1345.11 feet;

Thence N 89°39'06"E a distance of 857.07 feet;

Thence S 00°02'55"E a distance of 2331.19 feet to the point of beginning;

**AND:**

A tract of land in the New South Parcel adjacent to Tract 2 on the south described as follows:

Commencing at the point of beginning of Tract 2, described above, thence along the eastern boundary of the New South Parcel described in Exhibit A-2, page 1, S00°02'55"E to the center section line of Section 22, T10S, R67W of the 6<sup>th</sup> P.M., thence N90°00'00"W along said center section line to the southwest corner of said Section 22 and the southeast corner of Section 21, T10S, R67W of the 6<sup>th</sup> P.M; thence continuing along the center section line of said Section 21 to the easterly boundary of the Eagle Mountain North Parcel described in Exhibit A-1, thence along the easterly boundary of said Eagle Mountain North Parcel the following two calls: (1) N50°28'45"E a distance of 821.59 feet, (2) N00°19'10W a distance of 328.96 feet; thence S 89°56'58"E a distance of 505.11 feet to the point of beginning.

**EXHIBIT C**

Acknowledgment of Baseline Documentation Report

The undersigned, Eagle Mountain Preserve, L.L.C. (the "Grantor") and representatives of The Conservation Fund, a Maryland non-profit corporation and the Board of County Commissioners of the County of Douglas, State of Colorado, acknowledge that the "Eagle Mountain Property Baseline Documentation Report" dated December 2002 and executed January, 2003, continues to be an accurate representation of the biological and physical condition of the Eagle Mountain Property as of the date of conveyance of this Easement in August, 2007.

GRANTOR

EAGLE MOUNTAIN PRESERVE, L.L.C., a Colorado limited liability company

\_\_\_\_\_  
Name Alex Weimer Manager (Date) 8/1/07

THE CONSERVATION FUND, a Maryland non-profit corporation (the GRANTEE)

by: Sydney Macy 8/1/07  
its: Vice President (Date)

BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO (the GRANTEE)

by: [Signature] 8/3/07  
its: County Administrator (Date)

**Exhibit D-1 Permitted Exceptions to Title**  
(North CE)

1. Ditches, waterways, and headgates in connection with the Noe Reservoir as shown on the "plat of Noe Reservoir" filed January 16, 1914 in Big Book 1 at Page 22.
2. The effect of Cook Creek as shown in the "plat of Noe Reservoir" filed January 16, 1914 in Big Book 1 at Page 22.
3. Right of way easement as granted to American Telephone and Telegraph Company in instrument recorded March 2, 1964 in Book 155 at Page 374.
4. All rights to any and all minerals, ores and metals of every kind and character, and all coal, asphaltum, oil and other like substances in or under the property, and the right of ingress and egress for the purpose of mining, together with enough of the surface as may be necessary for the proper and convenient working of such minerals and substances as reserved in the patent recorded November 23, 1970 in Book 212 at Page 40, which minerals were conveyed by I. J. Noe to the State of Colorado by deed recorded June 11, 1926 in Book 78 at Page 78, and any an all assignments thereof or interests therein.
5. Right of way for Cook Creek Ditch and Hillside Ditch as shown by decree recorded April 7, 1890 in Book W at Page 500.
6. Right of way easement as granted to American Telephone and Telegraph Company in instrument recorded March 26, 1964 in Book 156 at Page 77 to 81 and recorded May 7, 1964 in Book 157 at Page 8.
7. Rights of way for any and all county roads and highways including but not limited to that as shown in map and statement filed July 22, 1885 in Book 1 of Plats at Page 38 and filed April 6, 1880 in Book 1 at Page 4.
8. Right of way for a roadway and for purposes of ingress and egress as granted to Richard C. Noe, Fred W. Noe, Charles L. Noe, Jennie Katheryne Raber and Gertrude Ann Elliott by Jack D. Hogan and Elmer R. Olinger recorded February 11, 1980 in Book 382 at Page 191.
9. Ordinance No. 217 regarding disconnection of Spruce Mountain Ranch from Town of Larkspur recorded August 7, 1997 in Book 1454 at Page 134.
10. Terms, conditions and provisions of Agreement to rescind Annexation Agreement recorded September 18, 1997 in Book 1446 at Page 742.
11. Effect of Resolution No. PC 98-001 Amending Master Land Use Plan for Spruce Mountain Ranch. Recorded June 10, 1998 in Book 1559 at Page 2270.
12. Resolution R998-059 recorded May 15, 1998 in Book 1549 at Page 1780.
13. 100 Year Flood Plan as shown on Exhibit by David E. Archer and Associates Job #99-1308.
14. Terms, conditions, provisions, of Findings of Fact, Conclusions of Law, Ruling of the Referee, Judgment and Decree of the District Court recorded August 10, 2005 at Reception No. 2005075296.