

## RESOLUTION NO. 36-24

### A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO SIGN A CONTINGENT OFFER TO PURCHASE REAL PROPERTY LOCATED AT OR NEAR 2767 – 2773 C ½ ROAD AND INCLUDING THE ADJACENT AND UNADDRESSED PARCELS UNDER COMMON OWNERSHIP OF THE SELLERS, GRAND JUNCTION, COLORADO

#### RECITALS:

The City Council has been presented the opportunity to purchase approximately 12.5 acres of property (Property) adjacent to the Colorado River. The Property is located at or near 2767-2773 C ½ Road and includes the unaddressed parcels under common ownership of the Sellers in South Grand Junction. The Property, if purchased, will, among other things, provide the land necessary for completing the Riverfront Trail.

In the mid-1980s, a grass roots effort began to reclaim the riverfront from the junkyards and waste that had accumulated on the banks of the Colorado River. In 1985, that effort grew into a broader community mission of the Grand Junction Lion's Club, the Western Colorado Botanical Society and others volunteering their time and talent to clean up the Riverfront. That work contributed to the formation of the Riverfront Commission and the broader goals of creating public spaces and trails along the River. In 1994 the City acquired the former Climax uranium mill site and began the process for the redevelopment of that site to include trails, public spaces, and what is now known as Las Colonias Park. In addition to the improvements to the Riverfront near Las Colonias, the City acquired property now known as Dos Rios and, has been instrumental in the construction of many miles of trail near the River to the west and north of the City.

The approximately 12.5-acre Property that is the subject of this Resolution is presently owned by Bennie and David Skinner (Sellers). The Sellers have agreed to sell the Property to the City by a General Warranty deed for total compensation of \$1,855,000. That amount assumes a life estate for Bennie Skinner valued at \$190,000 and the balance of \$1,655,000 to be paid in equal amounts (\$555,000) by Mesa County, Colorado Parks & Wildlife (CPW), and the City.

After the purchase, the City will convey a conservation and trail easement (C&TE) to CPW at no cost. The C&TE will concern approximately 5.5 acres of the Property.

The life estate will allow Bennie Skinner to continue to reside until her death in the house on the remaining 7+/- acres, which area will be described by survey. The area of the life estate and the C&TE will be separately described, and the management of the same may be determined by separate lease or other agreement. That agreement, if any, will allow CPW to commence all planning and the City to take on construction for the future Colorado River Trail section between Las Colonias Park and CPW's Pear Park section beginning at 29 Road.

The public will not be allowed to access the Property until construction of the trail is complete. When complete, the City will assume management responsibilities for the C&TE easement area in accordance with a management plan.

The City and CPW and the City and Mesa County will be entering into funding agreements relative to their respective participation in the acquisition of the Property. Execution of both of those agreements is and shall be a condition precedent to the City's purchase of the Property. The City and Mesa County have not determined the eventual use of the 7+/- acres; however, each has committed to a *public use* of that portion of the Property, with the current consideration being that the area may be well used for workforce, affordable and/or attainable housing.

In the 2024 budget the City Council appropriated some, but not all the funds necessary to purchase the Property. Therefore, the Council by and with this Resolution affirms and directs the execution of the offer to purchase the Property being contingent on Ordinance 5222 being approved and becoming effective and consequentially a supplemental appropriation to the City's 2024 budget being made, as described in that Ordinance, for the purchase of the Property as described in this Resolution.

The City Council has considered the opportunity to purchase the Property on the foregoing terms and does hereby and herewith authorize the Interim City Manager to sign a contingent offer to purchase the real property located at or near 2767 – 2773 C ½ Road, Grand Junction, Colorado, and finds that the contingent offer and eventual purchase of the Property to be reasonable and proper.


NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION, COLORADO:

1. The foregoing Recitals are incorporated herein and in consideration of the same and as determined by the Council and as evidenced by this Resolution, the City Council hereby authorizes the City Manager to sign a contingent offer to purchase the real property located at or near 2767 – 2773 C ½ Road, including the unaddressed parcels under common ownership of the Sellers, in Grand Junction, Colorado.
2. Notwithstanding the City Council approval of this Resolution, the contingent offer to Purchase the property is expressly conditioned on Ordinance 5222 being approved and becoming effective and consequentially making a supplemental appropriation to the City's 2024 budget, as described in that Ordinance, for the purchase of the Property.
3. And furthermore, and notwithstanding the City Council approval of this Resolution, the contingent offer to Purchase the property is expressly conditioned on Colorado Parks & Wildlife and Mesa County executing funding

agreements of no less than \$555,000 each, to be paid at closing for the purchase of the Property.

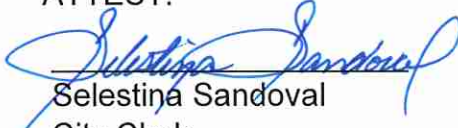
4. That the officers, employees, and agents of the City are hereby authorized and directed to take all actions necessary or appropriate to effectuate the provisions of this Resolution together with the attached Contract to Buy and Sell Real Estate (Contract), funding agreements, life estate and the conservation and trail easement without limitation, as may be necessary or desirable to effect the purchase of the Property as described therein.

PASSED and ADOPTED this 15<sup>th</sup> day of May 2024.

  
\_\_\_\_\_  
Abram Herman  
President of the City Council



ATTEST:

  
\_\_\_\_\_  
Selestina Sandoval  
City Clerk

1 The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.  
2 (CBS1-6-23) (Available 8-23, Mandatory 1-24)

3  
4 THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR  
5 OTHER COUNSEL BEFORE SIGNING.

6  
7 **CONTRACT TO BUY AND SELL REAL ESTATE**  
8 **(RESIDENTIAL)**

9  
10 Date: \_\_\_\_\_

11 **AGREEMENT**

12 1. **AGREEMENT.** Buyer agrees to buy and Seller agrees to sell the Property described below on the terms and conditions set  
13 forth in this contract (Contract).

14 2. **PARTIES AND PROPERTY.**

15 2.1. **Buyer.** City of Grand Junction (Buyer) will take title  
16 to the Property described below as  **Joint Tenants**  **Tenants In Common**  **Other** \_\_\_\_\_.

17 2.2. **No Assignability.** This Contract IS NOT assignable by Buyer unless otherwise specified in **Additional Provisions**.

18 2.3. **Seller.** Bennie Dick Skinner and David Lee Skinner (Seller) is the current  
19 owner of the Property described below.

20 2.4. **Property.** The Property is the following legally described real estate in the County of Mesa, Colorado  
21 (insert legal description):

22  
23 See attached Exhibit A attached hereto and incorporated herein.

24  
25  
26  
27 known as: 2767 - 2773 C 1/2 Road Grand Junction CO 81501,  
28 Street Address City State Zip

29 together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto and all interest of  
30 Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

31 2.5. **Inclusions.** The Purchase Price includes the following items (Inclusions):

32 2.5.1. **Inclusions – Attached.** If attached to the Property on the date of this Contract, the following items are  
33 included unless excluded under **Exclusions**: lighting, heating, plumbing, ventilating and air conditioning units, TV antennas, inside  
34 telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-  
35 in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories) and garage door openers  
36 (including \_\_\_\_\_ remote controls). If checked, the following are owned by the Seller and included:  **Solar Panels**  **Water**  
37 **Softeners**  **Security Systems**  **Satellite Systems** (including satellite dishes). Leased items should be listed under § 2.5.7.  
38 (Leased Items). If any additional items are attached to the Property after the date of this Contract, such additional items are also  
39 included in the Purchase Price.

40 2.5.2. **Inclusions – Not Attached.** If on the Property, whether attached or not, on the date of this Contract, the  
41 following items are included unless excluded under **Exclusions**: storm windows, storm doors, window and porch shades, awnings,  
42 blinds, screens, window coverings and treatments, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates,  
43 heating stoves, storage sheds, carbon monoxide alarms, smoke/fire detectors and all keys.

44 2.5.3. **Other Inclusions.** The following items, whether fixtures or personal property, are also included in the  
45 Purchase Price:

46  
47  
48 Any and all water rights and/or shares for the land.

49  
50  
51  If the box is checked, Buyer and Seller have concurrently entered into a separate agreement for additional personal  
52 property outside of this Contract.

53 2.5.4. Encumbered Inclusions. Any Inclusions owned by Seller (e.g., owned solar panels) must be conveyed at  
54 Closing by Seller free and clear of all taxes (except personal property and general real estate taxes for the year of Closing), liens and  
55 encumbrances, except:  
56  
57  
58

59 2.5.5. Personal Property Conveyance. Conveyance of all personal property will be by bill of sale or other  
60 applicable legal instrument.

61 2.5.6. Parking and Storage Facilities. The use or ownership of the following parking facilities:  
62 \_\_\_\_\_; and the use or ownership of the following storage facilities: \_\_\_\_\_.

63 Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should investigate.

64 2.5.7. Leased Items. The following personal property is currently leased to Seller which will be transferred to Buyer  
65 at Closing (Leased Items):  
66  
67  
68  
69

70 2.6. Exclusions. The following items are excluded (Exclusions):  
71  
72  
73

74 2.7. Water Rights/Well Rights.

75  2.7.1. Deeded Water Rights. The following legally described water rights:  
76  
77  
78

79 Any deeded water rights will be conveyed by a good and sufficient \_\_\_\_\_ deed at Closing.

80  2.7.2. Other Rights Relating to Water. The following rights relating to water not included in §§ 2.7.1., 2.7.3. and  
81 2.7.4., will be transferred to Buyer at Closing:

82 Any and all water rights related to the land, including but not limited to 9 shares of Grand Valley Irrigation Company.  
83  
84  
85

86  2.7.3. Well Rights. Seller agrees to supply required information to Buyer about the well. Buyer understands that if  
87 the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well" used for ordinary household purposes,  
88 Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered  
89 with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a  
90 registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in  
91 connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is  
92 \_\_\_\_\_.

93  2.7.4. Water Stock Certificates. The water stock certificates to be transferred at Closing are as follows:  
94  
95  
96  
97

98 2.7.5. Conveyance. If Buyer is to receive any rights to water pursuant to § 2.7.2. (Other Rights Relating to Water),  
99 § 2.7.3. (Well Rights), or § 2.7.4. (Water Stock Certificates), Seller agrees to convey such rights to Buyer by executing the applicable  
100 legal instrument at Closing.

101 2.7.6. Water Rights Review. Buyer  Does  Does Not have a Right to Terminate if examination of the Water  
Rights is unsatisfactory to Buyer on or before the Water Rights Examination Deadline.

102 3. DATES, DEADLINES AND APPLICABILITY.

103 3.1. Dates and Deadlines.

Item No.	Reference	Event	Date or Deadline
1	§ 3	Time of Day Deadline	5:00 PM
2	§ 4	Alternative Earnest Money Deadline	NA
		Title	
3	§ 8	Record Title Deadline (and Tax Certificate)	TBD
4	§ 8	Record Title Objection Deadline	TBD

5	§ 8	Off-Record Title Deadline	TBD
6	§ 8	Off-Record Title Objection Deadline	TBD
7	§ 8	Title Resolution Deadline	TBD
8	§ 8	Third Party Right to Purchase/Approve Deadline	
		<b>Owners' Association</b>	
9	§ 7	Association Documents Deadline	N/A
10	§ 7	Association Documents Termination Deadline	N/A
		<b>Seller's Disclosures</b>	
11	§ 10	Seller's Property Disclosure Deadline	TBD
12	§ 10	Lead-Based Paint Disclosure Deadline	TBD
		<b>Loan and Credit</b>	
13	§ 5	New Loan Application Deadline	N/A
14	§ 5	New Loan Terms Deadline	N/A
15	§ 5	New Loan Availability Deadline	N/A
16	§ 5	Buyer's Credit Information Deadline	N/A
17	§ 5	Disapproval of Buyer's Credit Information Deadline	N/A
18	§ 5	Existing Loan Deadline	N/A
19	§ 5	Existing Loan Termination Deadline	N/A
20	§ 5	Loan Transfer Approval Deadline	N/A
21	§ 4	Seller or Private Financing Deadline	N/A
		<b>Appraisal</b>	
22	§ 6	Appraisal Deadline	N/A
23	§ 6	Appraisal Objection Deadline	N/A
24	§ 6	Appraisal Resolution Deadline	TBD
		<b>Survey</b>	
25	§ 9	New ILC or New Survey Deadline	N/A
26	§ 9	New ILC or New Survey Objection Deadline	N/A
27	§ 9	New ILC or New Survey Resolution Deadline	N/A
		<b>Inspection and Due Diligence</b>	
28	§ 2	Water Rights Examination Deadline	TBD
29	§ 8	Mineral Rights Examination Deadline	N/A
30	§ 10	Inspection Termination Deadline	TBD
31	§ 10	Inspection Objection Deadline	TBD
32	§ 10	Inspection Resolution Deadline	TBD
33	§ 10	Property Insurance Termination Deadline	TBD
34	§ 10	Due Diligence Documents Delivery Deadline	TBD
35	§ 10	Due Diligence Documents Objection Deadline	TBD
36	§ 10	Due Diligence Documents Resolution Deadline	TBD
37	§ 10	Conditional Sale Deadline	N/A
38	§ 10	Lead-Based Paint Termination Deadline	TBD
		<b>Closing and Possession</b>	
39	§ 12	Closing Date	TBD
40	§ 17	Possession Date	TBD
41	§ 17	Possession Time	TBD
42	§ 27	Acceptance Deadline Date	TBD
43	§ 27	Acceptance Deadline Time	

104 **Note:** If FHA or VA loan boxes are checked in § 4.5.3. (Loan Limitations), the Appraisal deadlines **DO NOT** apply to FHA  
105 insured or VA guaranteed loans.

106 **3.2. Applicability of Terms.** If any deadline blank in § 3.1. (Dates and Deadlines) is left blank or completed with "N/A",  
107 or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline is deleted. Any box  
108 checked in this Contract means the corresponding provision applies. If no box is checked in a provision that contains a selection of  
109 "None", such provision means that "None" applies.

110 The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract. The  
111 abbreviation "N/A" as used in this Contract means not applicable.

112 **3.3. Day; Computation of Period of Days; Deadlines.**

113 **3.3.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States  
114 Mountain Time (Standard or Daylight Savings, as applicable). Except however, if a **Time of Day Deadline** is specified in § 3.1.  
115 (Dates and Deadlines), all Objection Deadlines, Resolution Deadlines, Examination Deadlines and Termination Deadlines will end  
116 on the specified deadline date at the time of day specified in the **Time of Day Deadline**, United States Mountain Time. If **Time of**  
117 **Day Deadline** is left blank or "N/A" the deadlines will expire at 11:59 p.m., United States Mountain Time.

118 **3.3.2. Computation of Period of Days.** In computing a period of days (e.g., three days after MEC), when the  
119 ending date is not specified, the first day is excluded and the last day is included.

120 **3.3.3. Deadlines.** If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such  
121 deadline  Will  Will Not be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked,  
122 the deadline will not be extended.

123 **4. PURCHASE PRICE AND TERMS.**

124 **4.1. Price and Terms.** The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1.	Purchase Price	\$ 1,665,000.00	
2	§ 4.3.	Earnest Money		\$
3	§ 4.5.	New Loan		\$
4	§ 4.6.	Assumption Balance		\$
5	§ 4.7.	Private Financing		\$
6	§ 4.7.	Seller Financing		\$
7				
8				
9	§ 4.4.	Cash at Closing		\$
10		<b>TOTAL</b>	\$	\$ 1,665,000.00

125 **4.2. Seller Concession.** At Closing, Seller will credit to Buyer \$ N/A (Seller Concession). The Seller  
126 Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender  
127 and is included in the Closing Statement or Closing Disclosure at Closing. Examples of allowable items to be paid for by the Seller  
128 Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any  
129 other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer  
130 elsewhere in this Contract.

131 **4.3. Earnest Money.** The Earnest Money set forth in this Section, in the form of a N/A, will be  
132 payable to and held by \_\_\_\_\_ (Earnest Money Holder), in its trust account, on behalf of  
133 both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree  
134 to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the  
135 company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to  
136 have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado  
137 residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest  
138 Money Holder in this transaction will be transferred to such fund.

139 **4.3.1. Alternative Earnest Money Deadline.** The deadline for delivering the Earnest Money, if other than at the  
140 time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

141 **4.3.2. Disposition of Earnest Money.** If Buyer has a Right to Terminate and timely terminates, Buyer is entitled  
142 to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 24 and, except as provided  
143 in § 23 (Earnest Money Dispute), if the Earnest Money has not already been returned following receipt of a Notice to Terminate,  
144 Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release  
145 form), within three days of Seller's receipt of such form. If Seller is entitled to the Earnest Money, and, except as provided in § 23  
146 (Earnest Money Dispute), if the Earnest Money has not already been paid to Seller, following receipt of an Earnest Money Release  
147 form, Buyer agrees to execute and return to Seller or Broker working with Seller, written mutual instructions (e.g., Earnest Money  
148 Release form), within three days of Buyer's receipt.

149 **4.3.2.1. Seller Failure to Timely Return Earnest Money.** If Seller fails to timely execute and return the  
150 Earnest Money Release Form, or other written mutual instructions, Seller is in default and liable to Buyer as set forth in "If Seller  
151 is in Default", § 20.2. and § 21, unless Seller is entitled to the Earnest Money due to a Buyer default.

152 **4.3.2.2. Buyer Failure to Timely Release Earnest Money.** If Buyer fails to timely execute and return the  
153 Earnest Money Release Form, or other written mutual instructions, Buyer is in default and liable to Seller as set forth in "If Buyer  
154 is in Default, § 20.1. and § 21, unless Buyer is entitled to the Earnest Money due to a Seller Default.

155 **4.4. Form of Funds; Time of Payment; Available Funds.**

156 **4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing  
157 and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified  
158 check, savings and loan teller's check and cashier's check (Good Funds).

159 **4.4.2. Time of Payment.** All funds, including the Purchase Price to be paid by Buyer, must be paid before or at  
160 Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH**  
161 **NONPAYING PARTY WILL BE IN DEFAULT.**

162 **4.4.3. Available Funds.** Buyer represents that Buyer, as of the date of this Contract,  Does  Does Not have  
163 funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

164 **4.5. New Loan.**

165 **4.5.1. Buyer to Pay Loan Costs.** Buyer, except as otherwise permitted in § 4.2. (Seller Concession), if applicable,  
166 must timely pay Buyer's loan costs, loan discount points, prepaid items and loan origination fees as required by lender.

167 **4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing appropriate and acceptable to  
168 Buyer, including a different loan than initially sought, except as restricted in § 4.5.3. (Loan Limitations) or § 29 (Additional  
169 Provisions).

170 **4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following types of loans:  
171  Conventional  FHA  VA  Bond  Other \_\_\_\_\_.

172 If either or both of the FHA or VA boxes are checked, and Buyer closes the transaction using one of those loan types, Seller agrees  
173 to pay those closing costs and fees that Buyer is not allowed by law to pay not to exceed \$ \_\_\_\_\_.

174 **4.5.4. Loan Estimate – Monthly Payment and Loan Costs.** Buyer is advised to review the terms, conditions and  
175 costs of Buyer's New Loan carefully. If Buyer is applying for a residential loan, the lender generally must provide Buyer with a  
176 Loan Estimate within three days after Buyer completes a loan application. Buyer also should obtain an estimate of the amount of  
177 Buyer's monthly mortgage payment.

178 **4.6. Assumption.** Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance  
179 set forth in § 4.1. (Price and Terms), presently payable at \$ \_\_\_\_\_ per \_\_\_\_\_ including principal and interest  
180 presently at the rate of \_\_\_\_\_ % per annum and also including escrow for the following as indicated:  Real Estate Taxes   
181 Property Insurance Premium  Mortgage Insurance Premium and  \_\_\_\_\_.

182 Buyer agrees to pay a loan transfer fee not to exceed \$ \_\_\_\_\_. At the time of assumption, the new interest rate will  
183 not exceed \_\_\_\_\_ % per annum and the new payment will not exceed \$ \_\_\_\_\_ per \_\_\_\_\_ principal and  
184 interest, plus escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption Balance, which  
185 causes the amount of cash required from Buyer at Closing to be increased by more than \$ \_\_\_\_\_, or if any other terms or  
186 provisions of the loan change, Buyer has the Right to Terminate under § 24.1. on or before **Closing Date**.

187 Seller  Will  Will Not be released from liability on said loan. If applicable, compliance with the requirements for release  
188 from liability will be evidenced by delivery  on or before **Loan Transfer Approval Deadline**  at **Closing** of an appropriate  
189 letter of commitment from lender. Any cost payable for release of liability will be paid by \_\_\_\_\_ in an amount  
190 not to exceed \$ \_\_\_\_\_.

191 **4.7. Seller or Private Financing.**

192 **WARNING:** Unless the transaction is exempt, federal and state laws impose licensing, other requirements and restrictions on sellers  
193 and private financiers. Contract provisions on financing and financing documents, unless exempt, should be prepared by a licensed  
194 Colorado attorney or licensed mortgage loan originator. Brokers should not prepare or advise the parties on the specifics of financing,  
195 including whether or not a party is exempt from the law.

196 **4.7.1. Seller Financing.** If Buyer is to pay all or any portion of the Purchase Price with Seller financing,  Buyer  
197  Seller will deliver the proposed Seller financing documents to the other party on or before \_\_\_\_\_ days before **Seller or**  
198 **Private Financing Deadline**.

199 **4.7.1.1. Seller May Terminate.** If Seller is to provide Seller financing, this Contract is conditional upon  
200 Seller determining whether such financing is satisfactory to the Seller, including its payments, interest rate, terms, conditions, cost,  
201 and compliance with the law. Seller has the Right to Terminate under § 24.1., on or before **Seller or Private Financing Deadline**,  
202 if such Seller financing is not satisfactory to Seller, in Seller's sole subjective discretion.

203 **4.7.2. Buyer May Terminate.** If Buyer is to pay all or any portion of the Purchase Price with Seller or private  
204 financing, this Contract is conditional upon Buyer determining whether such financing is satisfactory to Buyer, including its  
205 availability, payments, interest rate, terms, conditions, and cost. Buyer has the Right to Terminate under § 24.1, on or before **Seller**  
206 **or Private Financing Deadline**, if such Seller or private financing is not satisfactory to Buyer, in Buyer's sole subjective discretion.



208 **5. FINANCING CONDITIONS AND OBLIGATIONS.**

209 **5.1. New Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or more new loans (New  
210 Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such lender, must make an application verifiable  
211 by such lender, on or before **New Loan Application Deadline** and exercise reasonable efforts to obtain such loan or approval.

212 **5.2. New Loan Terms; New Loan Availability.**

213 **5.2.1. New Loan Terms.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is  
214 conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the proposed New Loan's payments, interest  
215 rate, conditions and costs or any other loan terms (New Loan Terms) are satisfactory to Buyer. This condition is for the sole benefit  
216 of Buyer. Buyer has the Right to Terminate under § 24.1., on or before **New Loan Terms Deadline**, if the New Loan Terms are not  
217 satisfactory to Buyer, in Buyer's sole subjective discretion.

218 **5.2.2. New Loan Availability.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this Contract is  
219 conditional upon Buyer's satisfaction with the availability of the New Loan based on the lender's review and underwriting of Buyer's  
220 New Loan Application (New Loan Availability). Buyer has the Right to Terminate under § 24.1., on or before the **New Loan**  
221 **Availability Deadline** if the New Loan Availability is not satisfactory to Buyer. Buyer does not have a Right to Terminate based on the  
222 New Loan Availability if the termination is based on the New Loan Terms, Appraised Value (defined below), the Lender Property  
223 Requirements (defined below), Insurability (§ 10.5. below) or the Conditional Upon Sale of Property (§ 10.7. below). **IF SELLER IS**  
224 **NOT IN DEFAULT AND DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S**  
225 **EARNEST MONEY WILL BE NONREFUNDABLE**, except as otherwise provided in this Contract (e.g., Appraisal, Title,  
226 Survey).

227 **5.3. Credit Information.** If an existing loan is not to be released at Closing, this Contract is conditional (for the sole benefit  
228 of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be in Seller's sole subjective  
229 discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's expense, information  
230 and documents (including a current credit report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents  
231 that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by Seller  
232 must be held by Seller in confidence and not released to others except to protect Seller's interest in this transaction. If the Cash at  
233 Closing is less than as set forth in § 4.1. of this Contract, Seller has the Right to Terminate under § 24.1., on or before Closing. If  
234 Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective discretion, Seller has the Right to  
235 Terminate under § 24.1., on or before **Disapproval of Buyer's Credit Information Deadline**.

236 **5.4. Existing Loan Review.** If an existing loan is not to be released at Closing, Seller must deliver copies of the loan  
237 documents (including note, deed of trust and any modifications) to Buyer by **Existing Loan Deadline**. For the sole benefit of Buyer,  
238 this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer has the Right to  
239 Terminate under § 24.1., on or before **Existing Loan Termination Deadline**, based on any unsatisfactory provision of such loan  
240 documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is  
241 conditional upon Buyer obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's  
242 approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on such deadline. Seller has the Right  
243 to Terminate under § 24.1., on or before Closing, in Seller's sole subjective discretion, if Seller is to be released from liability under  
244 such existing loan and Buyer does not obtain such compliance as set forth in § 4.6.

245 **6. APPRAISAL PROVISIONS.**

246 **6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged on  
247 behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set forth  
248 certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property to be  
249 valued at the Appraised Value.

250 **6.2. Appraised Value.** The applicable appraisal provision set forth below applies to the respective loan type set forth in  
251 § 4.5.3., or if a cash transaction (i.e., no financing), § 6.2.1. applies.

252 **6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the  
253 Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal**  
254 **Objection Deadline**:

255 **6.2.1.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated;  
256 or

257 **6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by either a copy of the  
258 Appraisal or written notice from lender that confirms the Appraised Value is less than the Purchase Price (Lender Verification).

259 **6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or before **Appraisal**  
260 **Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution**  
261 **Deadline**, this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written withdrawal of  
262 the Appraisal Objection before such termination, (i.e., on or before expiration of **Appraisal Resolution Deadline**).

263 6.2.2. **FHA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the purchaser (Buyer)  
264 shall not be obligated to complete the purchase of the Property described herein or to incur any penalty by forfeiture of Earnest  
265 Money deposits or otherwise unless the purchaser (Buyer) has been given, in accordance with HUD/FHA or VA requirements, a  
266 written statement issued by the Federal Housing Commissioner, Department of Veterans Affairs, or a Direct Endorsement lender,  
267 setting forth the appraised value of the Property of not less than \$ \_\_\_\_\_. The purchaser (Buyer) shall have the privilege  
268 and option of proceeding with the consummation of this Contract without regard to the amount of the appraised valuation. The  
269 appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and Urban Development will  
270 insure. HUD does not warrant the value nor the condition of the Property. The purchaser (Buyer) should satisfy  
271 himself/herself/themselves that the price and condition of the Property are acceptable.

272 6.2.3. **VA.** It is expressly agreed that, notwithstanding any other provisions of this Contract, the purchaser (Buyer)  
273 shall not incur any penalty by forfeiture of Earnest Money or otherwise or be obligated to complete the purchase of the Property  
274 described herein, if the Contract Purchase Price or cost exceeds the reasonable value of the Property established by the Department  
275 of Veterans Affairs. The purchaser (Buyer) shall, however, have the privilege and option of proceeding with the consummation of  
276 this Contract without regard to the amount of the reasonable value established by the Department of Veterans Affairs.

277 6.3. **Lender Property Requirements.** If the lender imposes any written requirements, replacements, removals or repairs,  
278 including any specified in the Appraisal (Lender Property Requirements) to be made to the Property (e.g., roof repair, repainting),  
279 beyond those matters already agreed to by Seller in this Contract, this Contract terminates on the earlier of three days following  
280 Seller's receipt of the Lender Property Requirements, or Closing, unless prior to termination: (1) the parties enter into a written  
281 agreement to satisfy the Lender Property Requirements; (2) the Lender Property Requirements have been completed; or (3) the  
282 satisfaction of the Lender Property Requirements is waived in writing by Buyer.

283 6.4. **Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be timely paid by  Buyer  
284  Seller. The cost of the Appraisal may include any and all fees paid to the appraiser, appraisal management company, lender's  
285 agent or all three.

286 7. **OWNERS' ASSOCIATIONS.** This Section is applicable if the Property is located within one or more Common Interest  
287 Communities and subject to one or more declarations (Association).

288 7.1. **Common Interest Community Disclosure.** THE PROPERTY IS LOCATED WITHIN A COMMON  
289 INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY. THE OWNER OF  
290 THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS' ASSOCIATION FOR THE  
291 COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE  
292 ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS WILL IMPOSE FINANCIAL  
293 OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS  
294 OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD  
295 PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS  
296 AND RULES AND REGULATIONS OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING  
297 CHANGES TO THE PROPERTY WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A  
298 COMMITTEE OF THE ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF  
299 PROPERTY WITHIN THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL  
300 OBLIGATIONS OF MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE  
301 DECLARATION FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE  
302 ASSOCIATION.

303 7.2. **Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association Documents (defined below),  
304 at Seller's expense, on or before **Association Documents Deadline**. Seller authorizes the Association to provide the Association  
305 Documents to Buyer, at Seller's expense. Seller's obligation to provide the Association Documents is fulfilled upon Buyer's receipt  
306 of the Association Documents, regardless of who provides such documents.

307 7.3. **Association Documents.** Association documents (Association Documents) consist of the following:

308 7.3.1. All Association declarations, articles of incorporation, bylaws, articles of organization, operating agreements,  
309 rules and regulations, party wall agreements and the Association's responsible governance policies adopted under § 38-33.3-209.5,  
310 C.R.S.;

311 7.3.2. Minutes of: (1) the annual owners' or members' meeting and (2) any executive boards' or managers' meetings;  
312 such minutes include those provided under the most current annual disclosure required under § 38-33.3-209.4, C.R.S. (Annual  
313 Disclosure) and minutes of meetings, if any, subsequent to the minutes disclosed in the Annual Disclosure. If none of the preceding  
314 minutes exist, then the most recent minutes, if any (§§ 7.3.1. and 7.3.2., collectively, Governing Documents); and

315 7.3.3. List of all Association insurance policies as provided in the Association's last Annual Disclosure, including,  
316 but not limited to, property, general liability, association director and officer professional liability and fidelity policies. The list must  
317 include the company names, policy limits, policy deductibles, additional named insureds and expiration dates of the policies listed  
318 (Association Insurance Documents);

319 7.3.4. A list by unit type of the Association's assessments, including both regular and special assessments as  
320 disclosed in the Association's last Annual Disclosure;

321 7.3.5. The Association's most recent financial documents which consist of: (1) the Association's operating budget  
322 for the current fiscal year, (2) the Association's most recent annual financial statements, including any amounts held in reserve for  
323 the fiscal year immediately preceding the Association's last Annual Disclosure, (3) the results of the Association's most recent  
324 available financial audit or review, (4) list of the fees and charges (regardless of name or title of such fees or charges) that the  
325 Association's community association manager or Association will charge in connection with the Closing including, but not limited  
326 to, any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update fee charged for  
327 the Status Letter, any record change fee or ownership record transfer fees (Record Change Fee), fees to access documents, (5) list of  
328 all assessments required to be paid in advance, reserves or working capital due at Closing and (6) reserve study, if any (§§ 7.3.4. and  
329 7.3.5., collectively, Financial Documents);

330 7.3.6. Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5,  
331 C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction  
332 Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2.  
333 (Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common  
334 elements or limited common elements of the Association property.

335 7.4. **Conditional on Buyer's Review.** Buyer has the right to review the Association Documents. Buyer has the Right to  
336 Terminate under § 24.1., on or before **Association Documents Termination Deadline**, based on any unsatisfactory provision in  
337 any of the Association Documents, in Buyer's sole subjective discretion. Should Buyer receive the Association Documents after  
338 **Association Documents Deadline**, Buyer, at Buyer's option, has the Right to Terminate under § 24.1. by Buyer's Notice to  
339 Terminate received by Seller on or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive  
340 the Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller after **Closing**  
341 **Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does not receive Buyer's Notice to  
342 Terminate within such time, Buyer accepts the provisions of the Association Documents as satisfactory and Buyer waives any Right  
343 to Terminate under this provision, notwithstanding the provisions of § 8.6. (Third Party Right to Purchase/Approve).

## 344 8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.

### 345 8.1. Evidence of Record Title.

346  8.1.1. **Seller Selects Title Insurance Company.** If this box is checked, Seller will select the title insurance  
347 company to furnish the owner's title insurance policy at Seller's expense. On or before **Record Title Deadline**, Seller must furnish  
348 to Buyer, a current commitment for an owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price,  
349 or if this box is checked,  an **Abstract of Title** certified to a current date. Seller will cause the title insurance policy to be issued  
350 and delivered to Buyer as soon as practicable at or after Closing.

351  8.1.2. **Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the title insurance  
352 company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to  
353 Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.  
354 If neither box in § 8.1.1. or § 8.1.2. is checked, § 8.1.1. applies.

355 8.1.3. **Owner's Extended Coverage (OEC).** The Title Commitment  **Will**  **Will Not** contain Owner's  
356 Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete or insure over the standard exceptions  
357 which relate to: (1) parties in possession, (2) unrecorded easements, (3) survey matters, (4) unrecorded mechanics' liens, (5) gap  
358 period (period between the effective date and time of commitment to the date and time the deed is recorded) and (6) unpaid taxes,  
359 assessments and unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by  
360  **Buyer**  **Seller**  **One-Half by Buyer and One-Half by Seller**  **Other** \_\_\_\_\_.  
361 Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over  
362 any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below,  
363 among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under  
364 § 8.7. (Right to Object to Title, Resolution).

365 8.1.4. **Title Documents.** Title Documents consist of the following: (1) copies of any plats, declarations, covenants,  
366 conditions and restrictions burdening the Property and (2) copies of any other documents (or, if illegible, summaries of such  
367 documents) listed in the schedule of exceptions (Exceptions) in the Title Commitment furnished to Buyer (collectively, Title  
368 Documents).

369 8.1.5. **Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**, copies of all Title  
370 Documents. This requirement pertains only to documents as shown of record in the office of the clerk and recorder in the county  
371 where the Property is located. The cost of furnishing copies of the documents required in this Section will be at the expense of the  
372 party or parties obligated to pay for the owner's title insurance policy.

373 8.1.6. **Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title covering all or any  
374 portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title Deadline**.

375 8.2. **Record Title.** Buyer has the right to review and object to the Abstract of Title or Title Commitment and any of the  
376 Title Documents as set forth in § 8.7. (Right to Object to Title, Resolution) on or before **Record Title Objection Deadline**. Buyer's  
377 objection may be based on any unsatisfactory form or content of Title Commitment or Abstract of Title, notwithstanding § 13, or  
378 any other unsatisfactory title condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title

379 Documents are not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title Commitment  
380 that adds a new Exception to title, a copy of the new Exception to title and the modified Title Commitment will be delivered to  
381 Buyer. Buyer has until the earlier of Closing or ten days after receipt of such documents by Buyer to review and object to: (1) any  
382 required Title Document not timely received by Buyer, (2) any change to the Abstract of Title, Title Commitment or Title Documents,  
383 or (3) any endorsement to the Title Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection,  
384 pursuant to this § 8.2. (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.7. (Right to Object  
385 to Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required by § 8.1.  
386 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title Objection by the applicable  
387 deadline specified above, Buyer accepts the condition of title as disclosed by the Abstract of Title, Title Commitment and Title  
388 Documents as satisfactory.

389 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true copies of all existing  
390 surveys in Seller's possession pertaining to the Property and must disclose to Buyer all easements, liens (including, without  
391 limitation, governmental improvements approved, but not yet installed) or other title matters not shown by public records, of which  
392 Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New Survey** governed under § 9 (New  
393 ILC, New Survey). Buyer has the right to inspect the Property to investigate if any third party has any right in the Property not shown  
394 by public records (e.g., unrecorded easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of  
395 Title Objection of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2.  
396 (Record Title) and § 13 (Transfer of Title), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record**  
397 **Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer has until the  
398 earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record Matter. If Seller receives Buyer's Notice  
399 to Terminate or Notice of Title Objection pursuant to this § 8.3. (Off-Record Title), any title objection by Buyer is governed by the  
400 provisions set forth in § 8.7. (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice  
401 of Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters and rights, if  
402 any, of third parties not shown by public records of which Buyer has actual knowledge.

403 **8.4. Special Taxing and Metropolitan Districts.** **SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO**  
404 **GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES**  
405 **ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE**  
406 **PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT**  
407 **WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH**  
408 **INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS SHOULD INVESTIGATE THE**  
409 **SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY**  
410 **TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY AND BY OBTAINING**  
411 **FURTHER INFORMATION FROM THE BOARD OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND**  
412 **RECORDER, OR THE COUNTY ASSESSOR. The official website for the Metropolitan District, if any, is: \_\_\_\_\_.**

413 **8.5. Tax Certificate.** A tax certificate paid for by  Seller  Buyer, for the Property listing any special taxing or  
414 metropolitan districts that affect the Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If  
415 the content of the Tax Certificate is unsatisfactory to Buyer, in Buyer's sole subjective discretion, Buyer may terminate, on or before  
416 **Record Title Objection Deadline**. Should Buyer receive the Tax Certificate after **Record Title Deadline**, Buyer, at Buyer's option,  
417 has the Right to Terminate under § 24.1. by Buyer's Notice to Terminate received by Seller on or before ten days after Buyer's  
418 receipt of the Tax Certificate. If Buyer does not receive the Tax Certificate, or if Buyer's Notice to Terminate would otherwise be  
419 required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing.  
420 If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the content of the Tax Certificate as  
421 satisfactory and Buyer waives any Right to Terminate under this provision. If Buyer's loan specified in §4.5.3. (Loan Limitations)  
422 prohibits Buyer from paying for the Tax Certificate, the Tax Certificate will be paid for by Seller.

423 **8.6. Third Party Right to Purchase/Approve.** If any third party has a right to purchase the Property (e.g., right of first  
424 refusal on the Property, right to purchase the Property under a lease or an option held by a third party to purchase the Property) or a  
425 right of a third party to approve this Contract, Seller must promptly submit this Contract according to the terms and conditions of  
426 such right. If the third-party holder of such right exercises its right this Contract will terminate. If the third party's right to purchase  
427 is waived explicitly or expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly  
428 notify Buyer in writing of the foregoing. If the third party right to purchase is exercised or approval of this Contract has not occurred  
429 on or before **Third Party Right to Purchase/Approve Deadline**, this Contract will then terminate. Seller will supply to Buyer, in  
430 writing, details of any Third Party Right to Purchase the Property on or before the Record Title Deadline.

431 **8.7. Right to Object to Title, Resolution.** Buyer has a right to object or terminate, in Buyer's sole subjective discretion,  
432 based on any title matters including those matters set forth in § 8.2. (Record Title), § 8.3. (Off-Record Title), § 8.5. (Tax Certificate)  
433 and § 13 (Transfer of Title). If Buyer exercises Buyer's rights to object or terminate based on any such title matter, on or before the  
434 applicable deadline, Buyer has the following options:

435 **8.7.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any title matter (Notice of  
436 Title Objection) on or before the applicable deadline and if Buyer and Seller have not agreed to a written settlement thereof on or  
437 before **Title Resolution Deadline**, this Contract will terminate on the expiration of **Title Resolution Deadline**, unless Seller receives

438 Buyer's written withdrawal of Buyer's Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and  
439 waives the Right to Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title  
440 Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2. (Record Title) or § 8.3. (Off-Record Title) the  
441 Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after Buyer's receipt of the  
442 applicable documents; or

443 **8.7.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under § 24.1., on or before  
444 the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole subjective discretion.

445 **8.8. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and should be reviewed  
446 carefully. Additionally, other matters not reflected in the Title Documents may affect the title, ownership and use of the Property,  
447 including, without limitation, boundary lines and encroachments, set-back requirements, area, zoning, building code violations,  
448 unrecorded easements and claims of easements, leases and other unrecorded agreements, water on or under the Property and various  
449 laws and governmental regulations concerning land use, development and environmental matters.

450 **8.8.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE**  
451 **PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND TRANSFER OF**  
452 **THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE MINERAL ESTATE OR WATER**  
453 **RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OTHER MINERALS, GEOTHERMAL**  
454 **ENERGY OR WATER ON OR UNDER THE SURFACE OF THE PROPERTY, WHICH INTERESTS MAY GIVE THEM**  
455 **RIGHTS TO ENTER AND USE THE SURFACE OF THE PROPERTY TO ACCESS THE MINERAL ESTATE, OIL,**  
456 **GAS OR WATER.**

457 **8.8.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE PROPERTY TO**  
458 **ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A**  
459 **MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND**  
460 **RECORDER.**

461 **8.8.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT**  
462 **TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION**  
463 **OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING**  
464 **OF CURRENT WELLS AND GAS GATHERING AND PROCESSING FACILITIES.**

465 **8.8.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL**  
466 **INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY, INCLUDING**  
467 **DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL**  
468 **AND GAS CONSERVATION COMMISSION.**

469 **8.8.5. Title Insurance Exclusions.** Matters set forth in this Section and others, may be excepted, excluded from, or  
470 not covered by the owner's title insurance policy.

471 **8.9. Mineral Rights Review.** Buyer  Does  Does Not have a Right to Terminate if examination of the Mineral  
472 Rights is unsatisfactory to Buyer on or before the **Mineral Rights Examination Deadline**.

473 **9. NEW ILC, NEW SURVEY.**

474 **9.1. New ILC or New Survey.** If the box is checked, (1)  **New Improvement Location Certificate (New ILC)**; or, (2)  
475  **New Survey in the form of \_\_\_\_\_**; is required and the following will apply:

476 **9.1.1. Ordering of New ILC or New Survey.**  Seller  Buyer will order the New ILC or New Survey. The  
477 New ILC or New Survey may also be a previous ILC or survey that is in the above-required form, certified and updated as of a date  
478 after the date of this Contract.

479 **9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be paid, on or before  
480 Closing, by:  Seller  Buyer or:

481  
482  
483 **9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or the provider of  
484 the opinion of title if an Abstract of Title) and \_\_\_\_\_ will receive a New ILC or New Survey on or before **New**  
485 **ILC or New Survey Deadline**.

486 **9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by the surveyor to  
487 all those who are to receive the New ILC or New Survey.

488 **9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a New ILC or New  
489 Survey different than initially specified in this Contract if there is no additional cost to Seller or change to the **New ILC or New**  
490 **Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion, waive a New ILC or New Survey if done prior to  
491 Seller incurring any cost for the same.

492 **9.3. New ILC or New Survey Objection.** Buyer has the right to review and object based on the New ILC or New Survey.  
493 If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in Buyer's sole subjective discretion,  
494 Buyer may, on or before **New ILC or New Survey Objection Deadline**, notwithstanding § 8.3. or § 13:

495 **9.3.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1, that this Contract is terminated; or

496 9.3.2. **New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that was to be  
497 shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires Seller to correct.  
498 9.3.3. **New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received by Seller, on or  
499 before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on  
500 or before **New ILC or New Survey Resolution Deadline**, this Contract will terminate on expiration of the **New ILC or New Survey**  
501 **Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the New ILC or New Survey Objection before such  
502 termination (i.e., on or before expiration of **New ILC or New Survey Resolution Deadline**).

503 

<b>DISCLOSURE, INSPECTION AND DUE DILIGENCE</b>
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504 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND SOURCE OF**  
505 **WATER.**

506 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller agrees to deliver to Buyer  
507 the most current version of the applicable Colorado Real Estate Commission's Seller's Property Disclosure form completed by Seller  
508 to Seller's actual knowledge and current as of the date of this Contract.

509 **10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller must disclose to Buyer  
510 any adverse material facts actually known by Seller as of the date of this Contract. Seller agrees that disclosure of adverse material  
511 facts will be in writing. In the event Seller discovers an adverse material fact after the date of this Contract, Seller must timely  
512 disclose such adverse fact to Buyer. Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing  
513 or five days after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges that  
514 Seller is conveying the Property to Buyer in an "As Is" condition, "Where Is" and "With All Faults."

515 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right to have inspections  
516 (by one or more third parties, personally or both) of the Property, Leased Items, and Inclusions (Inspection), at Buyer's expense. If  
517 (1) the physical condition of the Property, including, but not limited to, the roof, walls, structural integrity of the Property, the  
518 electrical, plumbing, HVAC and other mechanical systems of the Property, (2) the physical condition of the Inclusions and Leased  
519 Items, (3) service to the Property (including utilities and communication services), systems and components of the Property (e.g.,  
520 heating and plumbing), (4) any proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or  
521 noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants is unsatisfactory, in Buyer's  
522 sole subjective discretion, Buyer may:

523 **10.3.1. Inspection Termination.** On or before the **Inspection Termination Deadline**, notify Seller in writing,  
524 pursuant to § 24.1., that this Contract is terminated due to any unsatisfactory condition, provided the Buyer did not previously deliver  
525 an Inspection Objection. Buyer's Right to Terminate under this provision expires upon delivery of an Inspection Objection to Seller  
526 pursuant to § 10.3.2.; or

527 **10.3.2. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to Seller a written  
528 description of any unsatisfactory condition that Buyer requires Seller to correct.

529 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before **Inspection Objection**  
530 **Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Inspection Resolution Deadline**,  
531 this Contract will terminate on **Inspection Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Inspection  
532 Objection before such termination (i.e., on or before expiration of **Inspection Resolution Deadline**). Nothing in this provision  
533 prohibits the Buyer and the Seller from mutually terminating this Contract before the Inspection Resolution Deadline passes by  
534 executing an Earnest Money Release.

535 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other written agreement  
536 between the parties, is responsible for payment for all inspections, tests, surveys, engineering reports, or other reports performed at  
537 Buyer's request (Work) and must pay for any damage that occurs to the Property and Inclusions as a result of such Work. Buyer  
538 must not permit claims or liens of any kind against the Property for Work performed on the Property. Buyer agrees to indemnify,  
539 protect and hold Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any such  
540 Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by Seller to defend against  
541 any such liability, damage, cost or expense, or to enforce this Section, including Seller's reasonable attorney fees, legal fees and  
542 expenses. The provisions of this Section survive the termination of this Contract. This § 10.4. does not apply to items performed  
543 pursuant to an Inspection Resolution.

544 **10.5. Insurability.** Buyer has the Right to Terminate under § 24.1., on or before **Property Insurance Termination**  
545 **Deadline**, based on any unsatisfactory provision of the availability, terms and conditions and premium for property insurance  
546 (Property Insurance) on the Property, in Buyer's sole subjective discretion.

547 **10.6. Due Diligence.**

548 **10.6.1. Due Diligence Documents.** Seller agrees to deliver copies of the following documents and information  
549 pertaining to the Property and Leased Items (Due Diligence Documents) to Buyer on or before **Due Diligence Documents Delivery**  
550 **Deadline**:

551 **10.6.1.1. Occupancy Agreements.** All current leases, including any amendments or other occupancy  
552 agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the Property that survive Closing  
553 are as follows (Leases):

554 None

555  
556 **10.6.1.2. Leased Items Documents.** If any lease of personal property (§ 2.5.7., Leased Items) will be  
557 transferred to Buyer at Closing, Seller agrees to deliver copies of the leases and information pertaining to the personal property to  
558 Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer  Will  Will Not assume the Seller's obligations  
559 under such leases for the Leased Items (§ 2.5.7., Leased Items).

560  
561 **10.6.1.3. Encumbered Inclusions Documents.** If any Inclusions owned by Seller are encumbered  
562 pursuant to § 2.5.4. (Encumbered Inclusions) above, Seller agrees to deliver copies of the evidence of debt, security and any other  
563 documents creating the encumbrance to Buyer on or before **Due Diligence Documents Delivery Deadline**. Buyer  Will  Will  
564 Not assume the debt on the Encumbered Inclusions (§ 2.5.4., Encumbered Inclusions).

565  
566 **10.6.1.4. Other Documents.** Other documents and information:

567

568

569

570

571 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and object based on the Due  
572 Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are unsatisfactory, in Buyer's sole subjective  
573 discretion, Buyer may, on or before **Due Diligence Documents Objection Deadline**:

574 **10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 24.1., that this Contract is terminated;  
575 or

576 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any  
577 unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

578 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received by  
579 Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement  
580 thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents**  
581 **Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such  
582 termination (i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**).

583 **10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of that certain property  
584 owned by Buyer and commonly known as \_\_\_\_\_. Buyer has  
585 the Right to Terminate under § 24.1. effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale**  
586 **Deadline** if such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not  
587 receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to Terminate under this  
588 provision.

589 **10.8. Source of Potable Water (Residential Land and Residential Improvements Only).** Buyer  Does  Does Not  
590 acknowledge receipt of a copy of Seller's Property Disclosure or Source of Water Addendum disclosing the source of potable water for  
591 the Property.  There is No Well. Buyer  Does  Does Not acknowledge receipt of a copy of the current well permit.  
592 **Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUND**  
593 **WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED SOURCE) TO**  
594 **DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**

595 **10.9. Existing Leases; Modification of Existing Leases; New Leases. [Intentionally Deleted]**

596 **10.10. Lead-Based Paint.**

597 **10.10.1. Lead-Based Paint Disclosure.** Unless exempt, if the Property includes one or more residential dwellings  
598 constructed or a building permit was issued prior to January 1, 1978, for the benefit of Buyer, Seller and all required real estate  
599 licensees must sign and deliver to Buyer a completed Lead-Based Paint Disclosure (Sales) form on or before the **Lead-Based Paint**  
600 **Disclosure Deadline**. If Buyer does not timely receive the Lead-Based Paint Disclosure, Buyer may waive the failure to timely  
601 receive the Lead-Based Paint Disclosure, or Buyer may exercise Buyer's Right to Terminate under § 24.1. by Seller's receipt of  
602 Buyer's Notice to Terminate on or before the expiration of the **Lead-Based Paint Termination Deadline**.

603 **10.10.2. Lead-Based Paint Assessment.** If Buyer elects to conduct or obtain a risk assessment or inspection of the  
604 Property for the presence of Lead-Based Paint or Lead-Based Paint hazards, Buyer has a Right to Terminate under § 24.1. by Seller's  
605 receipt of Buyer's Notice to Terminate on or before the expiration of the **Lead-Based Paint Termination Deadline**. Buyer may  
606 elect to waive Buyer's right to conduct or obtain a risk assessment or inspection of the Property for the presence of Lead-Based Paint  
607 or Lead-Based Paint hazards. If Seller does not receive Buyer's Notice to Terminate within such time, Buyer accepts the condition  
608 of the Property relative to any Lead-Based Paint as satisfactory and Buyer waives any Right to Terminate under this provision.

609 **10.11. Carbon Monoxide Alarms. Note:** If the improvements on the Property have a fuel-fired heater or appliance, a  
610 fireplace, or an attached garage and include one or more rooms lawfully used for sleeping purposes (Bedroom), the parties  
611 acknowledge that Colorado law requires that Seller assure the Property has an operational carbon monoxide alarm installed within  
612 fifteen feet of the entrance to each Bedroom or in a location as required by the applicable building code.

613 **10.12. Methamphetamine Disclosure.** If Seller knows that methamphetamine was ever manufactured, processed, cooked,  
614 disposed of, used or stored at the Property, Seller is required to disclose such fact. No disclosure is required if the Property was  
615 remediated in accordance with state standards and other requirements are fulfilled pursuant to § 25-18.5-102, C.R.S., Buyer further  
616 acknowledges that Buyer has the right to engage a certified hygienist or industrial hygienist to test whether the Property has ever  
617 been used as a methamphetamine laboratory. Buyer has the Right to Terminate under § 24.1., upon Seller's receipt of Buyer's written  
618 Notice to Terminate, notwithstanding any other provision of this Contract, based on Buyer's test results that indicate the Property  
619 has been contaminated with methamphetamine, but has not been remediated to meet the standards established by rules of the State  
620 Board of Health promulgated pursuant to § 25-18.5-102, C.R.S. Buyer must promptly give written notice to Seller of the results of  
621 the test.

622 **10.13. Radon Disclosure. THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT**  
623 **STRONGLY RECOMMENDS THAT ALL HOME BUYERS HAVE AN INDOOR RADON TEST PERFORMED**  
624 **BEFORE PURCHASING RESIDENTIAL REAL PROPERTY AND RECOMMENDS HAVING THE RADON LEVELS**  
625 **MITIGATED IF ELEVATED RADON CONCENTRATIONS ARE FOUND. ELEVATED RADON CONCENTRATIONS**  
626 **CAN BE REDUCED BY A RADON MITIGATION PROFESSIONAL.**

627 **RESIDENTIAL REAL PROPERTY MAY PRESENT EXPOSURE TO DANGEROUS LEVELS OF INDOOR RADON**  
628 **GAS THAT MAY PLACE THE OCCUPANTS AT RISK OF DEVELOPING RADON-INDUCED LUNG CANCER.**  
629 **RADON, A CLASS A HUMAN CARCINOGEN, IS THE LEADING CAUSE OF LUNG CANCER IN NONSMOKERS**  
630 **AND THE SECOND LEADING CAUSE OF LUNG CANCER OVERALL. THE SELLER OF RESIDENTIAL REAL**  
631 **PROPERTY IS REQUIRED TO PROVIDE THE BUYER WITH ANY KNOWN INFORMATION ON RADON TEST**  
632 **RESULTS OF THE RESIDENTIAL REAL PROPERTY.**

633 **AN ELECTRONIC COPY OF THE MOST RECENT BROCHURE PUBLISHED BY THE DEPARTMENT OF**  
634 **PUBLIC HEALTH AND ENVIRONMENT IN ACCORDANCE WITH C.R.S. §25-11-114(2)(A) THAT PROVIDES**  
635 **ADVICE ABOUT "RADON AND REAL ESTATE TRANSACTIONS IN COLORADO" IS AVAILABLE AT:**  
636 **[HTTPS://CDPHE.COLORADO.GOV/RADON-AND-REAL-ESTATE](https://CDPHE.COLORADO.GOV/RADON-AND-REAL-ESTATE).**

637 **11. TENANT ESTOPPEL STATEMENTS. [Intentionally Deleted]**

638 

<b>CLOSING PROVISIONS</b>
---------------------------

639 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

640 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing Company to enable  
641 the Closing Company to prepare and deliver documents required for Closing to Buyer and Seller and their designees. If Buyer is  
642 obtaining a loan to purchase the Property, Buyer acknowledges Buyer's lender is required to provide the Closing Company, in a  
643 timely manner, all required loan documents and financial information concerning Buyer's loan. Buyer and Seller will furnish any  
644 additional information and documents required by Closing Company that will be necessary to complete this transaction. Buyer and  
645 Seller will sign and complete all customary or reasonably required documents at or before Closing.

646 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions  Are  Are Not executed with  
647 this Contract.

648 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the date specified as  
649 the **Closing Date** or by mutual agreement at an earlier date. At Closing, Seller agrees to deliver a set of keys for the Property to  
650 Buyer. The hour and place of Closing will be as designated by Buyer.

651 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent of service vary between  
652 different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

653 **12.5. Assignment of Leases.** Seller must assign to Buyer all Leases at Closing that will continue after Closing and Buyer  
654 must assume Seller's obligations under such Leases. Further, Seller must transfer to Buyer all Leased Items and assign to Buyer such  
655 leases for the Leased Items accepted by Buyer pursuant to § 2.5.7. (Leased Items).

656 **13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender  
657 of any payment due at Closing, Seller must execute and deliver the following good and sufficient deed to Buyer, at Closing:   
658 special warranty deed  general warranty deed  bargain and sale deed  quit claim deed  personal representative's deed  
659  \_\_\_\_\_ deed. Seller, provided another deed is not selected, must execute and deliver a good and  
660 sufficient special warranty deed to Buyer, at Closing.

661 Unless otherwise specified in § 29 (Additional Provisions), if title will be conveyed using a special warranty deed or a general  
662 warranty deed, title will be conveyed "subject to statutory exceptions" as defined in §38-30-113(5)(a), C.R.S.



663 **14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts owed on any liens  
664 or encumbrances securing a monetary sum against the Property and Inclusions, including any governmental liens for special  
665 improvements installed as of the date of Buyer's signature hereon, whether assessed or not, and previous years' taxes, will be paid  
666 at or before Closing by Seller from the proceeds of this transaction or from any other source.

667 **15. CLOSING COSTS, FEES, ASSOCIATION STATUS LETTER AND DISBURSEMENTS, TAXES AND**  
668 **WITHHOLDING.**

669 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs and all other items required  
670 to be paid at Closing, except as otherwise provided herein. However, if Buyer's loan specified in §4.5.3. (Loan Limitations) prohibits  
671 Buyer from paying for any of the fees contained in this Section, the fees will be paid for by Seller.

672 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by  Buyer  Seller  
673  One-Half by Buyer and One-Half by Seller  Other \_\_\_\_\_.

674 **15.3. Association Fees and Required Disbursements.** At least fourteen days prior to Closing Date, Seller agrees to  
675 promptly request that the Closing Company or the Association deliver to Buyer a current Status Letter, if applicable. Any fees  
676 associated, with or specified in the Status Letter will be paid as follows:

677 **15.3.1. Status Letter Fee.** Any fee incident to the issuance of Association's Status Letter must be paid by  Buyer  
678  Seller  One-Half by Buyer and One-Half by Seller  N/A.

679 **15.3.2. Record Change Fee.** Any Record Change Fee must be paid by  Buyer  Seller  One-Half by Buyer  
680 and One-Half by Seller  N/A.

681 **15.3.3. Assessments, Reserves or Working Capital.** All assessments required to be paid in advance (other than  
682 Association Assessments as defined in § 16.2. (Association Assessments), reserves or working capital due at Closing must be paid  
683 by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

684 **15.3.4. Other Fees.** Any other fee listed in the Status Letter as required to be paid at Closing will be paid by   
685 Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

686 **15.4. Local Transfer Tax.** Any Local Transfer Tax must be paid at Closing by  Buyer  Seller  One-Half by  
687 Buyer and One-Half by Seller  N/A.

688 **15.5. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction must be paid when due by  
689  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

690 **15.6. Private Transfer Fee.** Any private transfer fees and other fees due to a transfer of the Property, payable at Closing,  
691 such as community association fees, developer fees and foundation fees, must be paid at Closing by  Buyer  Seller  
692  One-Half by Buyer and One-Half by Seller  N/A.

693 **15.7. Water Transfer Fees.** Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed  
694 \$ \_\_\_\_\_ for:

695  Water Stock/Certificates  Water District  
696  Augmentation Membership  Small Domestic Water Company  \_\_\_\_\_

697 and must be paid at Closing by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

698 **15.8. Utility Transfer Fees.** Utility transfer fees can change. Any fees to transfer utilities from Seller to Buyer must be  
699 paid by  Buyer  Seller  One-Half by Buyer and One-Half by Seller  N/A.

700 **15.9. FIRPTA and Colorado Withholding.**

701 **15.9.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be  
702 withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the  
703 amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller  IS a foreign  
704 person for purposes of U.S. income taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign  
705 person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably  
706 requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to  
707 withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or  
708 if an exemption exists.

709 **15.9.2. Colorado Withholding.** The Colorado Department of Revenue may require a portion of the Seller's proceeds  
710 be withheld after Closing when Seller will not be a Colorado resident after Closing, if not otherwise exempt. Seller agrees to  
711 cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's status. If withholding  
712 is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's  
713 tax advisor to determine if withholding applies or if an exemption exists.

714 **16. PRORATIONS AND ASSOCIATION ASSESSMENTS.**

715 **16.1. Prorations.** The following will be prorated to the Closing Date, except as otherwise provided:

716 **16.1.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes  
717 for the year of Closing, based on  Taxes for the Calendar Year Immediately Preceding Closing  Most Recent Mill Levy  
718 and Most Recent Assessed Valuation, adjusted by any applicable qualifying seniors property tax exemption, qualifying disabled  
719 veteran exemption or  Other \_\_\_\_\_.

720 16.1.2. **Rents.** Rents based on  Rents Actually Received  Accrued. At Closing, Seller will transfer or credit  
721 to Buyer the security deposits for all Leases assigned to Buyer, or any remainder after lawful deductions, and notify all tenants in  
722 writing of such transfer and of the transferee's name and address.

723 16.1.3. **Other Prorations.** Water and sewer charges, propane, interest on continuing loan and \_\_\_\_\_.

724 16.1.4. **Final Settlement.** Unless otherwise specified in Additional Provisions, these prorations are final.

725 16.2. **Association Assessments.** Current regular Association assessments and dues (Association Assessments) paid in  
726 advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance  
727 by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer  
728 acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special  
729 assessment assessed prior to **Closing Date** by the Association will be the obligation of  Buyer  Seller. Except however, any  
730 special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether  
731 assessed prior to or after Closing, will be the obligation of Seller unless otherwise specified in Additional Provisions. Seller represents  
732 there are no unpaid regular or special assessments against the Property except the current regular assessments and  
733 \_\_\_\_\_ Association Assessments are subject to change as provided in the Governing Documents.

734 17. **POSSESSION.** Possession of the Property and Inclusions will be delivered to Buyer on **Possession Date** at **Possession Time**,  
735 subject to the Leases as set forth in § 10.6.1.1. and, if applicable, any Post-Closing Occupancy Agreement.

736 If Seller, after Closing occurs, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally  
737 liable to Buyer, notwithstanding § 20.2. (If Seller is in Default), for payment of \$ \_\_\_\_\_ per day (or any part of a day  
738 notwithstanding § 3.3., Day) from **Possession Date** and **Possession Time** until possession is delivered.

739 Buyer represents that Buyer will occupy the Property as Buyer's principal residence unless the following box is checked, then  
740 Buyer  Does Not represent that Buyer will occupy the Property as Buyer's principal residence.

741  If the box is checked, Buyer and Seller agree to execute a Post-Closing Occupancy Agreement.

742

#### GENERAL PROVISIONS

743 18. **CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND**  
744 **WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the  
745 condition existing as of the date of this Contract, ordinary wear and tear excepted.

746 18.1. **Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other perils or causes of loss  
747 prior to Closing (Property Damage) in an amount of not more than ten percent of the total Purchase Price and if the repair of the  
748 damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds,  
749 will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 24.1., on  
750 or before **Closing Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer elect  
751 to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were  
752 received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any  
753 deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received  
754 the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to  
755 Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's  
756 insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney  
757 requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such  
758 damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

759 18.2. **Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and communication services),  
760 system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date  
761 of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion  
762 or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or  
763 replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by  
764 Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before  
765 Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, or, at the  
766 option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must  
767 not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive  
768 Closing.

769 18.3. **Condemnation.** In the event Seller receives actual notice prior to Closing that a pending condemnation action may  
770 result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation  
771 action. Buyer has the Right to Terminate under § 24.1., on or before **Closing Date**, based on such condemnation action, in Buyer's  
772 sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and  
773 Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value  
774 of the Property or Inclusions, but such credit will not include relocation benefits or expenses or exceed the Purchase Price.

775 **18.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to walk through the  
776 Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

777 **18.5. Home Warranty.** Seller and Buyer are aware of the existence of pre-owned home warranty programs that may be  
778 purchased and may cover the repair or replacement of such Inclusions.

779 **19. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller acknowledge that  
780 their respective broker has advised that this Contract has important legal consequences and has recommended: (1) legal examination  
781 of title; (2) consultation with legal and tax or other counsel before signing this Contract as this Contract may have important legal  
782 and tax implications; (3) to consult with their own attorney if Water Rights, Mineral Rights or Leased Items are included or excluded  
783 in the sale; and (4) to consult with legal counsel if there are other matters in this transaction for which legal counsel should be  
784 engaged and consulted. Such consultations must be done timely as this Contract has strict time limits, including deadlines, that must  
785 be complied with.

786  
787 **20. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines in this Contract.  
788 This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored  
789 or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party  
790 has the following remedies:

791 **20.1. If Buyer is in Default:**

792  **20.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest Money (whether or not paid  
793 by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the Parties agree the  
794 amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect to treat  
795 this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

796 **20.1.2. Liquidated Damages, Applicable.** This § 20.1.2. applies unless the box in § 20.1.1. is checked. Seller may  
797 cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that  
798 the Earnest Money amount specified in § 4.1. is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is  
799 fair and reasonable and (except as provided in §§ 10.4. and 21), such amount is SELLER'S ONLY REMEDY for Buyer's failure to  
800 perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

801 **20.2. If Seller is in Default:**

802 **20.2.1. Specific Performance, Damages or Both.** Buyer may elect to treat this Contract as canceled, in which case  
803 all Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be proper.  
804 Alternatively, in addition to the per diem in § 17 (Possession) for failure of Seller to timely deliver possession of the Property after  
805 Closing occurs, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance  
806 or damages, or both.

807 **20.2.2. Seller's Failure to Perform.** In the event Seller fails to perform Seller's obligations under this Contract, to  
808 include, but not limited to, failure to timely disclose Association violations known by Seller, failure to perform any replacements or  
809 repairs required under this Contract or failure to timely disclose any known adverse material facts, Seller remains liable for any such  
810 failures to perform under this Contract after Closing. Buyer's rights to pursue the Seller for Seller's failure to perform under this  
811 Contract are reserved and survive Closing.

812 **21. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event of any arbitration  
813 or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all  
814 reasonable costs and expenses, including attorney fees, legal fees and expenses.

815 **22. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not resolved, the parties  
816 must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps  
817 to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is  
818 binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator  
819 and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire  
820 dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that  
821 party's last known address (physical or electronic as provided in § 26). Nothing in this Section prohibits either party from filing a  
822 lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This  
823 Section will not alter any date in this Contract, unless otherwise agreed.

824 **23. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must release the Earnest  
825 Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding  
826 the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective  
827 discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest  
828 Money into a court of competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and  
829 legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of

830 the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one  
831 hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest  
832 Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit and has not interpleaded the monies at the time  
833 of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the  
834 obligation of § 22 (Mediation). This Section will survive cancellation or termination of this Contract.

835 **24. TERMINATION.**

836 **24.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to Terminate), the  
837 termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written  
838 notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or  
839 before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory  
840 and waives the Right to Terminate under such provision.

841 **24.2. Effect of Termination.** In the event this Contract is terminated, and all Earnest Money received hereunder is timely  
842 returned to Buyer, the parties are relieved of all obligations hereunder, subject to §§ 10.4. and 21.

843 **25. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS.** This Contract, its exhibits and specified  
844 addenda, constitute the entire agreement between the parties relating to the subject hereof and any prior agreements pertaining  
845 thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms  
846 of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or  
847 obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same.  
848 Any successor to a party receives the predecessor's benefits and obligations of this Contract.

849 **26. NOTICE, DELIVERY AND CHOICE OF LAW.**

850 **26.1. Physical Delivery and Notice.** Any document or notice to Buyer or Seller must be in writing, except as provided in  
851 § 26.2. and is effective when physically received by such party, any individual named in this Contract to receive documents or  
852 notices for such party, Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing  
853 must be received by the party, not Broker or Brokerage Firm).

854 **26.2. Electronic Notice.** As an alternative to physical delivery, any notice may be delivered in electronic form to Buyer or  
855 Seller, any individual named in this Contract to receive documents or notices for such party, Broker or Brokerage Firm of Broker  
856 working with such party (except any notice or delivery after Closing, cancellation or Termination must be received by the party, not  
857 Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or \_\_\_\_\_.

858 **26.3. Electronic Delivery.** Electronic Delivery of documents and notice may be delivered by: (1) email at the email address  
859 of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the  
860 documents, or (3) facsimile at the facsimile number (Fax No.) of the recipient.

861 **26.4. Choice of Law.** This Contract and all disputes arising hereunder are governed by and construed in accordance with  
862 the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property  
863 located in Colorado.

864 **27. NOTICE OF ACCEPTANCE, COUNTERPARTS.** This proposal will expire unless accepted in writing, by Buyer and  
865 Seller, as evidenced by their signatures below and the offering party receives notice of such acceptance pursuant to § 26 on or before  
866 **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and  
867 Buyer. A copy of this Contract may be executed by each party, separately and when each party has executed a copy thereof, such  
868 copies taken together are deemed to be a full and complete contract between the parties.

869 **28. GOOD FAITH.** Buyer and Seller acknowledge that each party has an obligation to act in good faith including, but not limited to  
870 28, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations; Title Insurance,**  
871 **Record Title and Off-Record Title; New ILC, New Survey; and Property Disclosure, Inspection, Indemnity, Insurability Due**  
872 **Diligence and Source of Water.**

873 **ADDITIONAL PROVISIONS AND ATTACHMENTS**

874 **29. ADDITIONAL PROVISIONS.** (The following additional provisions have not been approved by the Colorado Real Estate  
875 Commission.)

876  
877  
878  
879  
880

881 See attached Exhibit B for additional provisions.  
882  
883  
884  
885

886 **30. OTHER DOCUMENTS.**

887 **30.1. Documents Part of Contract.** The following documents are a part of this Contract:

888 **30.1.1. Post-Closing Occupancy Agreement.** If the Post-Closing Occupancy Agreement box is checked in § 17  
889 the Post-Closing Occupancy Agreement is a part of this Contract.  
890

891  
892

893

894 **30.2. Documents Not Part of Contract.** The following documents have been provided but are not a part of this Contract: ✓  
895  
896  
897

898

**SIGNATURES**

899

Buyer's Name: \_\_\_\_\_ Buyer's Name: \_\_\_\_\_

\_\_\_\_\_  
Buyer's Signature Date

\_\_\_\_\_  
Buyer's Signature Date

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

900 [NOTE: If this offer is being countered or rejected, do not sign this document.]

Seller's Name: \_\_\_\_\_

Seller's Name: \_\_\_\_\_

\_\_\_\_\_  
Seller's Signature Date

\_\_\_\_\_  
Seller's Signature Date

Address: \_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

901

902

**END OF CONTRACT TO BUY AND SELL REAL ESTATE**

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**BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

**A. Broker Working With Buyer**

Broker  Does  Does Not acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Buyer as a  Buyer's Agent  Transaction-Broker in this transaction.

Customer. Broker has no brokerage relationship with Buyer. See § B for Broker's brokerage relationship with Seller.

Brokerage Firm's compensation or commission is to be paid by  Listing Brokerage Firm  Buyer  Other \_\_\_\_\_.

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: \_\_\_\_\_  
Brokerage Firm's License #: \_\_\_\_\_  
Broker's Name: \_\_\_\_\_  
Broker's License #: \_\_\_\_\_

\_\_\_\_\_  
Broker's Signature

\_\_\_\_\_  
Date

Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
Email Address: \_\_\_\_\_

---

### B. Broker Working with Seller

Broker  Does  Does Not acknowledge receipt of Earnest Money deposit. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 23, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Seller as a  Seller's Agent  Transaction-Broker in this transaction.

Customer. Broker has no brokerage relationship with Seller. See § A for Broker's brokerage relationship with Buyer.

Brokerage Firm's compensation or commission is to be paid by  Seller  Buyer  Other \_\_\_\_\_.

This Broker's Acknowledgements and Compensation Disclosure is for disclosure purposes only and does NOT create any claim for compensation. Any compensation agreement between the brokerage firms must be entered into separately and apart from this provision.

Brokerage Firm's Name: \_\_\_\_\_  
Brokerage Firm's License #: \_\_\_\_\_  
Broker's Name: \_\_\_\_\_  
Broker's License #: \_\_\_\_\_

\_\_\_\_\_  
Broker's Signature

\_\_\_\_\_  
Date

Address:

---

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Phone No.:

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Fax No.:

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Email Address:

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903

**STATE OF COLORADO**  
**acting by and through the**  
**Department of Natural Resources,**  
**for the use and benefit of the Division of Parks and Wildlife**  
**and the Parks and Wildlife Commission**

**FUNDING AGREEMENT**

**With**  
**City of Grand Junction**

**To Purchase a Fee Title**  
**From**  
**Bennie Dick Skinner and David Lee Skinner**

**1. PARTIES**

This funding agreement (“Agreement”) is entered into by City of Grand Junction, a Colorado home-rule municipality (“City”), whose address is 250 North 5th Street, Grand Junction, Colorado 81501, and the State of Colorado acting by and through the Department of Natural Resources, for the use and benefit of the Division of Parks and Wildlife and the Parks and Wildlife Commission (the “State” or “CPW”) located at 6060 Broadway, Denver, Colorado 80216. The Parties agree to the provisions set forth in this Agreement.

**2. EFFECTIVE DATE**

This Agreement is not effective or enforceable until the Effective Date as defined in §4.F. The State is not liable to pay or reimburse City for any performance hereunder including, but not limited to, costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date or after termination.

**3. RECITALS**

**A. State’s Authority, Appropriation, and Approval**

Authority to enter into this Agreement exists pursuant to CRS §33-1-101, §33-1-104, §33-1-105, §33-10-101, §33-10-106, §33-10-107, §33-9-101, §33-9-109 et seq., and §38-30.5-102, sufficient funds have been budgeted and appropriated; and all prior reviews and approvals have been obtained, except as provided in §9.

**B. Consideration**

The Parties acknowledge that the mutual promises and covenants contained herein and other good and valuable consideration are sufficient and adequate to support this Agreement.



**C. Exhibits and other Attachments**

The following are attached hereto and incorporated by reference herein: **Exhibit A** (Property Description), **Exhibit B** (Conservation and Trail Easement), and **Exhibit C** (Life Estate).

**D. City Intent**

City intends to obtain from Gavin W. Skinner (Deceased), Bennie Dick Skinner and David Lee Skinner (collectively “Owners”) (see §4.H) a general warranty deed for the Property (see §4.J). City further intends to convey a Conservation and Trail Easement encumbering the Property to the State (see §9(E)).

**E. Purpose**

This Agreement supports the legislative policies, purposes, and uses enumerated in CRS §33-1-101, §33-1-104, §33-1-105, §33-9-101, §33-9-109 et seq., §33-10-101, §33-10-106, §33-10-107, and §38-30.5-102, as the Property possesses some or all of the values, opportunities, and characteristics listed therein which are important to the Parties, the residents of the surrounding area, and the people of the State of Colorado. City has entered or will enter into a contract with Owners for the purchase of fee title of the Property. At City’s request the State has agreed to provide funding to assist City with the purchase.

**F. References**

All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits, or other attachments are references to sections, subsections, exhibits, or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

**4. DEFINITIONS**

The following terms as used herein shall be construed and interpreted as follows:

**A. Agreement**

“Agreement” means this funding agreement, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this agreement and any future modifying agreements, exhibits, attachments, or references incorporated herein pursuant to Colorado State law, State Fiscal Rules and State Controller Policies.

**B. Closing and Closing Date**

“Closing” means the completion or waiver of all conditions precedent contained in the Contract (see §4.C) and the contemporaneous execution of all related documents and “Closing Date” is the date on which the Closing occurs.

**C. Contract**

“Contract” means that document entered into between the City and Owners for the purchase of the fee title.

**D. CRS**

“CRS” means the Colorado Revised Statutes as amended.

**E. Conservation and Trail Easement**

“Conservation and Trail Easement” is the conservation and trail easement substantially in the form of the document attached as **Exhibit B**.

**F. Effective Date**

“Effective Date” is the date this Agreement is approved and signed by the State Controller.

**G. GOCO**

“GOCO” is the Great Outdoors Colorado Trust Fund.

**H. Owners**

“Owners” means the owners of the Property from whom City is purchasing the fee title.

**I. Party or Parties**

“Party” means either the State or City, and “Parties” means both the State and City.

**J. Property**

“Property” is the real property located in Mesa County described in **Exhibit A**.

**K. Purchase Price**

“Purchase Price” is the amount of money City will pay Owners to purchase the fee title.

**L. Title Commitment and Title Policy**

“Title Commitment” and “Title Policy” mean the current standard ALTA form(s) commonly used by a title company authorized to do business in the State of Colorado insuring City’s interest in the Property in an amount not less than the Purchase Price.

**5. TERM AND EARLY TERMINATION**

**A. Term**

The Parties’ respective duties and obligations under this Agreement shall commence on the Effective Date and shall terminate on the sooner to occur of the Closing Date or December 31, 2024; provided however, that certain duties and obligations may continue thereafter as specified herein.

**B. Early Termination in the Public Interest**

The State is entering into this Agreement for the purpose of carrying out the public policy of the State of Colorado as determined by its Governor, General Assembly, and/or Courts. If this Agreement ceases to further the public policy of the State, the State, in its sole discretion, may terminate this Agreement in whole or in part. The State shall notify City of such termination in accordance with **§14**, specifying the effective date of the termination and whether it affects all or a portion of this Agreement.

**6. PURCHASE AND SALE OF PROPERTY**

Subject to the provisions of this Agreement, the State shall provide City with funding in the amount set forth in **§7.A** to purchase the Property in fee title. The State’s performance under this Agreement is conditioned on City concurrently purchasing the fee title pursuant to the closing instructions provided by the State. City shall maintain a complete file of all records, communications, and other written materials, which pertain to the performance of the Agreement, including the acquisition of fee title, and shall maintain such records for a period of three years after the Closing Date. The State may audit such records at reasonable times and upon reasonable notice.

**7. PAYMENT TO CITY**

**A. Maximum Amount Payable and Allocation**

The maximum amount payable by the State to or on behalf of City is \$580,000.00 as determined by the State from available funds. Funds are allocated as follows:

- \$555,000.00 towards the Purchase Price

- Up to \$20,000.00 for due diligence reimbursement as described in §7.C and,
- Up to \$5,000.00 for closing costs and title insurance as described in §7.C.

**B. Available Funds, Contingency & Termination**

The State is prohibited by law from making commitments beyond the term of the State's current fiscal year and making payment to City beyond the State's current fiscal year is contingent upon the continuing availability of State appropriations as provided in §17.B. If GOCO are used to fund this Agreement in whole or in part, the State's performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Agreement during any State fiscal year shall be made only from available funds encumbered for this Agreement for such State fiscal year and the State's liability for such payments shall be limited to the amount remaining of such encumbered funds. If State or GOCO are not fully appropriated or otherwise become unavailable, the State may terminate this Agreement without further liability, after providing notice to City in accordance with §14.

**C. Direct Costs Reimbursement**

Subject to the provisions of §9, the State shall reimburse City for one-third of its direct acquisition costs, including but not limited to: closing costs, title insurance, appraisal, phase I environmental site assessment, and minerals assessment. The maximum amount of costs for which the State will reimburse City is set forth in §7.A (\$25,000). The State shall reimburse City at Closing provided that City submits invoices to the State no later than 20 days prior to Closing and provides satisfactory evidence that such costs were incurred in relation to this Agreement and were paid by City; otherwise, the State shall reimburse City after Closing provided that City submits invoices to the State within 180 days after Closing.

**D. Erroneous Payments**

At the State's sole discretion, payments made by the State to City in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by City, may be recovered from City by deduction from subsequent payments under transactions between the State and City or by other appropriate methods and collected as a debt due to the State. Such funds shall not be paid to any person or entity other than the State.

**8. LITIGATION NOTICE**

**A. Litigation Notice**

Within five days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Agreement or which may affect City's ability to perform its obligations hereunder, City shall notify the State of such action and deliver copies of such pleadings to the State pursuant to §14.

**B. Noncompliance**

City's failure to provide copies of pleadings and notify the State in a timely manner in accordance with this §8 may result in the delay of payment of funds and/or exercise of any remedies provided under this Agreement, including termination.

**9. PERFORMANCE CONTINGENCIES FOR THE STATE**

The State's performance hereunder is contingent upon successful completion or express waiver, done in accordance with §16.P, of each of the following conditions in this §9. If one or more of these contingencies are not satisfied by Closing, and the Parties have not agreed in

writing to allow additional time for satisfaction, then this Agreement shall automatically terminate and City and the State shall be released from all further obligations and liabilities under this Agreement.

**A. Approvals**

Final approvals of this transaction by the following entities and persons:

- i. The Colorado State Controller;
- ii. The Division of Parks and Wildlife. The execution of this Agreement by the Division of Parks and Wildlife does not satisfy this required approval;
- iii. The Parks and Wildlife Commission, which may require more than one vote so as to consider recommendations by the Capital Development Committee of the Colorado General Assembly.

**B. Appraisal and Other Due Diligence**

**i. Appraisal**

The State ordered an appraisal completed in accordance with CRS §24-30-202(5)(b) that supports the Purchase Price and is satisfactory to and accepted by the Colorado State Controller. The appraisal shall be acceptable to any review appraiser if a review appraisal is requested by the State. Copies of all appraisals ordered by City shall be provided to the State.

**ii. Contract**

City shall provide the State with an executed copy of the Contract.

**iii. Legal Description, Maps, and Survey**

City shall cause to be prepared, without cost or expense to the State, a legal description of the Property and, if requested by State, site and area maps that are acceptable to and approved by the State. After the State's review of the legal description and the Title Commitment, the State may require a survey to resolve any discrepancies or concerns.

**iv. Reports**

City shall, at no cost and expense to the State, cause qualified professionals to prepare a geologist's remoteness report, and a phase I environmental assessment, and should the State deem them necessary, any additional environmental assessments on all or part of the Property if reasonably necessary to protect the interests of the State. Such reports shall be acceptable to and approved by the State.

**C. Title Inspection and Review**

The State's satisfaction with the title to the Property after the opportunity for physical inspection of the Property and after reviewing the documents and evidence of title thereto provided for in this §9.C. If any of the State's objections made pursuant to this provision are not rectified, then the State may terminate this Agreement by written notice and both City and the State shall be released from any further obligations.

**i. Standard Title Exceptions**

City shall require Owners to cause the Title Policy to delete or insure over all standard exceptions regarding mechanics' liens, parties in possession, unrecorded easements, unpaid taxes, assessments, and unredeemed tax sales prior to the year of Closing, and survey matters.

**ii. Title Review - Matters of Public Record**

City, without cost or expense to the State, shall promptly cause a copy of the Title Commitment together with the following documents to be delivered to the State: (a) copies of all plats, declarations, covenants, conditions, and restrictions burdening the Property, and (b) copies of other documents (or, if illegible, summaries of such documents) listed in the Additional Exceptions of Schedule B-II of the Title Commitment. As soon as practicable after Closing, City shall provide a copy of the Title Policy insuring City's interest in the Property to the State.

**iii. Title Review - Matters Not Shown by the Public Records**

City shall require Owners to deliver to City and the State true copies of all lease(s), survey(s), and other similar documentary information in Owners' possession pertaining to the Property, and shall require Owners to disclose in writing to City and the State all easements, liens, or other title matters not shown by the public record of which Owners have actual knowledge. The State and City shall have the right to inspect the Property to determine if any third party has any right in the Property not shown by the public records (such as an unrecorded easement, unrecorded lease, or boundary line discrepancy).

**iv. Unrecorded Burdens – City's Liability**

City shall, at no cost to the State, cause Owners to discharge and/or cure any liens, charges, defects, encumbrances, claims, or causes of action (hereinafter called "burdens") existing on or before Closing and incurred by City or Owners that attach to the Property which are not of record at the time of Closing and which were not disclosed pursuant to §9.C.iii. Grantee shall reimburse the State in an amount equal to CPW's proportionate contribution to Purchase Price of any diminution in value of the City's interest in the Property if any such burdens cannot be discharged or cured. The State may bring an action to enforce this §9.C.iv if City fails or refuses to do so within a reasonable time, and City shall reimburse the State for its costs and reasonable attorney's fees incurred with regard to such action.

**D. Conservation and Trail Easement**

At Closing City shall convey to the State, a Conservation and Trail Easement substantially in the form of **Exhibit B** for no additional consideration from the State. The Conservation and Trail Easement shall be recorded immediately following recording of City's general warranty deed.

**E. Contribution from Mesa County**

Contribution from Mesa County towards the Purchase Price in an amount not less than \$555,000.00.

**F. Life Estate**

At Closing, City shall execute a Life Estate substantially in the form of **Exhibit C**. The Life Estate shall be recorded after the Conservation and Trail Easement.

**G. Reimbursement Agreement**

At Closing, City, the State, and Mesa County shall execute a Reimbursement Agreement substantially in the form of **Exhibit D**. The Reimbursement Agreement shall be recorded after the Life Estate.

**H.G. Baseline Inventory Report**

At Closing, City and the State shall execute a Baseline Inventory Report documenting the present conditions and conservation values of the Conservation and Trail Easement. This document will not be recorded.

**H.H. Management Plan**

At Closing, City and the State shall execute a Management Plan for the portion of the Property encumbered by the Conservation and Trail Easement, which shall describe the objectives and actions for management of the Property for the next five years after Closing. This document will not be recorded.

**10. STATUS PENDING CLOSING**

**A. Maintenance of the Property**

City shall require Owners to maintain the Property in its present condition until Closing. Specifically, but not by way of limitation, City shall prohibit the following activities on the Property: cutting, slashing, removing, destroying or wasting of any trees or plants; diking, dredging, filling or other disturbances; or disturbance of the soils or any alteration of the surface or of any vegetation thereon (with the exception of historic livestock grazing and harvesting of seasonal crops, which shall be in accordance with acceptable range management and farming standards). In the event of any such loss or damage prior to Closing, the State may, without liability, terminate this Agreement.

**B. Risk of Loss**

The State may elect to terminate this Agreement without liability in the event of loss or damage to the Property before closing, including, but not limited to, losses from acts of nature, such as fire, flood, and landslide.

**11. CLOSING**

**A. Date, Time and Location**

The date and time of Closing shall be at the mutual agreement of CPW, City and Owners, but not later than 5:00 p.m. on December 31, 2024 at the offices of the title company.

**B. Documents and Funds Delivered**

Owners shall deliver to City a properly executed general warranty deed. That portion of the Purchase Price supplied by the State may be in the form of a State warrant or electronic funds transfer, which shall be at the State's discretion. The State's payment shall be made under instructions that payment shall be returned to the State if for any reason acquisition of the Property does not occur.

**12. REPRESENTATIONS AND WARRANTIES**

**A. Owners to City**

As a condition of entering into this Agreement the State requires City to obtain from Owners the following representations and warranties in the Contract which shall be enforceable by the State as a third-party beneficiary of the Contract:

**i. Compliance with Law**

Owners are in compliance with the laws, orders, and regulations of each governmental department, commission, board or agency having jurisdiction over the Property in those cases where noncompliance would have a material adverse effect on the Property.

**ii. Ownership of the Property**

Owners are the sole and record owner in fee simple of the Property as of the Effective Date of this Agreement and at Closing City shall receive good and marketable title to the Property, subject to those matters of record revealed in the Title Commitment and those matters disclosed to City and the State.

**iii. Other Agreements**

Owners are not a party to, subject to, or bound by any agreement, contract, or lease of any kind relating to the Property that would conflict with Owners’ performance under the Contract other than those matters of record revealed in the Title Commitment and found acceptable to the State.

**iv. Pending Actions**

There are not any actions, suits, proceedings, or investigations pending or, to Owners’ knowledge, threatened, against or affecting the Property, or arising out of Owners’ actions or inactions related to the Property.

**B. City to the State**

City makes the following representations and warranties to the State, each of which the State relied upon in entering into this Agreement:

**i. Legal Authority–City Signatory**

City warrants that it possesses the legal authority to enter into this Agreement, and, if City is not a natural person, that it has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, to lawfully authorize its undersigned signatory to execute this Agreement, and to bind City to its terms. If the State requests, City shall provide the State with proof of City’s authority to enter into this Agreement within 15 days of receiving such request.

**13. DEFAULT – TIME IS OF THE ESSENCE – REMEDIES**

Time is of the essence hereof. If either Party is in default under this Agreement, the other Party shall have available to it all remedies at law and in equity.

**14. NOTICES AND REPRESENTATIVES**

Notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to the representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

**State**  
Colorado Parks and Wildlife  
Real Estate Section  
6060 Broadway  
Denver, Colorado 80216  
Michael.downey-hodson@state.co.us

**City**  
City of Grand Junction  
City Manager  
250 N. 5<sup>th</sup> Street  
Grand Junction, CO 81501  
[andrea.phillips@gjcity.org](mailto:andrea.phillips@gjcity.org)

And copy to

City Attorney  
250 N 5<sup>th</sup> Street  
Grand Junction, CO 81501

## **15. LIMITATION OF CITY AND STATE LIABILITY**

Liability for claims for injuries to persons or property arising from the negligence of the City and/or the State of Colorado, their departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of CRS §24-10-101 et seq. (the CGIA) and/or CRS §24-30-1501, et seq. (risk management).

## **16. GENERAL PROVISIONS**

### **A. Assignment**

City may not assign its rights under this Agreement absent written consent of the State which may be withheld at the State's sole and absolute discretion.

### **B. Binding Effect**

All provisions herein, including the benefits and burdens, shall extend to and be binding upon the Parties' respective heirs, legal representatives, successors, and assigns.

### **C. Captions and Headings**

The captions and headings in this Agreement are for convenience of reference only and shall not be used to interpret, define, or limit its provisions.

### **D. Digital Signatures**

If any signatory signs this Agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Agreement by reference.

### **E. Construction Against the Drafter**

In the event of an ambiguity in this Agreement, the rule of construction that ambiguities shall be construed against the drafter shall not apply and the Parties hereto shall be treated as equals and no Party shall be treated with favor or disfavor.

### **F. CORA Disclosure**

To the extent not prohibited by federal law, this Agreement and the performance measures and standards under CRS §24-106-107, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

### **G. Counterparts**

This Agreement may be executed in multiple identical original counterparts constituting one Agreement.

### **H. Entire Understanding**

This Agreement represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have any force or affect whatsoever, unless embodied herein.

### **I. Jurisdiction and Venue**

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and venue shall be in the County in which the Property is located.



## **J. Modification**

### **i. By the Parties**

Except as specifically provided in this Agreement, modifications hereof shall not be effective unless agreed to by the Parties in a written amendment hereto, properly executed and approved in accordance with applicable Colorado State Law, State Fiscal Rules, and Office of the State Controller Policies. Modifications specifically permitted in this Agreement shall be made in accordance with the State Controller's Policy entitled MODIFICATION OF GRANTS - TOOLS AND FORMS.

### **ii. By Operation of Law**

This Agreement is subject to such modifications as may be required by changes in Federal or Colorado State Law, or their implementing regulations. Any such required modification shall be automatically incorporated as part of this Agreement on the effective date of such change, as if fully set forth herein.

## **K. Order of Precedence**

The provisions of this Agreement shall govern the relationship of the Parties. In the event of conflicts or inconsistencies between this Agreement and its exhibits and attachments, including, but not limited to, those provided by City, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. Colorado Special Provisions,
- ii. The remaining provisions of this Agreement,
- iii. Exhibits

## **L. Severability**

Provided this Agreement can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this Agreement in accordance with its intent.

## **M. Survival of Certain Agreement Terms**

Notwithstanding anything herein to the contrary, provisions of this Agreement requiring continued performance, compliance, or effect after Closing or termination hereof, shall survive such Closing or termination and shall be enforceable by the State if City fails to perform or comply as required.

## **N. Taxes**

The City and the State are exempt from all federal excise taxes under IRC Chapter 32 (No. 84-730123K) and from all State and local government sales and use taxes under CRS §§39-26-101 et seq. and 201 et seq..

## **O. Third Party Enforcement - None**

Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental, and do not create any rights for any third parties.

## **P. Waiver**

Waiver of any default under a term, provision, or requirement of this Agreement, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be

construed or deemed as a waiver of any subsequent default, provision or, requirement, or of any other term, provision, or requirement.

## **17. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)**

These Special Provisions apply to all contracts except where noted in italics.

### **A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.**

This Agreement shall not be valid until it has been approved by the Colorado State Controller or designee. If this Agreement is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Agreement shall not be valid until it has been approved by the State's Chief Information Officer or designee.

### **B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.**

Financial obligations of the State payable after the current State fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

### **C. GOVERNMENTAL IMMUNITY.**

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

### **D. COMPLIANCE WITH LAW.**

City shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

### **E. CHOICE OF LAW, JURISDICTION, AND VENUE.**

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Agreement. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and venue shall be in the county in which the Property is located. Venue shall be proper in any county in which the Property is located if it is situate in more than one county.

### **F. PROHIBITED TERMS.**

Any term included in this Agreement that requires the State to indemnify or hold City harmless; requires the State to agree to binding arbitration; limits City's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Agreement shall be construed as a waiver of any provision of §24-106-109 C.R.S.

### **G. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.**

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Agreement. City has no interest and shall not acquire any interest, direct or indirect, that would

conflict in any manner or degree with the performance of City's services and City shall not employ any person having such known interests.

**H. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.**

*[Not applicable to intergovernmental agreements]* Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: (i) unpaid child support debts or child support arrearages; (ii) unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; (iii) unpaid loans due to the Student Loan Division of the Department of Higher Education; (iv) amounts required to be paid to the Unemployment Compensation Fund; and (v) other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to City in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by City by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and City, or by any other appropriate method for collecting debts owed to the State.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

**18. SIGNATURE PAGE**

**THE PARTIES HERETO HAVE EXECUTED THIS FUNDING AGREEMENT**

Persons signing for City hereby swear and affirm that they are authorized to act on City's behalf and acknowledge that the State is relying on their representations to that effect.

<p style="text-align: center;"><b>CITY OF GRAND JUNCTION</b></p> <p style="text-align: center;">_____ Signature</p> <p>By: _____ Printed Name</p> <p>Title: _____ Title</p> <p>Date: _____ Date</p>	<p style="text-align: center;"><b>STATE OF COLORADO</b></p> <p style="text-align: center;">Jared S. Polis, Governor acting by and through the Department of Natural Resources, for the use and benefit of the Division of Parks and Wildlife and the Parks and Wildlife Commission Jeff Davis, Director</p> <p style="text-align: center;">_____ Signature</p> <p>By: _____ (Print Name)</p> <p>Title: _____ (Print Title)</p> <p>Date: _____</p>
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**ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

CRS §24-30-202 requires the State Controller to approve all State contracts. This Agreement is not valid until signed and dated below by the State Controller or delegate. City is not authorized to begin performance until such time. If City begins performing prior thereto, the State of Colorado is not obligated to pay City for such performance or for any goods and/or services provided hereunder.

<p><b>STATE CONTROLLER</b> Robert Jaros, CPA, MBA, JD</p>	
_____ <i>Signature – State Controller</i>	Printed Name: _____
Title: _____	Date: _____

## EXHIBIT A

### Property Description

#### LEGAL DESCRIPTION (As Surveyed:)

A Parcel of land described in Reception Number 2572601 located in Lots 1 and 2, Section 24, Township 1 South, Range 1 West, Ute Meridian, Mesa County, Colorado being more particularly described as follows:

Beginning at the Northeast Corner of said Lot 2, whence the Northeast Corner of said Lot 1 (a.k.a. the East 1/4 Corner) bears S89°46'01"E using the Mesa County Local Coordinate System with all other bearings herein being relative thereto;

thence S89°46'01"E along the north line of said Lot 1, a distance of 19.65 feet to the Northwest corner of a parcel of land described in Reception Number 1795805;

thence along the boundary of said Reception Number 1795805 for the following two (2) courses:

- 1) S00°13'19"W, a distance of 365.02 feet;
- 2) S84°35'35"E, a distance of 195.30 feet;

thence S76°29'23"E, a distance of 363.05 feet; thence S11°21'25"W, a distance of 531.39 feet to the centerline of the Colorado River;

thence Northwesterly along said centerline to a point N89°46'00"W, a distance of 385.00 feet and S00°14'00"W, a distance of 659.48 feet from said Northeast Corner of Lot 2;

thence N00°14'00"E, a distance of 659.48 to a point on the North line of said Lot 2;  
thence S89°46'00"E along said north line of Lot 2, a distance of 385.00 feet to the Point of Beginning.

Containing 12.36 Acres gross area more or less, 9.58 Acres upland area more or less as described.

Description prepared by: Renee Beth Parent, State of Colorado – PLS No. 38266 for the City of Grand Junction, 244 N. 7th Street, Grand Junction, CO 81501

## EXHIBIT B

### Conservation and Trail Easement

#### Conservation Easement

A parcel of land for the purposes of a conservation easement, being a portion of land as described in Reception Number 2572601 located in Government Lots 1 and 2, Section 24, Township 1 South, Range 1 West, Ute Meridian, Mesa County, Colorado being more particularly described as follows:

Commencing at the Northeast Corner of said Lot 2, whence the Northeast Corner of said Lot 1 (a.k.a. the East 1/4 Corner of said Section 24) bears S89°46'01"E, using the Mesa County Local Coordinate System with all other bearings herein being relative thereto; thence S34°42'58"E, a distance of 898.07 feet to a point on the Westerly line of land as described in Reception Number 1588683 and as shown on Deposit Survey 703-92 and the Point of Beginning;

thence S11°21'25"W, a distance of 256.11 feet along said Westerly line to the centerline of the Colorado River; thence along said centerline the following three (3) courses:

- 1) N65°28'26"W, a distance of 427.87 feet;
- 2) N68°34'59"W, a distance of 203.33 feet;
- 3) N73°35'48"W, a distance of 281.62 feet to a point on the East line of land as described in Reception Number 2465231; thence N00°14'00"E, a distance of 262.56 feet along said East line; thence S70°11'35"E, a distance of 544.89 feet; thence S73°30'31"E, a distance of 146.73 feet; thence S60°10'08"E, a distance of 163.97 feet; thence S71°08'53"E, a distance of 108.29 feet to the Point of Beginning.

Said Parcel of land containing 5.19 Acres more or less.

**Trail Easement** (Area included within the Conservation Easement. The north border for each is the same.)

A thirty foot (30') wide strip of land for the purposes of a trail easement, being a portion of land as described in Reception Number 2572601 located in Government Lots 1 and 2, Section 24, Township 1 South, Range 1 West, Ute Meridian, Mesa County, Colorado being more particularly described as follows:

Commencing at the Northeast Corner of said Lot 2, whence the Northeast Corner of said Lot 1 (a.k.a. the East 1/4 Corner of said Section 24) bears S89°46'01"E, using the Mesa County Local Coordinate System with all other bearings herein being relative thereto; thence S34°42'58"E, a distance of 898.07 feet to a point on the Westerly line of land as described in Reception Number 1588683 and as shown on Deposit Survey 703-92 and the Point of Beginning; thence S11°21'25"W, a distance of 30.26 feet along said Westerly line; thence N71°08'53"W, a distance of 115.12 feet; thence N60°10'08"W, a distance of 163.34 feet; thence N73°30'31"W, a distance of 144.09 feet; thence N70°11'35"W, a distance of 535.09 feet to a point on the East line of land as described in Reception Number 2465231; thence N00°14'00"E, a distance of 31.84 feet along said East line; thence S70°11'35"E, a distance of 544.89 feet; thence S73°30'31"E, a

distance of 146.73 feet; thence S60°10'08"E, a distance of 163.97 feet; thence S71°08'53"E, a distance of 108.29 feet to the Point of Beginning.

Said Parcel of land containing 0.66 Acres more or less.

Description prepared by: Renee Beth Parent, State of Colorado – PLS No. 38266 for the City of Grand Junction, 244 N. 7th Street, Grand Junction, CO 81501

**EXHIBIT C**

**DEED GRANTING LIFE ESTATE**

This Life Estate Deed made this \_\_\_\_\_ day of \_\_\_\_\_ 2024 by and between the **City of Grand Junction, a Colorado home rule municipality, (Grantor)** whose mailing address is 250 N. 5th Street, Grand Junction, CO 81501, who is the owner of land the subject of this deed, for and in consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has sold, granted and conveyed, and by these presents does hereby sell, grant and convey to **Bennie Dick Skinner, (Grantee)** to hold during her life and no longer, the real property located in Mesa County, Colorado described, to wit:

Described in **Exhibit A** and depicted on **Exhibit B**, attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the premises aforesaid, to have and to hold the property hereby conveyed unto the Grantee for and during her life and no longer subject to current taxes, all easements, rights-of-way, encumbrances, liens, covenants, conditions, and restrictions together with all improvements thereon, easements, privileges, appurtenances and immunities thereunto belonging or in anywise appertaining, unto the said Grantee. Grantee shall be responsible for maintenance, repairs, all taxes, insurance with the Grantor and its officers and employees additional named insureds and assessments.

Executed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**GRANTOR:**

City of Grand Junction, a home rule municipality

ATTEST:

\_\_\_\_\_  
Andrea Phillips, Interim City Manager

\_\_\_\_\_, City Clerk

State of Colorado                    )  
  )ss  
County of Mesa                        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2024 by Andrea Phillips, Interim City Manager and Amy Phillips, City Clerk for the City of Grand Junction.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public



**EXHIBIT D**

**Reimbursement Agreement**

## DEED GRANTING LIFE ESTATE

This Life Estate Deed made this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by and between the **City of Grand Junction, a Colorado home rule municipality, (Grantor)** whose mailing address is 250 N. 5th Street, Grand Junction, CO 81501, who is the owner of land the subject of this deed, for and in consideration of Ten and 00/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, has sold, granted and conveyed, and by these presents does hereby sell, grant and convey to **Bennie Dick Skinner, (Grantee)** to hold during her life and no longer, the real property located in Mesa County, Colorado described, to wit:

Described in **Exhibit A** and depicted on **Exhibit B**, attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD the premises aforesaid, to have and to hold the property hereby conveyed unto the Grantee for and during her life subject to current taxes, all easements, rights-of-way, encumbrances, liens, covenants, conditions, and restrictions together with all improvements thereon, easements, 32' for right-of-way along the north edge of the property which includes C 1/2 Road for road and utility purposes, the privileges, appurtenances and immunities thereunto belonging or in anyway appertaining, unto the said Grantee. Grantee shall be responsible for maintenance, repairs, all taxes, insurance with the Grantor and its officers and employees named as additional insureds and assessments.

Executed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**GRANTOR:**

City of Grand Junction, a home rule municipality

ATTEST:

\_\_\_\_\_  
Andrea Phillips, Interim City Manager

\_\_\_\_\_  
\_\_\_\_\_, City Clerk

State of Colorado                    )  
  )ss  
County of Mesa                        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2024 by Andrea Phillips, Interim City Manager and Amy Phillips, City Clerk for the City of Grand Junction.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

## EXHIBIT A (Legal Description of Property)

### Conservation Easement

A parcel of land for the purposes of a conservation easement, being a portion of land as described in Reception Number 2572601 located in Government Lots 1 and 2, Section 24, Township 1 South, Range 1 West, Ute Meridian, Mesa County, Colorado being more particularly described as follows:

Commencing at the Northeast Corner of said Lot 2, whence the Northeast Corner of said Lot 1 (a.k.a. the East 1/4 Corner of said Section 24) bears S89°46'01"E, using the Mesa County Local Coordinate System with all other bearings herein being relative thereto; thence S34°42'58"E, a distance of 898.07 feet to a point on the Westerly line of land as described in Reception Number 1588683 and as shown on Deposit Survey 703-92 and the Point of Beginning;

thence S11°21'25"W, a distance of 256.11 feet along said Westerly line to the centerline of the Colorado River; thence along said centerline the following three (3) courses:

1) N65°28'26"W, a distance of 427.87 feet;

2) N68°34'59"W, a distance of 203.33 feet;

3) N73°35'48"W, a distance of 281.62 feet to a point on the East line of land as described in Reception Number 2465231; thence N00°14'00"E, a distance of 262.56 feet along said East line; thence S70°11'35"E, a distance of 544.89 feet; thence S73°30'31"E, a distance of 146.73 feet; thence S60°10'08"E, a distance of 163.97 feet; thence S71°08'53"E, a distance of 108.29 feet to the Point of Beginning.

Said Parcel of land containing 5.19 Acres more or less.

Trail Easement (The trail easement lies within the conservation easement. The north line of each is the same.)

A thirty foot (30') wide strip of land for the purposes of a trail easement, being a portion of land as described in Reception Number 2572601 located in Government Lots 1 and 2, Section 24, Township 1 South, Range 1 West, Ute Meridian, Mesa County, Colorado being more particularly described as follows:

Commencing at the Northeast Corner of said Lot 2, whence the Northeast Corner of said Lot 1 (a.k.a. the East 1/4 Corner of said Section 24) bears S89°46'01"E, using the Mesa County Local Coordinate System with all other bearings herein being relative thereto; thence S34°42'58"E, a distance of 898.07 feet to a point on the Westerly line of land as described in Reception Number 1588683 and as shown on Deposit Survey 703-92 and the Point of Beginning;

thence S11°21'25"W, a distance of 30.26 feet along said Westerly line; thence N71°08'53"W, a distance of 115.12 feet; thence N60°10'08"W, a distance of 163.34 feet; thence N73°30'31"W, a distance of 144.09 feet; thence N70°11'35"W, a distance of 535.09 feet to a point on the East line of land as described in Reception Number 2465231; thence N00°14'00"E, a distance of 31.84 feet along said East line; thence S70°11'35"E, a distance of 544.89 feet; thence S73°30'31"E, a distance of 146.73 feet; thence S60°10'08"E, a distance of 163.97 feet; thence S71°08'53"E, a distance of 108.29 feet to the Point of Beginning.

Said Parcel of land containing 0.66 Acres more or less.

**EXHIBIT B (Property Map)**

**EXHIBIT C (Sample Notice of Transfer of Property Form)**

To: State of Colorado, acting by and through the Department of Natural Resources,  
for the use and benefit of the Division of Parks and Wildlife and the Parks and Wildlife  
Commission ("Grantee")

From: **[Insert name of fee title owner]** ("Grantor")

Pursuant to Section 12.B. of the Deed of Conservation Easement in Gross recorded on **[Insert date recorded]** at Reception Number **[Insert reception number]** in the records of the clerk and recorder of Mesa County, State of Colorado, Grantee is hereby notified by Grantor of the transfer of the fee title interest in the subject Property legally described in **EXHIBIT A** attached hereto effective **[Insert date of closing]** to **[Insert name of new Grantor]**, who can be reached at **[Insert name, legal address, and phone number]**.

Also pursuant to the requirements of Section 12.B. of the aforementioned Deed of Conservation Easement in Gross, the following are enclosed (boxes checked):

- New ownership deed
- Transfer fee of \$100.00 (check number \_\_\_\_\_)
- Transfer fee is not required under an exception in 12.B.

**GRANTOR:**

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

STATE OF COLORADO                    )  
  )ss.  
COUNTY OF \_\_\_\_\_)

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

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public  
My Commission Expires: \_\_\_\_\_

(Seal)

**NOTICE: GRANTOR SHALL NOTIFY GRANTEE AND PAY A TRANSFER FEE OF ONE HUNDRED DOLLARS (\$100.00) TO GRANTEE, ANY TIME THE PROPERTY IS TRANSFERRED TO A THIRD PARTY PURSUANT TO THE REQUIREMENTS IN SECTION 11.B.**

**STATE OF COLORADO  
acting by and through the  
Department of Natural Resources,  
for the use and benefit of the Division of Parks and Wildlife  
and the Parks and Wildlife Commission**

**CONSERVATION EASEMENT IN GROSS**

**Granted By  
City of Grand Junction**

This Conservation Easement in Gross (“CE”) is granted by the City of Grand Junction, a Colorado home-rule municipality (“Grantor”), whose address is 250 North 5th Street, Grand Junction, CO 81501, to the State of Colorado acting by and through the Department of Natural Resources, for the use and benefit of the Division of Parks and Wildlife and the Parks and Wildlife Commission (“State” or “CPW” or “Grantee”), located at 6060 Broadway, Denver, Colorado, 80216.

**RECITALS**

**Whereas** the State is a governmental entity qualified to hold this CE under CRS §38-30.5-101 et seq., which provides for conservation easements to retain or maintain land, water, airspace, or water rights, predominantly in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural, horticultural, wetlands, recreational, forest, or other use or condition consistent with the protection of open land, environmental quality or life-sustaining ecological diversity. Authority to enter into this CE exists pursuant to CRS §33-1-101, §33-1-104, §33-1-105, §33-9-101, et seq., §33-10-101, §33-10-106, §33-10-107, and §38-30.5-102; sufficient funds have been budgeted and appropriated; and all prior reviews and approvals have been obtained. And,

**Whereas** by this CE, Grantor intends to absolutely, irrevocably, unconditionally, without restriction, voluntarily grant, transfer, and convey to the State a real property interest pursuant to CRS §38-30.5-101 et seq., with all additional rights and interests provided under common law. Such real property interest includes a perpetual right to preserve and protect the Conservation Values (see §1.D) of the Property (see §1.K) and therefore this CE prohibits, and the Parties shall not engage in, any use that would diminish or impair the

Conservation Values or that otherwise would be inconsistent with the purposes of this CE.  
And,

**Whereas** this CE supports the legislative policies, purposes, and uses enumerated in CRS §33-1-101, §33-1-104, §33-1-105, §33-9-101, et seq., §33-10-101, §33-10-106, §33-10-107, and §38-30.5-102 as the Property possesses some or all of the values and characteristics listed herein, which are important to the Parties, the residents of the local community, and the people of the State of Colorado and which values shall be herein referred to as “Conservation Values.” In particular, the Property possesses the following Conservation Values:

**i. Outdoor Recreation**

The Property provides access to the general public through the Colorado River Trail which connects several city and state park lands along the Colorado River. The Property provides additional public access opportunities for low-impact outdoor recreation activities.

**ii. Scenic Open Space**

The Property is made up of a scenic gallery of cottonwood trees and other riparian species lining the north bank of the Colorado River. Open and scenic vistas are visible to trail users looking towards the Colorado River against the backdrop of rolling hills and mesas that surround the Grand Valley.

**iii. Wildlife Habitat**

The Property is made up of relatively natural habitat that is primarily riparian cottonwood gallery forests. The property lies within the area designated as critical habitat for western yellow-billed cuckoo, listed by the United States Fish and Wildlife Service as a threatened species.

**iv. Connectivity**

The Property enhances the connectivity of a mix of public park lands owned by Colorado Parks & Wildlife and the City of Grand Junction along the north bank of the Colorado River. And,

**Whereas** the Parties desire to collaborate in construction of the Colorado River Trail, which will serve as an important amenity to the people of the City of Grand Junction, Mesa County, and the State of Colorado. And,

**Whereas** this CE will convey a right of access to the State to allow the general public to use the Property for the Colorado River Trail and other low-impact outdoor recreation activities. And,

**Whereas** the following attachments and exhibits are attached hereto and incorporated by reference herein: **EXHIBIT A** (Legal Description of Property), **EXHIBIT B** (Property Map), and **EXHIBIT C** (Sample Notice of Transfer of Property Form)

**Now Therefore**, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration paid in this or related transactions, the receipt of which is hereby acknowledged as sufficient and adequate to support the granting of this CE, and pursuant to CRS §38-30.5-101, et seq. and with all additional rights and interests provided under common law, by this CE Grantor hereby absolutely, irrevocably,

unconditionally, without restriction, and voluntarily grants, conveys, and transfers to the State, and the State accepts, a perpetual conservation easement encumbering the Property. This CE shall run with the land and constitutes a real property interest vested in the State on the Closing Date. The term “conservation easement in gross” is used as defined in CRS §38-30.5-101, et seq. and the common law doctrine that non-adjointing easements are personal interests shall not apply whether or not the State owns any real property adjoining the Property.

**1. DEFINITIONS**

The following terms as used herein shall mean and be construed and interpreted as follows:

**A. Baseline Report**

“Baseline Report” means the written report, incorporated by reference herein, approved and signed by the Parties documenting the condition of the Property as of the Closing Date.

**B. CE**

“CE” means this Conservation Easement in Gross, its terms and conditions, attached exhibits, documents incorporated by reference under the terms of this CE, exhibits, attachments or references incorporated herein pursuant to Colorado Law and Regulations, State Fiscal Rules, and State Controller Policies.

**C. Closing and Closing Date**

“Closing” means the full execution of this CE. “Closing Date” is the date on which the Closing occurs.

**D. Conservation Values**

“Conservation Values” means those values and characteristics described as “Conservation Values” in the third Recital above.

**E. CRS**

“CRS” means the Colorado Revised Statutes as amended.

**F. Management Plan**

“Management Plan” means the plan, and any amendments thereto, detailing ongoing management of the Property.

**G. Minerals**

“Minerals” is to be construed in the most expansive and liberal terms and means any naturally occurring substance that can be extracted from the surface of or below the earth (specifically, in this instance, the Property), whether or not a substance is currently recognized as valuable, and includes, but is not limited to, the following: soil, sand, gravel, rock, stone, decorative stone, oil, natural gas, carbon dioxide, coalbed methane (including any and all substances produced in association therewith from coal-bearing formations), hydrocarbon, or fuel.

**H. Mineral Development**

“Mineral Development” means the act of extracting Minerals from the surface of or below the Property via any means including, but not limited to, the following:

- i. Surface or tunnel mining including “mining” as defined in Internal Revenue Code §170(h).
- ii. Construction of any and all roads, pipelines, structures, equipment, tanks, storage facilities, ponds, evaporation pools or pits, utility lines, or any kind and description,



and all other activities related to oil and gas operations as described in CRS §34-60-103(6.5) and in Colorado Energy and Carbon Management Commission Rule 100 - Definitions.

**I. Mineral Rights**

“Mineral Rights” means the right to explore for and extract Minerals from the Property by virtue of any interest in the Property, including, but not limited to, the following: any real property interest, mineral deed, mineral lease, mineral severance, mineral reservation, mining claim, or mining lease.

**J. Party and Parties**

“Party” means the State or Grantor and “Parties” means both the State and Grantor.

**K. Property**

“Property” is the real property described in **EXHIBIT A** and depicted for illustrative purposes only in **EXHIBIT B** and includes all land, improvements, and fixtures together with all Grantor’s right, title and interest in all easements, rights of way, and appurtenant rights, and other interests therein. The Property includes the surface thereof, the subsurface below the Property to the center of the Earth, and the airspace from the surface extending 100 miles above the Property.

**L. Violation**

“Violation” means injury to or impairment of the Conservation Values, or a breach in whole or in part of any of the provisions of this CE.

**2. TERM AND TERMINATION**

**A. Perpetual Term and Recording**

This CE shall continue in perpetuity. Following Closing, this CE shall be promptly recorded in the official records of the county in which the Property is situated and the State may re-record it and any amendments hereto at any time as may be required to preserve its rights in this CE.

**B. Termination**

This CE may only be terminated or extinguished, in whole or in part, by order of a court of competent jurisdiction in accordance with State and/or federal laws. The following shall not impair the validity of this CE, nor shall any of the following be considered grounds for this CE to be amended, terminated or extinguished: **(i)** under theories of abandonment, **(ii)** for failure of the State to enforce this CE in whole or part, **(iii)** for changes in the potential economic value of any use that is prohibited by or inconsistent with this CE, **(iv)** for changes in any current or future uses of neighboring properties, **(v)** for the inability of the Grantor or Grantor’s heirs, successors or assigns to use the Property as permitted by this CE, or the unprofitability of doing so, **(vi)** due to the repeal or amendment of Section 38-30.5-101 et seq., **(vii)** for the disappearance of any species/specimens from the Property or the scientific or legal conclusion that such species is extinct, or **(viii)** for changes to the Property caused by natural disaster or other events that alter, diminish, eliminate, or otherwise negatively affect the original Conservation Values.

**3. PERMITTED USES AND ACTIVITIES**

Grantor may engage in or allow the following uses of the Property and activities reasonably incidental thereto, provided they are consistent with the purpose of this CE and do not change, disturb, alter, diminish, or impair the Conservation Values.

**A. Recreational and Agricultural Structures**

Building, renovating, remodeling, and using structures necessary for agricultural or public recreational uses allowed under this CE after receiving approval in advance in writing by the State, whose approval shall not be unreasonably withheld; provided that no structure shall be used as temporary or permanent residence. Examples of recreational and agricultural structures include, but are not limited to, sheds, lean-tos, livestock shelters, hoop houses, small greenhouses, picnic tables, fishing piers, benches, interpretive signs, and the like. Any structures constructed under this section shall be located to minimize impact to the Conservation Values. No structure may exceed a height of 20 feet above grade. Height is defined as the vertical distance from grade plane to the average height of the highest roof surface.

**B. Agriculture**

Grantor reserves the right to conduct any customary agricultural or horticultural uses on the Property, subject to the restrictions in this CE. The Parties agree to work together to draft provisions for permitted agricultural activities, consistent with this CE, in the Management Plan (§7).

**C. Fences**

Existing fences (as documented in the Baseline Report) shall be maintained and repaired in accordance with CPW wildlife friendly standards. Construction of new fences is not allowed except (i) when approved in advance in writing by State, (ii) around the perimeter of the Property, (iii) such cross-fencing as may be necessary for the control of livestock, or (iv) such fencing as may be necessary to control public access on the Property. New and replaced fencing must be installed in accordance with CPW wildlife friendly standards. Sheep-tight or woven fence shall not be used to repair or replace existing fences.

**D. Public Recreational Use**

Grantor hereby grants, conveys, and transfers to the State, and the State accepts, a perpetual easement for the access of the State and the public over the Property that runs with the land, which constitute a real property interest immediately vested in the State, as further provided in §6.

**E. Noxious Weeds**

Control of noxious weeds (undesirable plant species designated as such under CRS §§35-5.5-101, et. seq.) on the Property by chemical, biological, and mechanical means. This right shall not include the right to conduct aerial herbicide or aerial insecticide spraying operations on the Property.

**F. Livestock Activities**

Use of the Property for feeding, breeding, raising and managing traditional livestock. Traditional livestock excludes Game Farm Animals (see §4.H).

**G. Recreational Use**

Personal recreational uses such as rafting, paddling, fishing, horseback riding, cross-country skiing, bicycling, or hiking, or other traditional non-motorized recreational activities.

**H. Roads and Trails**

Maintenance and use of existing roads on the Property. Grantor may construct new trails for the use of the general public subject to the State's prior written consent, which whose approval shall not be unreasonably withheld.

**I. Utilities**

Construction, installation, maintenance, repair, removal, relocation, replacement, and use of utility mains, lines, and underground facilities for the exclusive purpose of providing utility services to other Property owned by Grantor or supplied by Grantor with the utility services. Any utility infrastructure constructed under this section shall be sited to minimize its impact to the Conservation Values and shall be buried. Any areas disturbed as a result of any utility infrastructure construction shall be re-vegetated and restored to a natural condition with native vegetation as soon as is practicable after completion; provided however, if such disturbed area is under cultivation as permitted by this CE, then re-vegetation and restoration shall be done to restore such disturbed area to its condition in the Baseline Report as reasonably determined by the State.

**J. Water Infrastructure**

Grantor may install water facilities, including wells, pipelines, pump stations, water tanks (closed for storage or open for stock watering), stock ponds, dams and impoundments as reasonably necessary in connection with the agricultural operations of the Property.

**4. PROHIBITED AND RESTRICTED USES AND ACTIVITIES**

Without limiting the generality of the foregoing, the following activities are prohibited and restricted, except as expressly allowed in this CE or in the Management Plan or with prior written approval from the State:

**A. Activities Diminishing Conservation Values**

Any uses or activities on the Property by Grantor or any third parties that would change, disturb, alter, diminish or impair the Conservation Values, or that would be inconsistent with the purposes of this CE.

**B. Agriculture**

Farming, tilling, or any type of cultivation, except as provided in §3.B.

**C. Aircraft Facilities**

Constructing or erecting any aircraft facilities or aircraft landing facilities.

**D. Buildings, Structures, and Improvements**

Constructing, placing or erecting any new buildings, structures or other improvements, including without limitation trailers, permanent camping accommodations or tent facilities, Quonset huts, mobile homes, storage sheds, enclosures of any sort, except as expressly provided in this CE.

**E. Commercial or Industrial Activities**

Commercial or industrial activities as defined by \_\_\_\_\_.

**F. Easements**

Granting additional easements burdening the Property for any purpose.

**G. Feedlots**

Establishing or operating any feedlot, which is a permanently constructed confined area or facility that is used for the purpose of engaging in the business of receiving and feeding livestock.

**H. Game Farming or Game Animals**

Constructing, conducting, or operating a game farm or raising or holding Game Farm Animals or alternative livestock.

Game Farm Animals include: (i) penned, enclosed, or privately-owned caribou, black bear, grizzly bear, mountain lion, white-tail deer, black-tail deer, coues deer, elk, moose,

antelope, mountain sheep, mountain goat, red deer, **(ii)** any other cloven-hooved ungulate which is indigenous to Colorado, and **(iii)** any non-indigenous or exotic cloven-hooved ungulate which could interbreed with or spread disease to any cloven-hooved ungulate indigenous to Colorado. However, Game Farm Animals do not include traditional livestock including domestic cattle, domestic sheep, domestic goats, domestic pigs, and domestic llamas and alpacas.

**I. Leasing**

Leasing the Property or any portion of either, if any, to any third parties for any uses, except for the following: agriculture. Grantor shall notify any lessee of the limitations on the use of the Property contained in this CE and the Management Plan.

**J. Noxious, Invasive, non-Native, and Detrimental Species**

Introduction of any plant or animal species designated by local, State or federal agencies as noxious, invasive, non-native, or detrimental to wildlife.

**K. Recreational Activities**

Recreational activities not specifically permitted in §6. Specifically and without limitation it is prohibited to develop and/or use facilities for intensive recreational activities that concentrate people in a relatively confined area for significant periods of time. Examples include, but are not limited to athletic fields, golf courses or ranges, group playgrounds, campgrounds, and outdoor amphitheaters, sports facilities and recreation centers.

**L. Roads and Trails**

Constructing or establishing any new roads, bridges, trails, or parking lots, except as provided in §3.H.

**M. Signs**

Construction or erection of any signs or billboards on the Property without advance written approval of the State, except for signs that limit access to the Property such as signs announcing “private property” or “no trespassing,” or signs used to facilitate access to the Property by the general public.

**N. Storage**

Storage, except of materials necessary to facilitate uses permitted under this CE.

**O. Subdivision**

Dividing, subdividing, partitioning, or de facto subdividing the Property into two or more parcels or interests in common, or any attempt at the same, including, but not limited to construction and use of any “condominium unit” or “time share unit”, or creation of a “common interest community” as those terms are defined in the Colorado Condominium Ownership Act. Grantor further waives any contractual, statutory or common law right to partition the Property or any portion thereof into separate or distinct parcels.

**P. Topographical Changes**

Excavating, grading, cutting and filling, berming or other similar topographical changes, including without limitation the movement of minerals, peat, sod or topsoil are not permitted. Notwithstanding the foregoing, activities that are reasonably necessary in connection with the uses allowed under this CE shall be permitted, including reasonable topographical changes related to the repair, replacement, maintenance and construction of fences, structures, ponds, ditches, wells, pipelines, water system infrastructure, dams and

roads and trails. Any area disturbed by any topographical changes shall be promptly reclaimed and re-vegetated.

**Q. Trash, Waste, and Hazardous Materials**

Disposing, dumping, discarding, leaving, abandoning, accumulating, treating, reclaiming, recycling, storing, abandoning, or otherwise depositing any waste-like materials, pollutants, contaminants, hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended "CERCLA"), hazardous or otherwise, including but not necessarily limited to trash, litter, garbage, junk, or solid or liquid agricultural or non-agricultural wastes, provided that Grantor may establish manure piles, spread manure and perform similar customary ranching-related activities.

**R. Utility Systems**

Constructing or installing any new above ground public or private utilities, including but not limited to transmission lines, antennas, radio, telephone, television, telecommunication towers, and wind, solar, geothermal, and hydro energy production systems, or constructing a commercial energy production facility, except as expressly provided by this CE.

**S. Vegetation**

Cutting, removing, or unnecessarily damaging any vegetation. This prohibition shall not restrict Grantor's right to cut and remove from the Property **(i)** dead, diseased or downed vegetation that present a fire and/or safety hazard or obstruction; **(ii)** invasive non-native species; **(iii)** vegetation that obstruct ditches, wells, ponds, springs, pipelines or water system infrastructure, fences or traveled surfaces; and **(iv)** dead wood for use as fence posts, and **(v)** any additional vegetation as provided for under the Management Plan. Except on a limited and localized basis, trees may be cut only to **(i)** control insects and disease, **(ii)** to control invasive non-native species, **(iii)** to prevent personal injury and property damage, **(iv)** to remove downed trees that present fire/safety hazards or obstructs ditches, wells, ponds, springs, pipelines, or water system infrastructure, fences or traveled surfaces, and **(v)** for domestic uses on the Property such as firewood, and construction of permitted buildings and fences. Any other timber harvesting may only be conducted in accordance with a forest management plan prepared by a professional forester at Grantor's expense and approved in writing by the State either in a separate document or by incorporation with the Management Plan.

**T. Vehicles**

Use of motorized vehicles except (i) on existing roads, and (ii) as used for agricultural purposes, property management or animal retrieval.

**U. Water Bodies**

Any change to any creek, stream, river, stream channel, riparian corridor, wetland, pond, aquifer, or lake edge (collectively "Water Bodies"), including, but not limited to removal, alteration, impairment, draining, or modification of any Water Body on the Property, unless approved in writing in advance by the State in its sole discretion. Nor shall Grantor degrade or pollute any Water Bodies on the Property. Notwithstanding the foregoing, Grantor may establish erosion control structures on the Property in accordance with the Management Plan.

**5. MINERALS**

Mineral Development (as defined in §1.I) that disturbs the surface of the Property or otherwise detrimentally affects the Conservation Values is prohibited subject to the provisions of this §5.

**A. Grantor**

The provisions of this §5.A apply to any and all Mineral Rights that Grantor owns or controls as of the Closing Date or acquires or controls by any means at any time after the Closing Date.

**i. Mineral Development**

- a. Grantor shall not engage in Mineral Development of any Mineral Rights.
- b. Grantor shall not allow or consent to any third parties to engage in Mineral Development of any Mineral Rights:

**ii. Transfer**

Grantor shall not transfer, lease, sever, or otherwise separate Mineral Rights from the Property. Any attempts to do so shall be void ab initio.

**B. Third Party**

**i. Future Third Party Agreements**

The approval of both Parties is required to enter into any new agreements with third parties regarding any Mineral Rights or Mineral Development. The Parties shall give written notice to each other in accordance with §13 any time either Party is contacted, either formally or informally, by a third party regarding Mineral Development. The Party contacted shall give said notice to the other Party as soon as practical, but not later than 10 days after the occurrence of the contact, and shall describe in detail all material aspects of the contact, including, but not limited to, the identity of the third party and the nature of the contact. Any failure to provide such notice shall not impair the validity of this §5 or other provisions of this CE. Any third party agreement must either (1) prohibit any access to the surface of the Property or (2) must (a) limit the area(s) of disturbance to specified area(s); (b) include provisions that ensure that the proposed activities have a limited, localized impact on the Property that is not irretrievably destructive of the Conservation Values; and (c) contain a full description of the activities proposed, a description of the extent of disturbance, the location of facilities, equipment, roadways, pipelines and any other infrastructure, the proposed operation restrictions to minimize impacts to the Conservation Values, reclamation measures including and in addition to those required by law, and remedies for damages to the Property's Conservation Values. Any third party agreement that only permits subsurface access to the minerals but prohibits any access to the surface of the Property shall also prohibit any disturbance to the subjacent and lateral support of the Property and shall not allow any use that would materially adversely affect the Property's Conservation Values.

**ii. Shared Influence and Control**

With respect to any Mineral Rights not currently owned by Grantor, whether or not Mineral Development is currently occurring, Grantor irrevocably assigns and grants to the State the same legal rights as Grantor to influence and control impacts to the surface of the Property from Mineral Development. Such rights include, but are not be limited to, the unilateral right to take whatever legal action the State deems

necessary in order to respond to proposed Mineral Development, including bringing judicial or administrative actions. Mineral Development condemnation shall be treated pursuant to §12.G.

**6. PUBLIC ACCESS**

The State is granted the exclusive right to allow, regulate, administer and prohibit public access to the Property in its sole discretion.

**A. Low Impact**

Public access shall be limited to low-impact outdoor recreation including, but not limited to, rafting, paddling, hiking, bicycling, horseback-riding, snowshoeing, cross-country skiing, fishing, wildlife-viewing, picnicking, photographing, open space, environmental education, wildlife-viewing, temporary gatherings such as weddings/reunions, and non-commercial, outdoor recreational activities.

**B. Trail Easement**

The State is granted the exclusive right to construct and maintain a 30-foot wide trail on the Property that will serve as part of the planned Colorado River Trail, as demonstrated in the Baseline Report.

**C. Management**

With the State's advance written consent, which may be granted, withheld or conditioned in the State's sole discretion, Grantor or a third party may manage public access so long as such management is consistent with this Easement.

**D. Recreation Plan**

Any plan developed to facilitate public access to the Property shall enhance the outdoor recreation Conservation Value while minimizing any adverse impacts to the wildlife habitat, scenic open space, and connectivity Conservation Values. Any plan requires the State's advance written consent, which may be granted, withheld or conditioned in the State's sole discretion, and the Parties agree to incorporate any plans developed hereunder in the Management Plan (§7).

**7. MANAGEMENT PLAN**

In order to protect and further the Conservation Values, the Parties have developed a Management Plan for the Property. Both Parties shall keep a copy of the Management Plan and comply with its provisions. Any conflict between the provisions of this CE and those of the Management Plan shall be resolved in favor of this CE. The Parties shall review and may modify the Management Plan in accordance with its terms. Any subsequent modifications to the Management Plan shall not require a formal amendment to this CE nor shall any subsequent modification or amendment to the Management Plan be recorded; however, they shall conform to the provisions of this CE.

**8. COMPLIANCE WITH ALL LAWS AND REGULATIONS**

Grantor shall comply with all federal, state, and local laws and regulations having jurisdiction over the Property including the Grantor. Nothing in this CE shall be construed as relieving Grantor of any responsibilities or obligations to any other governmental body,

including any other department, division or subdivision of the State established by law or agreement.

**9. ENFORCEMENT AND MONITORING**

In order to preserve and protect the Conservation Values and ensure compliance with the provisions of this CE, (including the provisions of the Management Plan), the State shall have the right to enter upon all parts of the Property by foot or motorized vehicle in order to inspect and enforce this CE, and to facilitate access to the Property by the general public as provided in §6. The State may prevent or enjoin Grantor from conducting any activities or uses of the Property which, in the sole discretion of the State, violate the provisions of this CE. In addition, the State may, independently or preferably in cooperation with Grantor, prevent or enjoin any third parties (whether or not the third parties were authorized by Grantor to access the Property) from conducting any activities or uses of the Property that violate the provisions of this CE. A copy of the Baseline Report is on file with both Parties. If a controversy arises after Closing regarding the condition of the Property or compliance with or Violation of any provision of this CE, then the Parties may use the Baseline Report and any other evidence to assist in resolving the disagreement in any informal or formal proceeding.

**10. GRANTOR'S REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS**

Grantor accepts the following obligations and makes the following specific representations and warranties, each of which was relied on by the State in purchasing this CE.

**A. Covenants of Title**

Grantor, for Grantor and Grantor's heirs, assigns, successors, and personal representatives, does covenant and agree to and with the State and its assigns that as of the Closing Date, Grantor is well seized of the Property, has good and absolute title, in fee simple, and has good right, full power, and lawful authority to grant, bargain, sell, and convey the interest in the Property, created in this CE in the manner and form provided for in this CE, and that the Property is free and clear from all liens, taxes, assessments, encumbrances, reservations, rights-of-way, and restrictions. Grantor shall and will warrant and forever defend the interests in the Property, created in this CE in the quiet and peaceable possession and rights of the State and its assigns, against all and every person(s) or entity whose lawful claim to the whole or any part of the Property would affect the Conservation Values, the validity or perpetual nature of this CE, or diminish the value of this CE.

**B. Hazardous Substances**

Grantor does not know of, or have any reason to believe, any "Hazardous Substance," as defined in §42 U.S.C. 9601(14), or pollutant, contaminant, hazardous or toxic material, substance, or waste, as they may be defined under relevant Federal, State or local law, or asbestos, is located on the Property and Grantor has not received notice of any violation or alleged violation of any law, rule, or regulation regarding such substances. The conveyance of this CE from Grantor to the State is not intended to relieve Grantor of any obligation or liability Grantor would incur under relevant federal or State law concerning such substances as an owner of the Property. In particular, the provisions of this CE shall not be interpreted to make the State an "owner of" or "responsible party for" the Property for purposes of any federal or State environmental law or regulation, including, but not



limited to, CERCLA. Grantor shall make the foregoing representation in a separate writing deliverable to the State upon request by the State.

**C. Independent Professional Advice**

Grantor received such independent legal and financial advice regarding this CE as Grantor deemed necessary and prudent, and based thereon, and upon Grantor's informed judgment, Grantor voluntarily granted this CE to Grantee.

**D. Legal Authority – Grantor Signatory**

Grantor possesses the legal authority to enter into this CE and, if not a natural person, Grantor has taken all actions required by its procedures, by-laws, and/or applicable laws to exercise that authority, to lawfully authorize its undersigned signatory to execute this CE, and to bind Grantor to its terms.

**E. Notification and Actions**

**i. Litigation**

In addition to any other notification obligations Grantor has under this CE, Grantor has an affirmative obligation to notify the State about litigation within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this CE or which may affect Grantor's ability to perform its obligations hereunder, Grantor shall notify the State of such action and deliver copies of such pleadings to the State's principal representative as identified herein. If the State's principal representative is not then serving, such notice, and such copies shall be delivered to the Director of CPW.

**ii. Third Party Uses and Actions**

Grantor shall attempt to prevent or halt, and shall notify the State of, any uses of or activities on the Property by third parties that would be a Violation of this CE, and any uses or activities disallowed by this CE. In the event the Grantor is unable to halt such uses or activities, the State, in its sole discretion, may independently contact third parties to prevent or halt such disallowed uses or activities and Grantor shall cooperate with the State in halting such uses or activities.

**F. Preservation, Restoration, and Maintenance Costs**

Grantor shall maintain the Property in a manner consistent with the Conservation Values. Grantor shall bear all costs and liabilities of any kind related to the preservation, ownership, restoration, operation, upkeep, and maintenance of the Property, including weed control and eradication.

**11. STATE INTEREST AND RIGHTS**

This CE constitutes a real property interest pursuant to CRS §38-30.5-101 et seq., with all additional rights and interests provided under common law, immediately vested in the State, and the State shall have attendant interests and rights, including the following:

**A. Development Rights and Subdivision**

Grantor conveys to the State all present and future development rights deriving from, based upon, related to, or attributable to the Property in any way except those expressly reserved to Grantor in this CE, and such rights shall be held by the State in perpetuity to fulfill the purposes of this CE, and to ensure such rights are forever released, terminated, and extinguished as to Grantor, and may not be used on or transferred off of the Property to any other property adjacent or otherwise or used for the purpose of calculating permissible development uses of the Property or any other property. Development and

subdivision rights related to the Property are subject to the provisions of this §11.A and §4.O and any action taken or conveyance made by Grantor or Grantor's assigns, heirs, successors and transferees in violation of this §11.A and §4.O are null and void.

**B. Transfer of Property**

Grantor shall provide the State notice of any conveyance of interests in all or any portion of the Property including, but not limited to, leases, surface use agreements, rights-of-way, and access agreements. Such notice shall be provided to the State not less than 45 days prior to the date of such transfer. Any such conveyance shall state that it is subject to the terms and conditions of this CE. Any time the Property, or a portion thereof is transferred by Grantor to any third party, Grantor shall notify Grantee within five (5) business days after closing using the form in **EXHIBIT C**, along with a copy of the new ownership deed, and shall pay a transfer fee of one hundred dollars (\$100.00) ("Transfer Fee") to the State to be used for purposes consistent with the State's mission.

Notwithstanding the foregoing, Grantor shall not be obligated to pay the Transfer Fee for any transfer of the Property to a trust or foundation or other estate planning vehicle in which the beneficiaries thereof are related to the principals of Grantor. The State reserves the right to record a notice of transfer fee in the official real property records of Mesa County, Colorado. This provision is intended to run with the land for perpetuity, and to touch and concern the Property burdened by this CE.

**12. REMEDIES AND RESOLUTION OF VIOLATIONS**

**A. Notice**

The State shall send Grantor a notice detailing alleged Violations of this CE in the manner provided in §13. Upon receipt thereof, Grantor shall immediately cease and desist from any use or activity that could increase or expand the alleged Violations until they are finally resolved by agreement of the Parties or by decree of a court of competent jurisdiction and shall, within 10 days after receipt of such notice from the State, send the State in the manner provided in §13 a response agreeing with the State or denying the alleged Violations in whole or in part.

**B. Remedies and Resolution Methods**

The State shall have all remedies available to it in law and in equity, such as actions for damages and injunctive relief, including, but not limited to, those set forth in CRS §38-30.5-108. The Parties shall resolve Violations as follows:

**i. Agreement**

If Grantor agrees with or does not dispute the State's assertion regarding the alleged Violations, Grantor shall, at Grantor's sole cost, restore the Property to its condition prior to the Violations and take such other action as may be reasonable or necessary to eliminate the Violations in a timely and satisfactory manner and prevent their further occurrence and shall provide the State with details of its remediation plan together with a reasonably prompt time for completion thereof. The State may enforce such remediation plan via proceedings at law or in equity if Grantor fails to perform it in accordance with its terms.

**ii. Dispute Meeting**

If Grantor disputes all or any part of the State's assertion of alleged Violations, Grantor shall provide the State with a written explanation of Grantor's dispute and a statement as to why the use or activity should be permitted. Thereafter,

representatives of the Parties shall meet as soon as possible, but not later than 60 days after the State's receipt of Grantor's response, to resolve the issues. If the Parties reach agreement that a Violation has occurred, they shall create a remediation plan together with a reasonably prompt time for completion thereof. The State may enforce such remediation plan via proceedings at law or in equity if Grantor fails to perform it in accordance with its terms.

**iii. Legal Proceedings**

The State may, in its sole discretion, exercise any or all remedies available at law or in equity, including those available at common law, concurrently or consecutively, to enforce its rights hereunder if any meeting pursuant to §12.C.i or ii fails to resolve the identified Violation and the State may otherwise enforce its rights hereunder, including enforcing remedial plans created under §12.C.i or ii. Courts are authorized to issue both mandatory and negative injunctions, including requiring restoration of the Property to its condition before a Violation occurred.

**iv. Irreparable Harm**

If, in the State's opinion, an ongoing or imminent Violation is likely to irreparably violate this CE the State shall give notice of that opinion to Grantor and thereafter may, in its sole discretion, take appropriate legal action without resorting first to a meeting of the Parties, including, as may be necessary, seeking a temporary restraining order.

**v. Third Party Actions and Costs**

Grantor shall be solely responsible for the costs of remedying any Violations of this CE caused by Grantor or by any third parties authorized by Grantor to access the Property, including, but not limited to, guests, invitees, lessees, agents, contractors, and subcontractors.

**C. Natural Disasters**

Natural disasters, including, but not limited to, fire, flood, drought, plague, earthquake, storm, and tornado may adversely affect the Conservation Values and the Property. If such natural disasters occur the following applies:

**i. Grantor Actions**

**a. Assistance**

Grantor may but is not required to assist the State in its efforts under §12.C.i.a and b.

**b. Disaster Emergency Actions**

Grantor may take prudent actions during natural disasters to prevent, abate, or mitigate significant injury to the Property. Grantor shall, to the extent reasonably possible under the circumstances as they exist during natural disasters, attempt to act in a manner causing the least possible detriment to the Conservation Values.

**ii. State Actions**

**a. Disaster Emergency Actions**

The State may access the Property during the natural disaster to attempt to prevent and mitigate harm to the Conservation Values.

**b. Post Disaster Remediation**

The State may access the Property after a natural disaster to assess and to the extent possible, remediate damage to the Conservation Values and/or identify new

conservation values. The State shall give Grantor reasonable advance notice of its access and remediation plans and efforts.

**c. Costs**

Actions taken by the State under §12.C.ii.a and b. are at its sole discretion and cost and are subject to availability of personnel, means, and funding.

**d. Actions Against Grantor**

The State shall not take action against Grantor for injury to or change to the Property resulting from natural disasters or from any prudent action taken by Grantor under emergency conditions during natural disasters to prevent, abate, or mitigate significant injury to the Property.

**D. Public Safety**

Notwithstanding anything to the contrary herein, the State need not provide advance notice or a cure period and may immediately take action if it is necessary to preserve public safety or to prevent an immediate public crisis.

**E. Extinguishment and Proceeds**

If a subsequent unexpected change in the conditions surrounding the Property can make impossible or impractical the continued use of the Property for the conservation purposes, the conservation purpose can nonetheless be treated as protected in perpetuity if the restrictions are extinguished, whether in whole or in part, by judicial proceeding and all of the Grantee's proceeds from a subsequent sale or exchange of the Property are used by the Grantee in a manner consistent with the conservation purposes. Each party shall promptly notify the other party in writing when it first learns of such change in conditions. In the event of a termination or extinguishment, in whole or in part, Grantor shall be obligated to provide to Grantee an amount equal to the full fair market value of the CE that is taken or extinguished at the time of the termination or extinguishment, as determined by a qualified appraiser. Grantor shall not voluntarily accept proceeds equal to less than the full fair market value of the affected property unrestricted by this CE without the approval of Grantee. Grantee shall use its proceeds in a manner consistent with the conservation purposes of this CE.

**13. NOTICES AND REPRESENTATIVES**

Notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to the representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

**State**

Colorado Parks and Wildlife  
Real Estate Section  
6060 Broadway  
Denver, CO 80216

With a copy to:

James M. Robb – Colorado River State  
Park

**Grantor**

City of Grand Junction  
c/o City Manager  
250 North 5th Street  
Grand Junction, CO 81501

With a copy to:

City Attorney  
250 N. 5<sup>th</sup> Street

**14. LIMITATION OF LIABILITY**

Liability for claims for injuries to persons or property arising from the negligence of the Grantor and/or Grantee, their departments, institutions, agencies, boards, officials, and employees is controlled and limited by the provisions of CRS §24-10-101 et seq. (the “CGIA”) and/or CRS §24-30-1501, et seq. (“Risk Management”). No term or condition of this CE shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the CGIA or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended. This paragraph is applicable to Grantor as long as Grantor is the City of Grand Junction. It is not applicable to Grantor’s heirs, successors, or assigns.

**15. GENERAL PROVISIONS**

**A. Binding Arbitration Prohibited**

The State does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this CE or incorporated herein by reference shall be null and void.

**B. Binding Effect – Perpetual Application**

All provisions herein contained, including the benefits and burdens, shall extend to and be binding upon the Parties’ respective heirs, legal representatives, successors, and assigns; and shall continue as a servitude running in perpetuity with the Property.

**C. Captions**

The captions and headings in this CE are for convenience of reference only and shall not be used to interpret, define, or limit its provisions.

**D. Construction of this CE**

This CE shall be liberally construed to effect the Purposes of the CE and the policy and purpose of C.R.S. §38-30.5-101 *et seq.* If any provision in this CE is found to be ambiguous, an interpretation consistent with ensuring continuation of the Purposes of the CE that would render the provision valid shall be favored over any interpretation that would render it invalid. The common law rules of disfavoring restrictions on the use of real property and construing restrictions in favor of the free and unrestricted use of real property shall not apply to interpretations of this CE or to disputes between the Parties concerning the meaning of particular provisions of this CE. If Grantor files for either a federal or state tax benefit, then this CE is intended to create a “qualified real property interest” for “conservation purposes”, as defined in Section 170(h) of the Internal Revenue Code, and shall be interpreted consistently with such intention. If any provision necessary to qualify the interest hereby granted as a “qualified real property interest” for “conservation purposes” is missing from this CE, such provision shall be deemed incorporated herein to the extent necessary to cause the interest hereby granted to be so qualified.

**E. CORA Disclosure**

To the extent not prohibited by federal law, this CE and the performance measures and standards under CRS §24-106-107, if any, are subject to public release through the Colorado Open Records Act, CRS §24-72-101, et seq.

**F. Counterparts**

This CE may be executed in multiple identical original counterparts constituting one agreement.

**G. Entire Understanding**

This CE represents the complete integration of all understandings between the Parties and all prior representations and understandings, oral or written, are merged herein. Prior or contemporaneous additions, deletions, or other changes hereto shall not have force or effect, unless embodied herein.

**H. Further Acts**

The Parties shall perform any further acts and draft, execute, and deliver any documents reasonably necessary to **(i)** effectuate this CE's purposes and intent, **(ii)** to correct typographical, spelling, or clerical errors, or to **(iii)** correct any errors in the legal description of the Property and make any boundary adjustments related thereto. Corrective acts under this **§15.H** are not an amendment to this CE, but effectuate the original intent of the Parties.

**I. Joint and Several Obligations**

The burdens of this CE shall encumber the Property in perpetuity regardless of how the ownership of the Property may be divided or held at any time in the future. If more than one owner owns the Property at any time, the obligations imposed by this CE shall be joint and several upon each of the owners.

**J. Jurisdiction and Venue**

All suits or actions related to this CE shall be filed and proceedings held in the State of Colorado and venue shall be in the county in which the Property is situated.

**K. Modification**

**i. By the Parties**

The Parties recognize that circumstances may arise in which an amendment of this CE would be desirable. Except as specifically provided in this CE, modifications hereof shall not be effective unless agreed to by the Parties in a written amendment hereto, properly executed and approved in accordance with applicable Colorado State Law and Regulations, Colorado Division of Parks and Wildlife Policies, State Fiscal Rules, and Office of the State Controller Policies. Modifications inconsistent with the Conservation Values, that would affect the perpetual nature of this CE, or that would otherwise negatively affect the qualifications of this CE under any applicable law, including CRS §38-30.5-101 et seq. and I.R.C. §170(h) are prohibited. All modifications shall be recorded in the county in which the Property is situated.

**ii. By Operation of Law**

This CE is subject to such modifications as may be required by changes in Federal or Colorado State Law or their implementing regulations. Any such required modification shall be automatically incorporated as part of this CE on the effective date of such change as if fully set forth herein.

**L. Negation of Trusts and Third Party Interests**

The Parties intend that this CE, create a real property interest pursuant to CRS §38-30.5-101 et seq., with all additional rights and interests provided under common law; therefore, the provisions contained herein are for the use and benefit of the Parties alone, and when entering into this CE the Parties did not intend to create a restricted gift or any

type of trust, including, but not limited to a charitable trust. The right to engage in any termination, amendment, or enforcement actions related to this CE, judicial or otherwise, including but not limited to, those found in §2.C, §15.L, or §15.S, is exclusively reserved to the Parties without involvement of any third parties.

**M. Permissions**

Any permission granted by the State to carry out a proposed use or activity does not constitute consent to any subsequent use or activity of the same or similar nature.

**N. References**

All references in this CE to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

**O. Severability**

Provided this CE can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this CE in accordance with its intent.

**P. Subsequent Transfers**

Grantor shall incorporate by reference the terms and conditions of this CE in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Property by specifically referencing or attaching a copy of this CE. Grantor shall provide written notice to the State of the Grantor's intent to transfer any interest at least 45 days prior to the date of such transfer.

**Q. Taxes**

The Grantee is exempt from Federal, State and local government taxes. Grantor, the City of Grand Junction is also exempt from Federal, State and local government taxes. Heirs, successors or assigns of the City of Grand Junction are not exempt simply by this paragraph.

**R. Third Party Enforcement**

Enforcement of this CE and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this CE are incidental and do not create any enforcement rights for any third parties.

**S. Waiver**

Waiver of any breach or event of default under a term, provision, or requirement of this CE, or any right or remedy hereunder, whether explicitly or by lack of enforcement, shall not be construed or deemed as a waiver of any subsequent breach of such term, provision or requirement, or of any other term, provision, or requirement. Grantor hereby waives any defense of laches, estoppel, or prescription, including any defenses available under CRS §38-41-119. The failure of either Party to perform any act required by this paragraph shall not impair the validity of this CE or limit its enforceability in any way.

**16. ASSIGNMENT AND CONTINUITY**

- A.** This CE is transferable by Grantee provided that: (i) the Grantee requires as a condition of the transfer, that the conservation purposes which the contribution was originally intended to advance continue to be carried out; (ii) the transfer is restricted to an

organization that, at the time of the transfer, is an eligible grantee under Treasury Regulations Section 1.170A – 14(c)(1), is a qualified organization under I.R.C. § 170(h) and authorized to hold conservation easement under C.R.S. §§ 38-30.5-101, et seq. and C.R.S. § 12-15-104, et seq. and is certified to hold conservation easements for which a state tax credit is claimed by the State of Colorado’s Division of Conservation during the year of such transfer; and (iii) the qualified organization agrees to assume the responsibility imposed on Grantee by this Deed. Grantee shall notify and consult with Grantor in advance of any proposed transfers and such transfer must be approved in advance in writing by the Grantor, whose approval shall not be unreasonably withheld. If Grantee ever ceases to exist, a court with jurisdiction is authorized to transfer this Easement pursuant to (i), (ii), and (iii) above.

- B.** Upon Assignment by Grantee in compliance with the applicable portions of this Section 16, the Parties shall record an instrument completing the assignment in the records of the county in which the Property is located. Assignment of the Easement shall not be construed as affecting the Easement’s perpetual duration and shall not affect the Easement’s priority against any intervening liens, mortgages, easements, or other encumbrances.

**17. NOTIFICATION ON RESERVED RIGHTS**

Without limiting Grantee’s specific rights to notification pursuant to the Easement, Grantor agrees to notify Grantee, in writing, before exercising any reserved right that may have an adverse impact on the Conservation Values associated with the qualified real property interest created by this Easement.

**THE REMAINDER OF THIS PAGE INTENTIONALLY IS LEFT BLANK**



**18. SIGNATURE PAGE**

IN WITNESS WHEREOF, Grantor has executed this Conservation Easement in Gross effective as of the Closing Date.

**GRANTOR:** City of Grand Junction, a Colorado home-rule municipality,

By: \_\_\_\_\_  
Andrea Phillips, Interim City Manager

STATE OF COLORADO            )  
  )ss.  
COUNTY OF MESA                )

The foregoing instrument was acknowledged before me the    day of                   , 2024, by Andrea Phillips, Interim City Manager of City of Grand Junction, a Colorado home-rule municipality.

Witness my hand and official seal.

\_\_\_\_\_  
Notary Public

(Seal)

**GRANTEE:** ACCEPTED by the STATE OF COLORADO, JARED S. POLIS, GOVERNOR

By: \_\_\_\_\_  
Travis Black, Northwest Regional Manager

The Department of Natural Resources for the use and benefit of the Division of Parks and Wildlife and the Parks and Wildlife Commission