

RESOLUTION NO. 36-97

**GRANTING THE COLORADO RIVERFRONT FOUNDATION AN OPTION
TO PURCHASE CONSERVATION EASEMENTS ON, ALONG, OVER, UNDER,
THROUGH AND ACROSS THE CITY OWNED SOMERVILLE RANCH PROPERTY**

WHEREAS, the City is the owner of certain real property in the County of Mesa, State of Colorado, commonly known as the Somerville Ranch Property, which the City purchased in 1990 for its associated water rights. The Somerville Ranch Property is located within the geographical boundaries of an area known as the Grand Mesa Slopes Special Management Area; and

WHEREAS, the potential exists that, once the water rights associated with the Somerville Ranch Property are diverted for municipal use, the City may determine to sell or otherwise dispose of portions of the Somerville Ranch Property in a manner that may threaten certain conservation and resource values appurtenant to the Property; and

WHEREAS, to preserve and protect the conservation and resource values appurtenant to the Somerville Ranch Property, the Colorado Riverfront Foundation, Inc., a Colorado non-profit corporation, is desirous of securing an option to acquire conservation easements on, along, over, under, through and across certain portions of the Somerville Ranch Property; and

WHEREAS, The City Council has determined that the preservation and protection of conservation and resource values appurtenant to the Somerville Ranch Property will enhance the quality of life of the inhabitants of the City of Grand Junction.

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

That the City Manager, on behalf of the City and as the act of the City, is hereby authorized and directed to execute the attached Option Agreement, granting to the Colorado Riverfront Foundation, a Colorado non-profit corporation, an option to purchase conservation easements on, along, over, under, through and across those portions of the Somerville Ranch Property as described in said attached Option Agreement, subject to the terms, promises and conditions contained therein.

PASSED and ADOPTED this 16th day of April, 1997.

Attest:

/s/ Theresa F. Martinez
Deputy City Clerk

/s/ Linda Afman
President of the City Council

OPTION AGREEMENT

THIS OPTION AGREEMENT is entered into by and between the City of Grand Junction, a Colorado home rule municipality, hereinafter referred to as “the City”, and Colorado Riverfront Foundation, Inc., a Colorado non-profit corporation, hereinafter referred to as “Optionee”.

RECITALS:

A. The City is the owner of certain real property in the County of Mesa, State of Colorado, said real property commonly known as “the Somerville Ranch” as described on **Exhibit “A”** attached hereto and incorporated herein by reference, hereinafter referred to as “the Property”. The City purchased the Property in 1990 for its associated water rights. The potential exists that portions of the Property may become surplus and not necessary for governmental purposes at the time the associated water rights are diverted for municipal use within the incorporated limits of the City of Grand Junction.

B. Although the Property is part of the Grand Mesa Slopes Special Management Area and the City has adopted the Grand Mesa Slopes Management Plan, Optionee anticipates that, once the water rights associated with the Property are diverted for municipal use, the City may determine to sell or otherwise dispose of portions of the Property in a manner that may threaten certain conservation values appurtenant to the Property. To perpetually preserve and protect the conservation values appurtenant to the Property, the Optionee is desirous of securing an option to acquire conservation easements on, along, over, under, through and across the Property.

NOW, THEREFORE, In consideration of the recitals above and the terms, promises and conditions contained herein, the City and the Optionee hereby agree as follows:

1. The City hereby grants to Optionee the right and option (“the Option”), to purchase from the City conservation easements on, along, over, under, through and across the Property.
2. Notwithstanding all other terms and conditions of this Agreement to the contrary, the Option may be exercised by Optionee in phases. For example, Optionee may exercise the Option for only a portion of the Property, then subsequently exercise the Option for other portions of the Property.
3. The purchase price for any conservation easement(s) created pursuant to this Agreement shall be the fair market value of such easement as determined in accordance with generally accepted valuation procedures which are acceptable to the City, taking into consideration the highest and best use of the Property as if this Option Agreement does not exist. The City agrees to commission and pay for the cost(s) of any appraisals or other reports which are used to establish the fair market value of any such easement(s). Notwithstanding the foregoing, the City reserves the right to, at its sole discretion, donate and/or dedicate conservation easements for consideration less than the amount of the established fair market value.
4. Unless sooner exercised or unless extended by mutual agreement of the parties, the Option herein granted shall expire at 12:00 noon Grand Junction Time (“GJT”) on December 31, 2000. The City agrees that Optionee may extend the term of the Option for an additional twelve (12) months upon providing written notice to the City of its intention to so extend before expiration of the Option. In the

event Optionee fails to exercise the Option during the Option term, or if Optionee fails to provide written notice to the City of its intention to extend the term of the Option for an additional 12 months, the option hereby granted shall automatically expire at 12:00 noon GJT on December 31, 2000.

5. The terms, covenants and conditions of the conservation easement(s) shall be set forth in an instrument substantially in the form of the Deed of Conservation Easement attached hereto as **Exhibit “B”** and incorporated herein by reference.

6. All notices to be given with respect to this Option Agreement shall be in writing and shall be delivered to the parties hereto, either by facsimile transmission, personally by hand, courier service, United States mail or Express mail, or by first class mail, postage prepaid, as follows:

To the City: City Manager
250 North 5th Street
Grand Junction, CO 81501
tel: (970) 244-1503
fax: (970) 244-1456

To Optionee: Foundation President
233 South 5th Street
Grand Junction, CO 81501
tel: (970)
fax: (970)

With Copy to: City Utilities Manager
250 North 5th Street
Grand Junction, CO 81501
tel: (970) 244-1564
fax: (970) 244-1599

With Copy to: Foundation Secretary
233 South 5th Street
Grand Junction, CO 81501
tel: (970)
fax: (970)

All notices shall be deemed given: (a) if sent by mail, when deposited in the mail; (b) if delivered by hand or courier service, when delivered, or; (c) if transmitted by facsimile, when transmitted. The parties may, by notice as provided above, designate a different address to which notice shall be given.

7. The City intends to create a land trust or similar entity (“assignee”) that would ultimately become the Grantee of any and all conservation easements created on, along, over, under, through and across the Property. Optionee acknowledges and agrees that Optionee is a mediator to facilitate the creation of conservation easements until such time that an assignee is created by the City. Optionee agrees that Optionee shall, within five (5) days notice by the City to Optionee: (a) assign each and every right of Optionee under this Agreement to such assignee, and/or (b) assign, grant and convey to such assignee each and every conservation easement which the City may have granted to Optionee pursuant to this Agreement.

Optionee further agrees that Optionee may not assign any of Optionee’s rights under this Agreement without first obtaining the prior written consent of the City. Any consent by the City to an assignment of the Option shall not be a consent to a subsequent assignment. Any unauthorized assignment shall be void and shall, at the option of the City, provide grounds for the City to revoke the Option and to terminate this Agreement.

8. This Option Agreement contains the entire agreement between the parties and cannot be changed or modified except by a written instrument subsequently executed by both parties. This Option Agreement and the terms and conditions hereof apply to and are binding upon the successors and assigns of both parties.

9. This Option Agreement shall be governed by and construed in accordance with the laws of the State of Colorado.

IN WITNESS WHEREOF, the parties hereto have executed this Option Agreement on this _____ day of _____, 1997.

Attest:

The City of Grand Junction

Deputy City Clerk

City Manager

Attest:

Colorado Riverfront Foundation, Inc.

Secretary

President

State of Colorado)
)ss.
County of Mesa)

The foregoing instrument was acknowledged before me this _____ day of _____, 1997, by Mark K. Achen as City Manager and attested to by Theresa F. Martinez as Deputy City Clerk of the City of Grand Junction, a Colorado home rule municipality.

My commission expires: _____
Witness my hand and official seal.

Notary Public

State of Colorado)
)ss.
County of Mesa)

The foregoing instrument was acknowledged before me this _____ day of _____, 1997, by Brain Mahoney as President and attested to by Stephanie Schmidt as Secretary of Colorado Riverfront Foundation, Inc., a Colorado non-profit corporation.

My commission expires: _____
Witness my hand and official seal.

EXHIBIT "A"

Property Description

Township 1 South, Range 2 East of the Ute Meridian

- Section 10: The SE1/4 of the NE1/4;
Section 11: The North 1/2 of the SE1/4 and the NE1/4 of the SW1/4;
Section 12: The NW1/4 of the SW1/4;
Section 13: The NW1/4 of the NE1/4 and the NW1/4,
of EXCEPT Beginning at the Southeast corner of the North 1/2 of the NE1/4 of the NE1/4
thence the NW1/4 (N1/2 NE1/4 NE1/4 NW1/4) of said Section 13, thence South 577 feet,
N 88°00'00" W 529 feet, thence N 40°00'00" W 585 feet, thence N 19°00'00" W 131
feet, thence N 72°00'00" E 300 feet, thence South 105 feet to the Southwest corner of
said N1/2 NE1/4 NE1/4 NW1/4, thence East 660 feet to the Point of Beginning;
Section 17: That part of the NW1/4 of the NE1/4 lying South of the Orchard Mesa Canal No. 2,
EXCEPT the East 330 feet thereof;
Section 20: The South 1/2, EXCEPT the SW1/4 of the SW1/4;
Section 21: The East 1/2 of the SW1/4, the SE1/4 of the NW1/4, and the North 1/2 of the NW1/4;
Section 22: The South 1/2 of the NE1/4, the SE1/4, the North 1/2 of the SE1/4 of the SW1/4, the
SE1/4 of the SE1/4 of the SW1/4, and the East 1/2 of the SW1/4 SE1/4 SW1/4;
Section 23: The East 1/2 of the SW1/4, the NW1/4 of the SW1/4, the East 3/4 of the SW1/4 of the
NW1/4, and the W1/2 of the SE1/4;
Section 26: The North 1/2 of the SW1/4, the SW1/4 of the SW1/4, and the S1/2 of the NW1/4;
Section 27: All, EXCEPT the NE1/4 of the NE1/4, AND EXCEPT the SW1/4 of the SE1/4 AND
EXCEPT the S1/2 of the SW1/4;
Section 28: The NE1/4 of the NE1/4, the South 1/2 of the NE1/4, the East 1/4 of the NW1/4 of the
NE1/4, the SW1/4 of the NW1/4, the West 1/2 of the NE1/4 of the NW1/4, and the
South 1/2;
Section 29: The SE1/4 of the NE1/4;
Section 33: The North 1/2 of the NE1/4;
Section 34: All, EXCEPT the NE1/4 of the SW1/4 of the NE1/4, AND EXCEPT the SW1/4 of the
SW1/4, AND EXCEPT the West 1/2 of the NW1/4;
Section 35: The South 1/2 of the NE1/4, the North 1/2 of the SE1/4, the SE1/4 of the SE1/4, the
NE1/4 of the SW1/4, the SE1/4 of the NW1/4, and the West 1/2 of the NW1/4;
Section 36: The SW1/4 of the NW1/4, and the SW1/4;

Township 2 South, Range 2 East of the Ute Meridian

- Section 1: The SW1/4 of the NE1/4, the NW1/4 of the NW1/4, and the South 1/2 of the NW1/4;
Section 4: The South 1/2 of the SW1/4 of the NW1/4, the South 3/4 of the East 1/2 of the NW1/4,
and the NW1/4 of the NE1/4 of the NW1/4;
Section 8: The NW1/4 of the SE1/4 and the SW1/4 of the NE1/4;

CONTINUED ON NEXT PAGE

Township 2 South, Range 2 East of the Ute Meridian

- Section 9: The NE1/4 of the SE1/4;
Section 10: The South 1/2 of the SE1/4, the South 1/2 of the NE1/4, the NE1/4 of the SE1/4, the North 1/2 of the SW1/4, and the SE1/4 of the NW1/4;
Section 17: The West 1/2 of the NE1/4 and the North 1/2 of the NW1/4;

Township 2 South, Range 1 East of the Ute Meridian

- Section 1: The NW1/4 of the SW1/4;
Section 12: The SW1/4 of the NE1/4;

Township 11 South, Range 97 West of the Sixth Principal Meridian

- Section 19: The South 1/2 of the SE1/4, the SE1/4 of the SW1/4, and Lot 4;
Section 20: The South 1/2 of the SW1/4;
Section 25: The South 1/4, EXCEPT the South 1/2 of the SE1/4 and 1/2 of the SE1/4 of the SW1/4 lying North and East of a diagonal line running from the Northwest corner to the Southeast corner of said SE1/4 SW1/4;
Section 26: The SE1/4 of the SE1/4, the West 1/2 of the SE1/4, and the SW1/4;
Section 27: The West 1/2 and the SE1/4;
Section 28: The South 1/2;
Section 29: The North 1/2 of the NE1/4, the SE1/4 of the SE1/4, and the West 1/2;
Section 30: The East 3/4;
Section 31: The NE1/4 and the East 1/2 of the SE1/4;
Section 32: The East 1/2 of the NE1/4, the West 1/2 of the SE1/4, and the West 1/2;
Section 33: The North 1/2, the NE1/4 of the SW1/4, and the SE1/4;
Section 34: All;
Section 35: All;

Township 12 South, Range 98 West of the Sixth Principal Meridian

- Section 14: Lots 2 and 3.

All in the County of Mesa, State of Colorado.

EXHIBIT "B"

DEED OF CONSERVATION EASEMENT
FOR CITY OF GRAND JUNCTION, SOMERVILLE RANCH
GRAND MESA SLOPES SPECIAL MANAGEMENT AREA

THIS DEED OF CONSERVATION EASEMENT is entered into by and between the City of Grand Junction (hereinafter referred to as the "Grantor"), and the Grand Junction/Mesa County Riverfront Foundation (hereinafter referred to as the "Grantee");

WITNESS THAT:

WHEREAS, Grantor is the sole owner of certain real property in Mesa County, Colorado, located within the Grand Mesa Slopes Special Management Area, a managed "open space" area, more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (hereinafter referred to as the "Property"), containing ___ acres more or less; and

WHEREAS, the Property possesses scenic, open space, municipal watershed, natural resource, recreation, wildlife, and aesthetic values (collectively, "conservation values") of great importance to the Grantor, the Grantee, and the general public, and are worthy of preservation; and

WHEREAS, Grantor intends that the conservation values of the Property be preserved and maintained by the continuation of land use patterns, including those related to municipal watershed, open space, recreation, wildlife, livestock management and ranching, existing at the time of this grant; and

WHEREAS, the conservation values of the Property are documented in an inventory of relevant activities and features of the Property (photos, maps, narrative description) attached as Exhibit B, and incorporated herein by this reference, and the Grantor and Grantee agree provide an accurate representation of the property at the time of this grant and which is intended to serve as an objective information baseline for monitoring compliance with the terms of this grant; and

WHEREAS, Grantor further intends, as owners of the Property, to convey to Grantee the right to preserve and protect the conservation values of the Property in perpetuity; and

WHEREAS, Grantee agrees by accepting this grant to honor the intentions of Grantors stated herein and to preserve and protect in perpetuity the conservation values of the Property for the benefit of this generation and the generations to come; and

WHEREAS, the State of Colorado has recognized the importance of private efforts to preserve land in a natural, scenic, or open space condition, and for wildlife habitat and agricultural uses consistent with the protection of open land having wholesome environmental quality, by the enactment of Section 38-30.5-101, et seq., Colorado Revised Statutes 1973, as amended, hereinafter referred to as the Code.

NOW, THEREFORE, Grantor does hereby convey to Grantee a conservation easement in perpetuity, hereinafter referred to as the "Easement", consisting of rights hereinafter enumerated, over and across the Property, subject to terms and conditions set forth herein.

1. Purpose. It is the purpose of this Easement to preserve and protect in perpetuity the conservation values of the Property, to prohibit the subdivision or residential or commercial development of the Property, to foster the continuation of responsible wildlife, recreation, watershed, pasture management and ranching in a manner consistent with scenic and aesthetic values, and to define the permitted and prohibited future uses of the Property.

2. Affirmative Rights Conveyed. The affirmative rights conveyed by this Easement to the Grantee, and the duties assumed by the Grantee are the following:

a. To preserve and protect in perpetuity the scenic and aesthetic features and values of the Property, subject to the terms set forth herein.

b. To enter upon the Property upon reasonable notice to Grantor to inspect and to enforce the rights herein granted in a manner that will not unreasonably interfere with the proper uses being made of the Property at the time of such entry.

c. To enjoin any activity on or use of the Property that is inconsistent with the purposes of this Easement and to enforce the restoration of such areas or features of the Property that may be damaged by any inconsistent use or activity.

Except as expressly provided herein, Grantor retains exclusive access to and use of the Property.

3. Permitted Uses and Practices. This Easement shall confine the future use of the Property to wildlife habitat, recreation, watershed, pasture management, ranching, the preservation of open space, and other uses which are described herein or are not inconsistent with the purposes of the Easement. The following uses and practices, though not an exhaustive recital of consistent uses and practices, are permitted under this Easement:

a. To maintain and repair existing roads, trails, signs, fences, bridges, cattleguards, corrals, and ditches, and other improvements which currently exist on the Property. Additional recreation, public use management, roads, trails, wildlife, fencing and other agricultural improvements that are reasonably necessary (or made available through technological advances) to accomplish specified conservation activities shall be permitted, if designed and constructed in a manner that minimizes the adverse effect on the natural features of the Property. In any event of destruction, deterioration or obsolescence of any of said facilities, Grantor may repair and replace facilities as needed.

b. To continue the present modes and levels of ranching, including the pasturing, grazing, feeding, and care of livestock; provided, however, that the ranching activities shall not result in a downward trend in range condition and that the Property shall be maintained in a condition at least equal to its condition as of the date of the Grant of this Easement, subject to the effects of weather, drought and other seasonal and climatic changes, and reasonable and responsible use.

c. To develop, beneficially use, and maintain water resources on the Property as are necessary or convenient for the permitted uses set forth herein (including increasing the amount of irrigated land), and for irrigation uses on adjacent properties; provided, however, that the development and use of such water resources shall reasonably protect and preserve the scenic, and aesthetic values of the Property.

d. To use and maintain existing structures and construct new structures reasonably related to the operation, maintenance, enlargement, or improvement of municipal water facilities and watershed management. This includes but is not limited to: water pipelines, canals, ditches, roads, valve stations, spring developments, water intakes, treatment facilities, hydropower facilities, flumes, detention dams, reservoirs, sediment ponds, and caretaker or educational structures. Reasonable vegetative manipulation consistent with the purposes of these restrictions is also permitted.

e. To utilize the Property for public recreational access, including hunting, hiking, horseriding, mountain biking, vehicle use, education, and other public uses and special use areas consistent with the Grand Mesa Slopes Special Management Area Management Plan, as amended. Grantor retains public liability responsibility on the Property, to the extent and limits of the Colorado Government Immunity Act.

f. Grantor retains all right, title, and interest in and to all tributary and non-tributary water, water rights, ditches, reservoirs, and other water facilities and related interests in, on, or appurtenant to the Property whether now or hereafter adjudicated, adjudged or decreed..

g. Grantor retains all right, title, and interest in and to any existing subsurface oil, gas, and other mineral rights. Exploration for, and extraction of any minerals by any party shall be undertaken in a manner designed to ensure the protection of the natural, ecological, wildlife, open space, and aesthetic features and values of the Property. Surface

mining, such as for soil, gravel and rock quarries, is not permitted. Any mineral exploration or development activities that affect the surface of the Property must be approved in writing by Grantee, and Grantor if applicable (split estate situations).

h. Forest products, such as firewood and fence posts, may be harvested or authorized for harvest by Grantor. All vegetative management practices and forest product harvesting shall be carried out in a manner consistent with reasonable forestry practices and shall be accomplished so as to minimize impact to the Property's scenic and aesthetic values.

i. Grantor shall control access to and activities upon the Property by its licensees and invitees in a manner consistent with the terms of the Easement. No specific right of access by the general public to any portion of the Property is conveyed by this easement, however, it is recognized that public access planning included in the Grand Mesa Slopes Special Management Area Management Plan would be provided for consistent with other conservation and resource management needs.

4. Prohibited Uses and Practices. The following uses and practices are inconsistent with the purposes of this Easement and shall be prohibited upon or within the Property.

a. The disturbance or impairment of the open space, scenic and aesthetic features and values within and upon the Property, except as otherwise provided herein.

b. The establishment of any industrial and/or utility uses unless specifically approved in writing by Grantor and Grantee, in consultation with other Grand Mesa Slopes Special Management Area interests. In the event a public or quasi-public entity, in the lawful exercise of its power of eminent domain, constructs, installs, operates, maintains and repairs any such industrial and/or utility uses, or any other public or quasi-public project, the proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or any part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Grantor.

c. The construction, placing or erection of any signs or billboards other than signing typically associated with open space recreation and ranch operations (e.g., small private property, no trespassing, no hunting, ranch name, informational signs).

d. Legal or defacto subdivision of property for residential use, mobile home/camper/trailer use, or construction of any structures is prohibited, except as specified in paragraph 3 above.

e. The dumping or disposal of noncompostable refuse on the Property. No compostable refuse shall be dumped other than what would normally be associated with ranching and pasture management practices for the size of ranch covered in this easement.

f. The property shall not be surface mined for any mineral material, nor excavated or quarried for gravel, rock, soil or other similar material (see paragraph 3.g.).

5. Baseline Data. Grantee acknowledges by acceptance of this Easement that the Grantor's historical and present uses of the Property are compatible with the purposes of this Easement. These historical and projected land uses and practices are outlined in Exhibit B.

6. Costs and Taxes.

a. Grantor agrees to bear all costs and liabilities of any kind related to its operation, upkeep and maintenance of the Property and agrees to indemnify and hold Grantee harmless therefrom. Grantor agrees to pay any and all real property taxes and assessments levied by competent authority on the Property.

b. Grantor agrees to bear all costs associated with its obligation to honor and defend the intentions of this Easement stated herein and to preserve and protect in perpetuity the natural, scenic, open space of the Property, including any

costs incurred in monitoring compliance with the terms of this Easement. Grantor agrees that any costs incurred in enforcing, judicially or otherwise, the terms and restrictions of this Easement, including, without limitation costs of suit, attorneys' fees and any costs of restoration necessitated by the violation of the terms of this Easement by Grantor, shall be borne by Grantor.

7. Enforcement Rights of Grantee. In the event of a violation of any term, condition, or restriction contained in this Easement, Grantee may institute a suit to enjoin by temporary and/or permanent injunction such violation, or for damages for breach of covenant, or may take such other action as it deems necessary to ensure compliance with the terms, conditions, and purposes of this Easement; provided, however, that the enforcement of the terms and provisions of this Easement shall be at the discretion of Grantee and any failure to act by Grantee shall not be deemed to be a waiver or forfeiture of the right to enforce any terms, condition, or purpose of this Easement in the future.

8. Assignment of Grantee's Interest. The parties agree that the Grantee may transfer its interest in this easement only to a "qualified organization" which would be an eligible donee at the time of the transfer within the meaning of Section 170(h) of the Federal Internal Revenue Code, or any subsequent legislation; provided, however, that the Grantee, as a condition of such transfer, shall expressly require that the transferee continue to carry out the conservation purposes which this Easement was intended to advance; and provided further that no such assignment shall be permitted without first obtaining the written consent of Grantor.

9. Grant in Perpetuity. The Easement herein granted shall be a burden upon and shall run with the Property in perpetuity and shall bind Grantor, its successors and assigns forever. Grantee shall record this instrument in a timely fashion in the official records of Mesa County, Colorado.

10. Miscellaneous.

a. The terms "Grantor" and "Grantee", wherever used herein, shall mean and include the above named Grantor and its successors and assigns and the above named Grantee and its successors and assigns.

b. If any provisions of this Easement or the application thereof to any person or circumstance is found to be invalid by a court of competent jurisdiction, the remainder of the provisions of this Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

c. The Grantor shall use reasonable effort to make reference to this Easement in any subsequent deed, or other legal instrument, by means of which it conveys any interest in the Property (including a leasehold interest) and to attach a copy of this Deed of Conservation Easement thereto.

d. It is expressly agreed that no breach of this Agreement shall entitle either party to cancel, rescind or otherwise terminate this Agreement. However, such limitation shall not affect in any manner any other rights or remedies which such party may have hereunder by reason of any such breach.

e. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within 60 days receipt of Grantors' written request therefor. Grantees approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

f. Nothing contained in this Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

g. Grantor declares that, to its knowledge, there have been no known or suspected release, storage, or disposal of hazardous substances on the Property.

h. Any notices concerning this Easement shall be made to the Grantor and/or Grantee at the addresses shown on the Signature section of this Easement (below). Written notice shall be made by Grantor or Grantee concerning any change in address or entity responsible for administration of the terms of this easement.

11. Amendment. This Agreement may only be amended or modified by a written instrument executed by the parties hereto, their successors or assigns. No amendment or modification shall be effective until such written instrument has been recorded in the Office of the Mesa County Clerk and Recorder. No such amendment or modification shall affect the rights of any beneficiary under any deed of trust constituting a lien on the Property unless the beneficiary consents to the same.

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Attachments:

EXHIBIT A: Legal description of property, with map and aerial photo.

EXHIBIT B: Inventory of activities and relevant features of the property, photos (baseline data).

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NOTE: After recording this Deed it should be returned to:

Grand Junction/Mesa County Riverfront Foundation
P.O. Box 2477
Grand Junction, Colorado 81502

.....

IN WITNESS WHEREOF, the parties have executed this DEED OF CONSERVATION EASEMENT this ____ day of
, 1997.

.....

STATE OF COLORADO)
) ss
COUNTY OF _____)

Signature(s) of Grantor: _____

address: _____

The foregoing instrument was acknowledged before me this ____ day of _____, 1997, by _____ as _____ of
City of Grand Junction.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public: _____

Address: _____

.....

Signature of Grantee: _____

address: _____

STATE OF COLORADO)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 1997, by _____ as _____ of the
Grand Junction/Mesa County Riverfront Foundation.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public: _____

Address: _____

.....

NOTE: A separate agreement could accompany the Conservation Easement relating to monitoring costs, public use management costs (signs, maintenance). It is impossible to predict all the future scenarios, opportunities, issues at this time, and a detailed Easement would get in the way over time. Grantor could agree to fund reasonable monitoring costs, according to a plan mutually agreed to by Grand Junction and Riverfront Foundation.

The Grand Mesa Slopes Special Management Area Management Plan will be amended over time through consultation with Grand Mesa Slopes interests and landowners.

Both BLM and DOW are potential grantees already consulted, there could be more. DOW is more interested in riparian, and might need some slightly different wording.