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CERTIFICATION

The Clerk and Recorder for the
CITY AND COUNTY OF DENVER State
of Colorado does hereby certify this
document to be a full, true and
correct copy of the original
document recorded in my office

DEED OF CONSERVATION EASEMENT

HERON POND/NORTHSIDE PARK NATURAL AREA



by [Signature]
Clerk and Recorder
Deputy County Clerk
Date 9/8/03

03-4449

NOTICE: GRANTS FROM THE STATE OF COLORADO NATURAL RESOURCE DAMAGE FUND AND THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND HAVE BEEN UTILIZED TO ASSIST IN THE IMPROVEMENT OF THIS PROPERTY. THIS DEED OF CONSERVATION EASEMENT CONTAINS RESTRICTIONS ON THE USE AND DEVELOPMENT OF THE PROPERTY WHICH ARE INTENDED TO PROTECT ITS OPEN SPACE VALUES. THE STATE BOARD OF THE GREAT OUTDOORS COLORADO TRUST FUND AND THE NATURAL RESOURCE DAMAGE TRUSTEES OF THE STATE OF COLORADO HAVE FOUND THAT THIS DEED IS IN THE PUBLIC INTEREST.

THIS DEED OF CONSERVATION EASEMENT ("Conservation Easement") is made this 3rd day of July, 2003, by the City and County of Denver, a municipal corporation of the State of Colorado, whose address is 1437 Bannock, Denver, Colorado 80202 ("Grantor" or "City"), to Colorado Open Lands, a Colorado nonprofit corporation, whose address is 274 Union Blvd., Suite 320, Lakewood, CO 80228 ("Grantee").

RECITALS:

A. Description of Property. Grantor is the sole owner in fee simple of certain real property in the City and County of Denver, Colorado, legally described and depicted in **Exhibit A**, attached hereto and made part of this deed, which consists of approximately 21.07 acres of land (the "Property").

B. Qualified Organization. Grantee is a "qualified organization," as defined in §170(h) of the Internal Revenue Code and a charitable organization as required under §§38-30.5-104(2), Colorado Revised Statutes (C.R.S.).

C. Conservation Values. The Property possesses scenic, open space, wildlife habitat, and passive recreational values (collectively the "Conservation Values") of great importance to Grantor, the people of the City and County of Denver and the people of the State of Colorado. Subject to the terms of this Conservation Easement, Grantor intends that the Conservation Values of the Property be preserved and maintained. Grantor, as owner of the Property, intends to convey to Grantee, by and subject to the terms of this Conservation Easement, the right to preserve and protect the Conservation Values of the Property in perpetuity, for purposes including, without limitation, (i) restoring and maintaining the wetland, riparian and upland communities that comprise the historic South Platte River floodplain ecosystems in the Denver area and (ii) providing a natural setting for viewing wildlife in a protected environment.

In particular, the Property is an urban open space area along the South Platte River in Denver that contains or will contain (i) wetland areas for wildlife habitat and wildlife viewing and (ii) a stormwater detention pond ("Heron Pond"), unlined inflow and outflow channels and conduits, and a stormwater/wetland channel that lies to the south of Heron Pond, all of which are not considered inconsistent with the preservation and protection of the Conservation Values of the Property. Heron Pond will continue to function as an urban stormwater detention facility, owned and operated by the City and, in order to allow an increase in the stormwater detention volume, will be extended to the western boundary of the Property and connected to a pond to be constructed on the property immediately west of the Property. In addition, Heron Pond may be periodically dredged to improve its function as a stormwater detention facility. The parties acknowledge that the expansion and dredging activities may be inconsistent with the Conservation Values but are nonetheless considered acceptable if performed in accordance with this Conservation Easement.

Grantor further intends, as owner of the Property, to convey to Grantee through and subject to the terms of this Conservation Easement, the right to preserve and protect the Conservation Values of the Property in perpetuity, for purposes including, without limitation, (i) restoring and maintaining the wetland, riparian and upland communities that compose the historic South Platte River floodplain ecosystems in the Denver area, (ii) detaining stormwater runoff from the regional drainage basin, (iii) providing a natural setting for viewing wildlife in a protected environment and (iv) educating people about the ecology of the South Platte River floodplain ecosystem.

D. **Conservation Easements.** C.R.S. §§38-30.5-102 provides for the creation of conservation easements to maintain land "predominantly in a natural, scenic, or open condition, or for wildlife habitat, ... or other use or condition consistent with the protection of open land having wholesome environmental quality or life-sustaining ecological diversity. . . ."

F. **Acceptance of Easement.** Grantee agrees by accepting this Conservation Easement to honor the intentions of Grantor stated herein and to preserve and protect in perpetuity the Conservation Values of the Property for the benefit of this generation and the generations to come.

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

1. Incorporation of Recitals and Definitions Contained Therein. The recitals set forth in this Conservation Easement above and the definitions contained therein are hereby incorporated into the agreement of this Conservation Easement and is made a part hereof.

2. Purpose. It is the purpose of this Conservation Easement to assure that the Property will be retained forever predominantly as a natural area in its open space condition and to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property. Grantor intends that, subject to the terms contained herein,

this Conservation Easement will confine the use of the Property to such activities, including, without limitation, those involving wildlife viewing, passive recreation uses, low impact public recreation, and stormwater flow and detention as are not inconsistent with the preservation and protection of the Conservation Values. It is acknowledged and agreed that active recreational uses of the Property, including but not limited to playgrounds, ball fields, golf courses, and motorized vehicular uses, are inconsistent with the Conservation Values. Nothing in this Conservation Easement is intended to compel a specific use of the Property other than of the preservation and protection of the Conservation Values.

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

(a) To preserve and protect the Conservation Values of the Property;

(b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and otherwise enforce the terms of this Conservation Easement, provided that such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property; and

(c) To prevent any activity on or use of the Property that is inconsistent with the preservation and protection of the Conservation Values and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use.

4. Baseline Inventory; Approved Management Plan.

(a) The specific Conservation Values of the Property are documented in an inventory of relevant features of the Property titled "Easement Documentation Report for the Heron Pond Natural Area," dated as of May, 2003, and prepared by Land Stewardship Consulting, Inc. (the "Baseline Inventory"), which consists of reports, maps, photographs and other documentation that the parties agree collectively provide an accurate representation of the Property at the time of this Easement and which is intended to serve as an objective baseline for monitoring compliance with the terms of this Easement. A copy of the Baseline Inventory is on file with Grantor and Grantee and by this reference is made a part hereof. The Baseline Inventory is intended to establish the condition of the Property as of the date written above and Grantor and Grantee acknowledge that it accurately represents the condition of the Property at the time of conveyance of this Conservation Easement. In the event a controversy arises with respect to the condition of the Property as of the date of this Conservation Easement, or compliance with or violation of any term or provision of this Conservation Easement, the parties may use the Baseline Inventory and any other relevant materials, documents, surveys, reports, and other information to assist in resolving a controversy.

(b) Within one (1) year following the date of execution of this Conservation Easement, a Management Plan, will be prepared containing a description of the Property, including environmental conditions of the Property, as well as a vision and general management direction for the Property. This Management Plan will incorporate, and may elaborate upon, the prohibited uses and reserved rights provided in paragraphs 5 and 6 of this Conservation Easement.

(c) Within one (1) year following the date of execution of this Conservation Easement, Grantor shall submit to the Grantee for review the Management Plan. Grantee shall approve the Management Plan unless, after consultation with the State Board of the Great Outdoors Colorado Trust Fund (the "Board"), Grantee determines that an item contained therein could be inconsistent with the preservation and protection of the Conservation Values of the Property. If Grantee, after consultation with the Board, determines that an item contained in the Management Plan is inconsistent with the preservation and protection of the Conservation Values of the Property, Grantee shall notify Grantor of its determination and thereafter Grantor shall revise the proposed Management Plan to modify the Management Plan so that the item is no longer inconsistent with the preservation and protection of the Conservation Values. No item shall be deemed "inconsistent with the preservation and protection of the Conservation Values of the Property" if it is expressly recognized and permitted under this Conservation Easement. If Grantee, after consultation with the Board, approves the proposed Management Plan, then such plan shall be designated the "Approved Management Plan" and thereafter it shall be updated by Grantor every five years and submitted to Grantee for approval in the manner as set forth above. Any amendment to the Approved Management Plan shall substantially follow the procedure set forth above. The Property will be managed according to the terms of the Approved Management Plan, as it may be amended from time to time.

(d) Notwithstanding any provision in this Conservation Easement to the contrary; (i) in the event of a conflict between this Conservation Easement and the Approved Management Plan, the Conservation Easement shall control, and (ii) the Approved Management Plan and any amendments thereto may not authorize any use of the Property that would be prohibited by this Conservation Easement or prohibit any use of the Property that is expressly authorized by this Conservation Easement. In the event of any conflict between the Approved Management Plan and the Baseline Inventory as to the description or condition of the property, the Baseline Inventory shall control.

(e) Any plan, objective, project, or action identified in the Approved Management Plan that requires legislative approval under the City Charter or by federal or state law shall be contingent upon such approval being obtained by ordinance. City officials will take good faith efforts to obtain such approvals, when appropriate, but nothing in this Conservation Easement or the Approved Management Plan is intended to compel such legislative approval, including the appropriation of funds.

5. Prohibited Uses. Any activity on or use of the Property inconsistent with the preservation and protection of the Conservation Values is prohibited. Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited:

(a) Construction of Buildings and Other Structures. The construction or reconstruction of any building or other structure or improvement, except those existing on the date of this Deed, is prohibited; provided, however, that any building or structure, permanent or temporary, that is necessary to perform or put into effect any reserved rights under paragraph 6 may be constructed and maintained on the Property.

(b) Subdivision. Any division of title to the Property, whether by physical or

legal process, is prohibited. Grantor shall not submit any application for, and shall not consent to, the platting of the Property.

(c) Mining. The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel, or any other mineral substance is prohibited; provided, however, that extraction of soil, sand, gravel, rock, or other mineral substance necessary to perform or put into effect any reserved rights under paragraph 6 is allowed.

(d) Paving and Road and Trail Construction. No portion of the Property shall be paved or otherwise covered with concrete, asphalt, or any other paving material, nor shall any new road or trail be constructed on the Property, including without limitation any public road which connects 53rd Avenue to Downing St; provided, however, unpaved trail may be constructed as provided in paragraph 6(a) and temporary roads may be constructed as necessary to perform or put into effect any reserved rights under paragraphs 6(e), (f), (g), and (h).

(e) Trash. The dumping or uncontained accumulation of any kind of trash or refuse on the Property is prohibited.

(f) Water Rights. No water rights are associated with or reserved for the use of this Property.

(g) Commercial or Industrial Activity. No commercial or industrial uses shall be allowed on the Property.

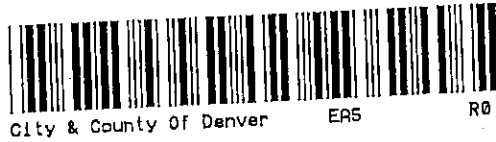
(h) Active Recreational Uses. No active recreational uses of the Property, such as playgrounds, golf courses, ballfields, and tennis and basketball courts, are permitted.

(i) Signage or Billboards. No commercial signs, billboards, awnings or any other form of advertisement, shall be displayed or placed on the Property. However, Grantor shall be permitted to place on the Property (i) interpretive and/or directional signs; (ii) signs advising the public as to prohibited or restricted uses of the Property under this paragraph 5, and (iii) awnings to provide shaded areas.

(k) Timber Harvesting. Trees may be cut to control insects and disease, to control invasive non-native species, and to prevent personal injury and property damage. Commercial timber harvesting on the property is prohibited.

6. Reserved Rights. Grantor reserves to itself, and to its successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein, that are consistent with the Approved Management Plan, and that are not inconsistent with the preservation and protection of the Conservation Values. Without limiting the generality of the foregoing, the following rights are expressly reserved:

(a) Road and Trail Construction. Portions of the Property may be used for the creation of a low impact trail through the Property and an unpaved maintenance road may be constructed for providing vehicular access to the stormwater detention pond.



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(b) Fences. Grantor may repair or replace existing fences as depicted on Exhibit A or as reflected in the Baseline Inventory, provided there is no material change to the use, location, appearance or size of such fence, and new fences may be built for purposes of separation of ownership and uses.

(c) Recreation. Low impact recreational uses such as walking, bike riding, rollerblading, picnicking, and wildlife watching, are permitted as are other uses that do not require any improvements to the Property other than the creation of hiking and biking trails, wildlife observation areas, picnic areas and educational areas which are not inconsistent with the preservation and protection of the Conservation Values.

(d) Maintenance and Landscaping. The Property may be replanted with grasses, landscaped, irrigated, and maintained to create an urban natural open space landscape, and native plant systems replicating the native vegetation along the South Platte River may be restored to the Property. Topography changes as a result of clean infill dirt brought onto the Property for purposes of excavation of a stormwater detention facility, for landscaping, and reshaping the landscape are permitted.

(e) Wetlands. Additional wetlands areas may be constructed, installed, graded, expanded, rehabilitated, improved and maintained on the Property in accordance with applicable federal and state law.

(f) Detention Facilities. Construction, expansion, improvement, repair, and maintenance of Heron Pond and an unlined stormwater channel(s) and underground conduit created for the diversion and retention of storm water and natural water flows (collectively, the "Detention Facilities") are permitted on the Property. Heron Pond shall continue to function as an urban stormwater detention facility owned by Grantor and operated by Grantor or its designee. In addition, Grantor may, independently or jointly, with or without the participation of the Urban Drainage and Flood Control District ("Urban Drainage"), (i) extend Heron Pond to the western boundary of the Property to enlarge Heron Pond's stormwater detention volume, and (ii) construct all necessary unlined inflow and outlet channels and underground conduits in connection therewith. The Detention Facilities, as extended, and related unlined inflow and outlet channels and underground conduits shall be maintained by Grantor; provided, however, Grantor may elect to have Urban Drainage or another qualified governmental entity perform such maintenance on the condition that Grantor shall remain responsible for all such maintenance. The construction, expansion, improvement, repair, and maintenance of the Detention Facilities shall be performed so as to minimize disturbances and to reclaim the Property in substantially the same manner as provided in the Dredging Standards set forth below in paragraph 6(g).

(g) Dredging.

(i) As used in this Conservation Easement, the term "dredging" shall mean the process of (i) draining Heron Pond or the Detention Facilities described in paragraph 6(f) using pumps and dewatering trenches until the water level is sufficiently low to allow access and operation of the necessary excavation equipment and (ii) using the excavation equipment to



remove the accumulated layer of dried out sediment in the pond.

(ii) Periodic dredging of Heron Pond or the Detention Facilities described in paragraph 6(f), to remove silt and other materials is permitted in accordance with a dredging plan prepared by Grantor (the "Dredging Plan"). A copy of the Dredging Plan must be provided to Grantee, and the Dredging Plan must require that the dredging be done in accordance with the following standards (the "Dredging Standards"):

A. Upon completion of the dredging, the Property shall be reclaimed in a manner that is not inconsistent with the preservation and protection of the Conservation Values under this Conservation Easement and the Approved Management Plan.

B. The dredging shall be done in accordance with Best Management Practices as recommended by the Urban Storm Drainage Criteria Manual, Volume 3 or such updated edition or successor to such Manual that is in effect at the time the dredging occurs.

C. The dredging shall attempt to minimize disturbances to the Property. However, Grantee hereby acknowledges and agrees that the dredging will entail the use of heavy equipment and that noise, vibration, and fumes from such equipment, significant disturbance of the land and water on the Property, temporary loss of wildlife habitat, and removal of some vegetation will be unavoidable.

D. The Dredging Plan shall require that within 30 days following the completion of the dredging activities, the City will undertake efforts to reclaim the Property to substantially the same natural condition it was in prior to the commencement of such dredging activities, which shall include, without limitation, revegetating the Property with native species.

E. No dredging activities shall occur, except in the event of an emergency, without at least thirty (30) days prior written notice to the Grantee.

In the event that dredging of Heron Pond is required due to an emergency situation where loss of life or property is threatened, Grantor shall not be required to provide notice to the Grantee prior to commencing dredging activity; provided, however, that (a) Grantor will notify Grantee as soon as reasonably possible regarding the situation and the actions taken or to be taken and (b) the dredging shall be done in accordance with the Dredging Standards, to the extent feasible in light of the emergency situation.

(g) Environmental Contamination.

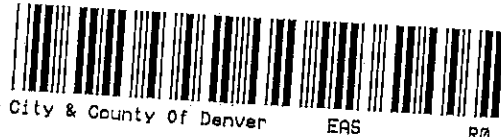
(i) Grantee acknowledges and agrees that certain environmental contamination, including potentially hazardous waste or toxic substances subject to federal, state, and local regulation, exists on the Property and that the City or another responsible entity may be required by law to engage in environmental assessments, monitoring, or remedial action with respect to said environmental contamination. It is further acknowledged and agreed by Grantee that to the extent that any activity disturbing the land or water at the Property is undertaken in

compliance with or in reasonable anticipation of any legal requirement by a federal, state, or local authority, or by a court, such activity shall not be regarded as being inconsistent with the preservation and protection of the Conservation Values of the Property under this Conservation Easement, provided the City or another responsible entity engaging in such activity notifies the Grantee in writing of the impending activity and takes all reasonable efforts to restore and revegetate the Property to the same or better condition that existed on the Property prior to the activity.

(ii) More specifically, paragraph 4.4.2 of the "Remedial Design/Remedial Action-Statement of Work-Asarco Globe Plane Site-Denver, Colorado" which is Appendix I to that certain Final Consent Decree, Order, Judgment and Reference to Special Master, in United States District Court for the District of Colorado, Civil Action No. 83-C-2383 (collectively, the "Final Consent Decree"), requires, upon the occurrence of certain conditions, the remediation of sediments with metals concentrations located beneath Heron Pond on the Property. Grantee agrees that paragraph 6(g)(i) is applicable with respect to any activity on the Property undertaken in compliance with the Final Consent Decree or any federal, state, or court order enforcing said Final Consent Decree. Grantor agrees that in the event there is a proposed amendment to the Final Consent Decree that would impact the Property and of which the Grantor is informed, Grantor will notify Grantee of the proposed amendment, and Grantor will use reasonable efforts to ensure that the parties to the Final Consent Decree do not execute any such amendment prior to the review of such amendment by Grantee. To the extent permitted by the Final Consent Decree and any amendments thereto, Grantor or another responsible entity shall restore and revegetate any portion of the Property that has been disturbed in connection with actions taken pursuant to the Final Consent Decree. Notwithstanding anything to the contrary herein, Grantee shall have no liability or responsibility for compliance or failure to comply with the Final Consent Decree.

7. Grantee's Approval. Where Grantee's approval is required Grantee shall grant or withhold its approval in writing within sixty (60) days of receipt of Grantor's written request thereof. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the preservation and protection of the Conservation Values.

8. Enforcement. Notwithstanding anything set forth below, when, in Grantee's opinion, an ongoing or imminent violation is inconsistent with the protection and preservation of the Conservation Values of the Property as provided in this Conservation Easement, Grantee may, in its sole and reasonable discretion, take appropriate legal action. Grantee shall have the right to enter the Property for the purposes of inspecting for violations, monitoring Grantor's compliance with and otherwise enforcing the terms of this Conservation Easement. Grantee shall have the right to prevent, correct or require correction of violations of the terms and provisions of this Conservation Easement. If Grantee finds what it believes is a violation, Grantee shall immediately notify Grantor and the Board in writing of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall immediately cease the action and either (a) restore the Property to its condition prior to the violation; (b) provide a written explanation to Grantee and the Board of the reason why the alleged violation should be permitted; or (c) provide a written explanation to Grantee or the Board explaining the reason that Grantor believes there has been no violation. If either of the conditions described above in



clauses (b) or (c) occurs, the parties agree to meet as soon as possible to resolve the difference. If a resolution of this difference cannot be achieved at the meeting, the parties agree to meet with a mutually acceptable mediator to attempt to resolve the dispute. Grantor shall discontinue any activity which could increase or expand the alleged violation during the mediation process. Should mediation fail to resolve the dispute, Grantee may, in its sole and reasonable discretion, in addition to any other remedies provided by law, commence a civil action to prevent, enjoin, or remove the violation and restore the Property to its condition prior to the violation. In any case where a violation was imminent or has occurred, Grantor, subject to paragraph 24(l), shall reimburse Grantee for all legal fees and expenses incurred in, or related to, stopping and correcting the violation, including, but not limited to, reasonable attorneys' fees and expenses for the enforcement of the Conservation Easement if the Grantee is the prevailing party. Nothing herein is intended to authorize or require Grantee or the Board to inspect for, or enforce against the presence of environmental contamination or violations of any applicable law, regulation, order or requirement of any local, state or federal agency.

9. Grantee's Discretion. Enforcement of the terms of this Conservation Easement shall be at the discretion of Grantee, and any forbearance by Grantee to exercise its rights under this Conservation Easement in the event of any breach of any term of this Conservation Easement by Grantor shall not be deemed or construed to be a waiver by Grantee of such term or of any subsequent breach of the same or any other term of this Conservation Easement or of any of Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver.

10. Waiver of Certain Defenses. Grantor hereby waives any defense of laches, estoppel, or prescription, including any defenses available under C.R.S. § 39-41-119, et seq.

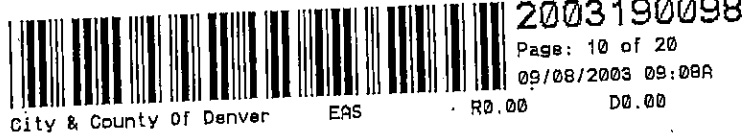
11. Acts Beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from causes beyond Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

12. Access. The general public shall have access to the Property consistent with paragraph 5, the Approved Management Plan, and such rules and regulations as may be imposed by Grantor.

13. Costs and Liabilities. Grantor retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including, but not limited to, any responsibilities for environmental clean-up or remediation, weed control and eradication and the maintenance of adequate comprehensive general liability insurance coverage or, upon request, provision of reasonable evidence of self insurance.

14. Taxes. The parties agree and acknowledge that the Property has a governmental tax exemption due to its ownership by a governmental entity and shall remain tax exempt with

this Conservation Easement.



15. Hold Harmless.

(a) To the extent permitted by law and subject to paragraphs 15(b) and 24(1) below, Grantor shall hold harmless, indemnify, and defend Grantee and its members, directors, officers, employees and the heirs, personal representatives, successors, and assigns of each of them (collectively "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the exercise of the enforcement rights set forth in Paragraph 7; and (3) the presence, release, or re-release of hazardous or toxic substances on, about, under or from the Property. For the purpose of this paragraph, hazardous or toxic substances shall mean any substance which is regulated under any federal, state or local law. Without limiting the foregoing, nothing in this Conservation Easement shall be construed as giving rise to any right or ability of Grantee or the Board, nor shall Grantee or the Board have any right or ability, to exercise physical or managerial control over the operation of the Property or otherwise to control in any way the hazardous or toxic substances or other contamination that exists on the Property.

(b) Notwithstanding any other provision of this Conservation Easement to the contrary, no term or condition of this Conservation Easement shall be construed or interpreted as a waiver, either express or implied, of any of the immunities, rights, benefits or protection provided to Grantor under the Colorado Governmental Immunity Act ("CGIA") as amended or as may be amended (including, without limitation, any amendments to such statute, or under any similar statute which is subsequently enacted). Grantor and Grantee understand and agree that liability for claims for injuries to persons or property arising out of the negligence of Grantor, its members, officials, agents, and employees is controlled and limited by the provisions of the CGIA. The parties agree that no provision of this Conservation Easement shall be construed in such a manner as to reduce the extent to which the CGIA limits the liability of Grantor or its officers, agents and employees.

16. Extinguishment. If circumstances arise in the future such as render the purpose of this Conservation Easement impossible to accomplish, this Conservation Easement can be terminated or extinguished, whether in whole or in part, only by (i) judicial proceedings in a court of competent jurisdiction or (ii) by written agreement of Grantor, Grantee, and the Board. Each party shall promptly notify the other when it first learns of such circumstances, and shall, in addition, notify the Board of such circumstances. The amount of the proceeds to which Grantee shall be entitled, after the satisfaction of prior claims, from any sale, exchange, or involuntary conversion of all or any portion of the Property subsequent to such termination or extinguishment, shall be determined, unless otherwise provided by Colorado law at the time, in accordance with paragraph 17 below.

17. Proceeds. This Conservation Easement constitutes a real property interest immediately vested in Grantee, which the parties stipulate to have a fair market value determined



by subtracting the fair market value of the Property encumbered by the Conservation Easement from the fair market value of the Property unencumbered by the Conservation Easement. The values at the time of this Grant shall be those values which would be used to calculate the deduction for federal income tax purposes allowable by reason of this Grant, pursuant to Section 170(h) of the Internal Revenue Code of 1986, as amended. For the purposes of this paragraph, the ratio of the value of the Conservation Easement to the value of the Property unencumbered by the Conservation Easement shall remain constant as of the date of this Conservation Easement.

18. Condemnation. If the Property is taken in whole or in part by the exercise of eminent domain, including eminent domain by Grantor, or other legal proceedings, or if this Conservation Easement is otherwise terminated by legal proceedings or otherwise, the Board shall be entitled to receive fifty-one and six tenths percent (51.6%) of that portion of the total net proceeds of condemnation of the Property (the "Net Proceeds") attributable to the Conservation Easement (as determined below) and the Grantee shall be entitled to receive forty-eight and four tenths percent (48.4%) of that portion of the Net Proceeds attributable to the Conservation Easement. Grantor shall be entitled to retain the balance of the Net Proceeds. The portion of the Net Proceeds attributable to the Conservation Easement shall be determined by multiplying the total Net Proceeds by a ratio, the numerator of which is the value of the Conservation Easement and the denominator of which is the value of the Property unencumbered by the Conservation Easement, which values shall be determined in accordance with Paragraph 17 above.

19. Assignment. This Conservation Easement is transferable, provided that (i) Grantee shall provide at least thirty (30) days prior written notice of such transfer to Grantor and the Board; (ii) Grantee may assign its rights and obligations under this Conservation Easement only to an organization that is (a) a qualified organization at the time of transfer under Section 170(h) of the Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, (b) authorized to acquire and hold conservation easements under Colorado law, and (c) approved as a transferee by the Board; and (iii) Grantee shall require that the conservation purposes that this Conservation Easement is intended to advance continue to be carried out. The Board shall have the right to require Grantee (the "Assigning Grantee") to assign its rights and obligations under this Conservation Easement to a different organization (the "Receiving Grantee") if the Assigning Grantee ceases to exist or for any reason fails or refuses to enforce the terms and provisions of this Conservation Easement. After such an assignment, the rights and obligations held by the Assigning Grantee under this Conservation Easement shall pass to and be assumed by the Receiving Grantee, and any and all rights and obligations of the Assigning Grantee shall cease.

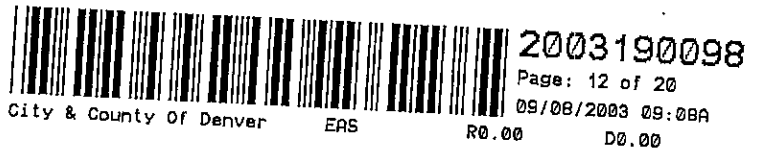
20. Subsequent Transfers. Grantor agrees to incorporate the terms of this Conservation Easement in any deed or other legal instrument by which they divest themselves of any interest in the Property, including, without limitation, conveying a leasehold interest to a third party. Grantor further agrees to give written notice to Grantee and the Board of the transfer of any interest at least thirty (30) days prior to the date of such transfer. The failure of Grantor to perform any act required by this paragraph shall not impair the validity of this Conservation Easement or limit its enforceability in any way.

21. Notices. Any notice, demand, request, consent, approval, or communication that

either party desires or is required to give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, addressed as follows:

To Grantor:

City & County of Denver
Mayor
1437 Bannock, Room 350
Denver, CO 80202



with copies to:

Denver City Attorney
1437 Bannock, Room 353
Denver, CO 80202

and

Manager of Parks and Recreation
201 West Colfax, Dept. 601
Denver, CO 80202

To Grantee:

Colorado Open Lands
274 Union Blvd., Suite 320
Lakewood, CO 80228

To the Board:

Executive Director
State Board of the Great Outdoors Colorado Trust Fund
1600 Broadway, Suite 1650
Denver, CO 80202

If to Trustee:

Natural Resources Damage Trustees
C/O Dan Scheppers
CDPH E/HMWMD - B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

With copies to:

Frances C. Hartogh
Assistant Attorney General
1525 Sherman Street, 7th Floor
Denver, CO 80203

Mark Walker
Colorado Dept. Public Health
HMWMD - RP - B2
4300 Cherry Creek Drive South
Denver, CO 80246-1530

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

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

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

24. General Provisions.

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

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

(c) Severability. If any provision of this Conservation Easement, or the application thereof to any person or circumstance, is found to be invalid, the remainder of the provisions of this Conservation Easement, or the application of such provision to persons or circumstances other than those as to which it is found to be invalid, as the case may be, shall not be affected thereby.

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

(e) No Forfeiture. Nothing contained herein will result in a forfeiture or reversion of Grantor's title in any respect.

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



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

(g) Termination of Rights and Obligations. A party's rights and obligations under this Conservation Easement terminate upon transfer of the party's interest in the Conservation Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

(h) Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

(i) Amendment. If the circumstances arise under which an amendment to or modification of this instrument would be appropriate, Grantor and Grantee are free to jointly amend this instrument; provided that no amendment shall be allowed that will affect the qualifications of this instrument under any applicable laws; and provided, further, that the prior written approval of the Board and the Trustee shall be required. Any amendment must be consistent with the conservation purposes of this instrument and may not affect its perpetual duration. Any amendment must be in writing, signed by both parties, and recorded in the records of the Clerk and Recorder of the County in which the Property is located.

(j) Termination of the Board. In the event that Article XXVII of the Colorado Constitution, which established the State Board of the Great Outdoor Colorado Trust Fund, is amended or repealed to terminate the Board or merge the Board into another entity, the rights and obligations of the Board hereunder shall be assigned to and assumed by such other entity as provided by law, but in the absence of such direction, by the Colorado Department of Natural Resources or its successor.

(k) Authority to Execute. The parties represent that the persons executing this Conservation Easement on behalf of the parties and who have affixed their signatures to this Conservation Easement have all necessary and sufficient authority to bind such party.

(l) Appropriation by City Council. Except for the purchase of certain property authorized to be paid for under various City General Obligation Bond ordinances, all obligations of the Grantor under and pursuant to this Conservation Easement are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Conservation Easement and paid into the Treasury of the Grantor.

(m) No Discrimination in Employment. In connection with the performance of work under this Conservation Easement, the parties hereto agree not to refuse to hire, discharge, promote, or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability, and further agrees to insert the foregoing provision in any contracts executed to perform its obligations under this Conservation Easement.

(n) Third Party Beneficiary. It is the intent of the parties that no third party



beneficiary interest is created in this Conservation Easement except the State Board of the Great Outdoors Colorado Trust Fund or its successor. The parties are not presently aware of any actions by them or any of their authorized representatives that would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions.

(o) No Personal Liability. No elected official, director, officer, agent or employee of Grantor or Grantee nor any director, officer, employee or personal representative of any of the parties hereto or any of their successors will be charged personally or held contractually liable by or to the other party under any term or provision of this Conservation Easement or because of any breach thereof or because of its or their execution, approval, or attempted execution of this Conservation Easement.

(p) Conflict of Interest by Officer of Grantor. The parties represent that, to the best of their information and belief, no officer or employee of the Grantor is either directly or indirectly a party to or in any manner interested in this Conservation Easement except as such interest may arise as a result of the lawful discharge of the duties of such elected official or employee.

(q) Counterparts. This Conservation Easement may be executed in counterparts, all of which shall together constitute one and the same document.

(r) No Merger. No merger shall be deemed to have occurred hereunder or under any documents executed in the future affecting this Easement, unless the parties expressly state that they intend a merger of estates or interests to occur and the parties have also obtained the prior written consent of the Board approving such merger of estates or interests.

(s) Inspection of Records. The Grantor and its authorized representatives, including without limitation the City's Auditor and its representative, shall have the right to audit assemble and copy records which are related to this Conservation Easement. The parties agree that upon request any time during the term of this Conservation Easement or three years thereafter, it will make such records available for inspection by the Grantor.

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

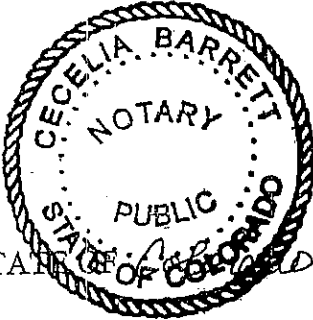
IN WITNESS WHEREOF Grantor and Grantee have executed this Deed of Conservation Easement on the day and year first above written.

[END OF PAGE. SIGNATURE BLOCK STARTS ON NEXT PAGE.]

GRANTEE:

COLORADO OPEN LANDS, a Colorado Non-Profit corporation

By *Daniel E. Pike*
Daniel E. Pike, President



STATE OF COLORADO)
COUNTY OF Jefferson) ss.

The foregoing instrument was acknowledged before me this 29 day of May 2003, by Daniel E. Pike as President of Colorado Open Lands, a Colorado Non-Profit corporation.

Witness my hand and official seal.

My commission expires: 11/21/2004

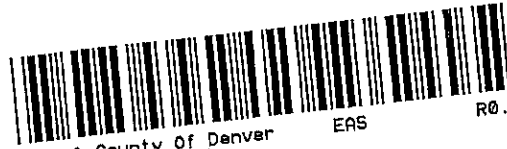
Cecelia Barrett

Notary Public

2003190098
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 City & County Of Denver EAS R0.00 D0.00

EXHIBIT A

Legal Description of the Property



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City & County of Denver EAS



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Exhibit

NORTHSIDE PARK

PART OF SECTION 14, T. 3 S
CITY AND COUNTY OF DENVER

54TH AVENUE

S89°46'56"E 970.80'

60.00'

N00°00'00"E
482.17'

EXISTING
POND

BK 2735 PG 139

455.00'
N89°46'56"W

S00°00'00"W
1106.94'

S00°05'46"W
647.35'

FENCE
(TYP.)

WEST LINE NW 1/4 SEC. 14

64.34' 263.80'

N90°00'00"W

53RD AV

BK 0229 PG 0416

GRAVEL
WALKWAY
(TYP.)

W 1/4 COR. SEC. 14

N89°48'56"E 1382.31'

S. LINE NW 1/4 SEC. 14

WASHINGTON STREET

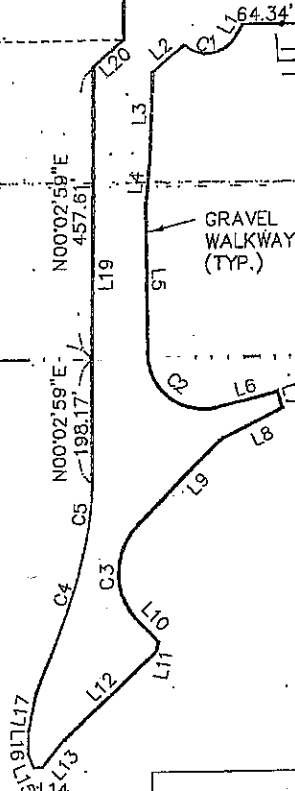
N00°00'00"W

BASIS OF
BEARINGS

LINE TABLE		
LINE	LENGTH	BEARING
L1	23.90	S30°35'58"W
L2	68.45	S51°14'52"W
L3	133.34	S01°42'08"W
L4	80.59	S04°49'25"W
L5	224.36	S00°51'36"E
L6	98.54	N76°59'24"E
L7	24.03	S17°40'02"E
L8	105.70	S63°40'12"W
L9	192.21	S44°45'22"W
L10	51.11	S44°35'08"E
L11	14.38	S12°07'42"W
L12	203.60	S47°06'33"W
L13	56.35	S40°26'12"W
L14	13.13	N89°09'02"W
L15	23.35	N23°00'13"W
L16	34.05	N00°14'09"W
L17	-65.22	N11°12'14"E
L18	83.00	N21°55'00"E
L19	655.78	N00°02'59"E
L20	65.35	N49°22'09"E



SCALE : 1" = 200'



COURSE	DELTA	RADIUS	LEN
C1	104°49'57"	49.02	
C2	102°09'00"	91.25	
C3	89°20'30"	108.53	
C4	9°29'29"	665.19	
C5	12°22'32"	460.47	

Exhibit

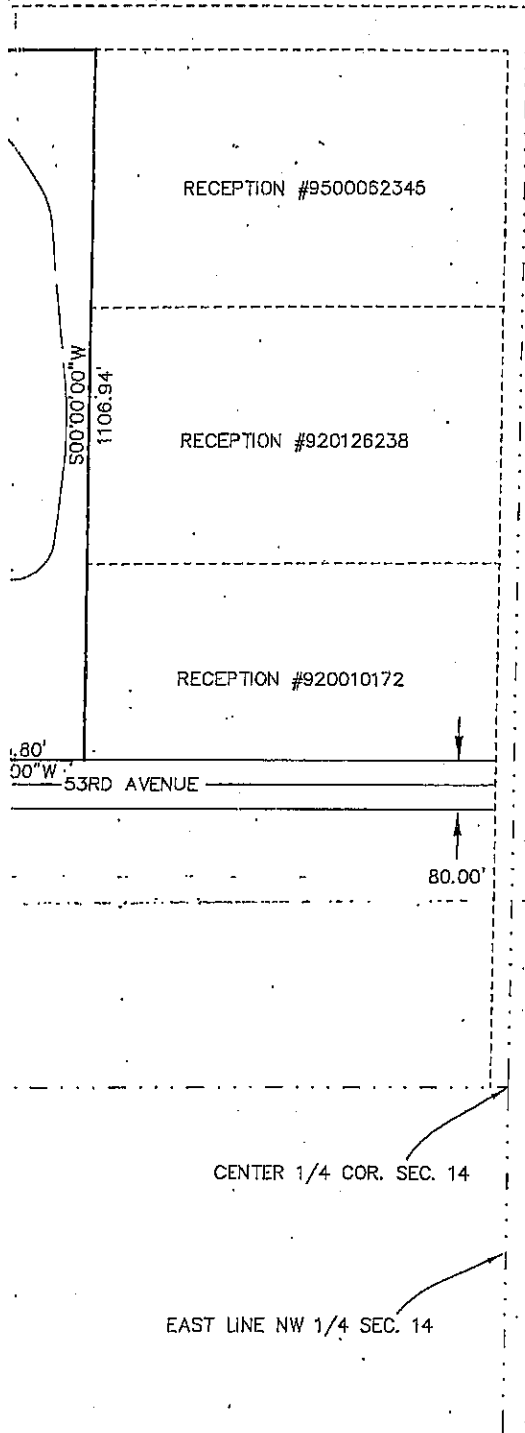
PARK - HELLER

14, T. 3 S., R. 68 W., 6TH P.M.
 COUNTY OF DENVER, COLORADO.

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN SECTION 14, TOWNSHIP 3 SOUTH, RANGE 68 WEST, OF THE 6TH P.M., COUNTY OF DENVER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 14;
 THENCE N89°48'56"E ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF SAID SECTION 14, A DISTANCE OF 1382.31 FEET TO THE POINT OF BEGINNING;
 THENCE N00°02'59"E, A DISTANCE OF 457.61 FEET; THENCE N49°22'09"E, A DISTANCE OF 65.35 FEET TO THE SOUTHEAST CORNER OF A PARCEL OF LAND RECORDED IN BOOK 2735 AT PAGE 139 OF THE RECORDS OF THE CLERK AND RECORDER OF THE CITY AND COUNTY OF DENVER; THENCE N00°05'46"E ALONG THE EAST LINE OF SAID PARCEL RECORDED IN BOOK 2735 AT PAGE 139, A DISTANCE OF 647.35 FEET TO A NORTHEASTERLY CORNER OF SAID PARCEL;
 THENCE N89°46'56"W ALONG THE NORTHERLY LINE OF SAID PARCEL RECORDED IN BOOK 2735 AT PAGE 139, A DISTANCE OF 455.00 FEET TO A NORTHEASTERLY CORNER OF SAID PARCEL; THENCE N00°00'00"E ALONG THE EASTERLY LINE OF SAID PARCEL RECORDED IN BOOK 2735 AT PAGE 139, A DISTANCE OF 482.17 FEET TO A NORTHEASTERLY CORNER OF SAID PARCEL, SAID CORNER ALSO BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF 54TH AVENUE; THENCE S89°46'56"E ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID 54TH AVENUE, A DISTANCE OF 970.80 FEET TO THE NORTHWEST CORNER OF A PARCEL OF LAND RECORDED UNDER RECEPTION NUMBER 9500062345 OF THE RECORDS OF THE CLERK AND RECORDER OF THE CITY AND COUNTY OF DENVER; THENCE S00°05'46"W ALONG THE WESTERLY LINES OF A PARCEL RECORDED UNDER RECEPTION NUMBER 9500062345 OF THE RECORDS OF THE CLERK AND RECORDER OF THE CITY AND COUNTY OF DENVER, AND A PARCEL RECORDED UNDER RECEPTION NUMBER 920126238 OF THE RECORDS OF THE CLERK AND RECORDER OF THE CITY AND COUNTY OF DENVER, AND A PARCEL RECORDED UNDER RECEPTION NUMBER 920010172 OF THE RECORDS OF THE CLERK AND RECORDER OF THE CITY AND COUNTY OF DENVER, A DISTANCE OF 1106.94 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL RECORDED UNDER RECEPTION NUMBER 920010172, SAID POINT BEING A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF 53RD AVENUE; THENCE N90°00'00"W ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF SAID 53RD AVENUE, A DISTANCE OF 263.80 FEET; THENCE DEPARTING FROM NORTHERLY RIGHT-OF-WAY LINE OF SAID 53RD AVENUE N90°00'00"W, A DISTANCE OF 64.34 FEET; THENCE S30°35'58"W, A DISTANCE OF 23.90 FEET TO A POINT OF CURVE; THENCE ALONG AN ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 104°49'57", A RADIUS OF 49.02 FEET AN ARC LENGTH OF 89.69 FEET AND WHOSE CHORD BEARS S83°00'56"W, A DISTANCE OF 77.69 FEET TO A POINT OF NON TANGENT; THENCE S51°14'52"W, A DISTANCE OF 68.45 FEET; THENCE S01°42'08"W, A DISTANCE OF 133.34 FEET; THENCE S04°49'25"W, A DISTANCE OF 80.59 FEET; THENCE S00°51'36"E, A DISTANCE OF 224.36 FEET TO A POINT OF CURVE; THENCE ALONG AN ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 102°09'00", A RADIUS OF 91.25 FEET AN ARC LENGTH OF 162.68 FEET AND WHOSE CHORD BEARS S51°56'06"E, A DISTANCE OF 141.98 FEET TO A POINT OF TANGENT; THENCE N76°59'24"E, A DISTANCE OF 98.54 FEET; THENCE S17°40'02"E, A DISTANCE OF 24.03 FEET; THENCE S63°40'12"W, A DISTANCE OF 105.70 FEET; THENCE S44°45'22"W, A DISTANCE OF 192.21 FEET TO A POINT OF CURVE; THENCE ALONG AN ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 89°20'30", A RADIUS OF 108.53 FEET AN ARC LENGTH OF 169.23 FEET AND WHOSE CHORD BEARS S00°05'07"W, A DISTANCE OF 152.59 FEET TO A POINT OF TANGENT; THENCE S44°35'08"E, A DISTANCE OF 51.11 FEET; THENCE S12°07'42"W, A DISTANCE OF 14.38 FEET; THENCE S47°06'33"W, A DISTANCE OF 203.60 FEET; THENCE S40°26'12"W, A DISTANCE OF 56.35 FEET; THENCE N89°09'02"W, A DISTANCE OF 13.13 FEET; THENCE N23°00'13"W, A DISTANCE OF 23.35 FEET; THENCE N00°14'09"W, A DISTANCE OF 34.05 FEET; THENCE N11°12'14"E, A DISTANCE OF 65.22 FEET; THENCE N21°55'00"E, A DISTANCE OF 83.00 FEET TO A POINT OF CURVE; THENCE ALONG AN ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 9°29'29", A RADIUS OF 965.19 FEET AND ARC LENGTH OF 159.89 FEET AND WHOSE CHORD BEARS N17°10'16"E, A DISTANCE OF 159.71 FEET TO A POINT OF CURVE; THENCE ALONG AN ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 12°22'32", A RADIUS OF 460.47 FEET AN ARC LENGTH OF 99.46 FEET AND WHOSE CHORD BEARS N06°14'15"E, A DISTANCE OF 99.26 FEET TO A POINT OF TANGENT; THENCE N00°02'59"E, A DISTANCE OF 198.17 FEET TO THE POINT OF BEGINNING.
 BASIS OF BEARINGS IS THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 14, BEING N00°06'02"W.



CURVE TABLE			
IUS	LENGTH	CHORD	CH DIST.
3.02	89.69'	S83°00'56"W	77.69'
1.25	152.68'	S51°56'06"E	141.98'
3.53	169.23'	S00°05'07"W	152.59'
5.19	159.89'	N17°10'16"E	159.71'
1.47	99.46'	N06°14'15"E	99.26'

TIMBERLINE SURVEYING, INC.
 7444 W. CHATFIELD AVE. UNIT B
 LITTLETON, COLORADO 80123
 LAND SURVEYING AND CONSTRUCTION STAKING
 (303) 971-0855

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 DO.00
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 ERS
 City & County of Denver