

RESOLUTION NO. 4-15

A RESOLUTION AUTHORIZING THE DONATION OF THE  
PROPERTY KNOWN AS JONES PARK FOR A PUBLIC  
PURPOSE TO EL PASO COUNTY, COLORADO

**WHEREAS**, the City of Colorado Springs ("City"), on behalf of its enterprise Colorado Springs Utilities ("Utilities"), holds title to multiple parcels of land in and around the Bear Creek watershed collectively known as Jones Park (the "Property"); and

**WHEREAS**, the Property was purchased for potential use in the development of Utilities' local water system as a reservoir; and

**WHEREAS**, development by Utilities of the Property as a reservoir never occurred and the property provides no operational value or necessity to Utilities for efficient water system operations, but remains an important part of watersheds that serve the City; and

**WHEREAS**, the Property is not developable for future water system operations; and

**WHEREAS**, the Property is surplus property of no operational use and its disposal complies with section 6-80 of the City Charter, does not violate Utilities' bond covenants, and is in the public interest; and

**WHEREAS**, Utilities desires to dispose of the Property subject to appropriate terms, conditions and restrictions for uses of the property to ensure the Property continues to fulfill its function as a necessary and essential watershed resource; and

**WHEREAS**, Utilities must ensure that the purchaser/donee of the Property does not injure or adversely affect water quality within the watershed and that forest management and fire suppression efforts on the Property is consistent with management of surrounding United States Forest Service ("USFS") lands; and

**WHEREAS**, the Property is entirely surrounded by USFS property and is only physically accessible through USFS property by recreational trails; and

**WHEREAS**, the USFS is currently completing an environmental assessment under the National Environmental Policy Act of 1969 ("NEPA") regarding the management of property within the Bear Creek watershed, including the Property, with a final USFS decision expected in late 2014 or early 2015 that will evaluate and make recommendations concerning what actions should be performed, including what recreational access is appropriate in the watershed to avoid adverse impacts to the greenback cutthroat trout that inhabits Bear Creek and is designated as a threatened species under the federal Endangered Species Act ("ESA"); and

**WHEREAS**, disposal of the Property will eliminate future costs to Utilities' ratepayers for ongoing management, maintenance, and legal and regulatory compliance; and

**WHEREAS**, no City department or enterprise is interested in acquisition or receipt of the Property; and

**WHEREAS**, the anticipated use restrictions and land management requirements under the ESA for protection of the greenback cutthroat trout located on the property, and the requirements of the National Historic Preservation Act ("NHPA"), primarily limit the uses and value of the Property to recreational and natural resources purposes; and

**WHEREAS**, *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* ("RES Manual") authorizes the disposal of properties for less than fair market value upon a finding of a public purpose and for the transfer of property to an appropriate single, logical purchaser/donee; and

**WHEREAS**, evidence has been presented to the City Council that the Board of County Commissioners of El Paso County, Colorado ("County") is the appropriate and one logical, potential purchaser/donee of the Property; and

**WHEREAS**, the County has expressed its desire to accept conveyance of the Property from Utilities and implement the trail and stream improvement work identified and to be identified in the USFS final decision; and

**WHEREAS**, the County possesses and maintains a publicly supported parks, trails and open space system which uniquely qualifies it as the one, logical public steward ensuring such perpetual recreational use as may be consistent with the USFS final decision, protection of the watershed, and the protection of the greenback cutthroat trout within the Property; and

**WHEREAS**, excepting the cost of a title insurance policy to be paid for by the City, the County will pay Utilities all transaction costs and costs associated with cultural services studies and appraisals associated with the conveyance of the Property; and

**WHEREAS**, upon and after transfer the County will hold title to the Property and assume all associated liabilities; and

**WHEREAS**, a donation of the Property to the County, subject to appropriate terms, conditions and restrictions, will serve a public purpose and is consistent with applicable laws and regulations; and

**WHEREAS**, Utilities recommends authorization and approval for the City's Real Estate Services Manager to enter into a contract, subject to the terms, conditions and

restrictions listed below, for donation of the Property to the County as the one logical, potential purchaser/donee.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS**

Section 1. City Council finds that the Property is surplus property that is not necessary for the operation of the Utilities enterprise, is unneeded for the proper conduct of City affairs, and its disposal is in compliance with section 6-80 of the City Charter.

Section 2: Subject to the imposition of the appropriate terms, conditions and restrictions below and in accord with RES Manual, Chapter 1, Section 1.1(b), and Chapter 5, City Council hereby finds, for the reasons set forth in the recitals above, a public purpose is served by the donation of the Property to the County as the one logical, potential purchaser/donee and the County will provide management of recreational access and protection of the greenback cutthroat trout on the property.

Section 3: In addition to the requirements contained within the RES Manual and all other applicable laws, ordinances, rules and regulations, City Council finds that the following terms, conditions and restrictions shall be imposed on the County and all subsequent purchasers pursuant to the quitclaim deed transferring the Property:

A. The County, and any subsequent transferee of the Property, shall (i) fully collaborate and cooperate with the USFS in the completion of the National Environmental Policy Act ("NEPA") Bear Creek Watershed Restoration planning process and subsequent Environmental Assessment, but the County shall have the right to negotiate with the USFS, State Historic Preservation Office, and US Fish and Wildlife Service, as may be applicable, terms and conditions that are necessary for the County's use and management of the Property; (ii) implement the terms and conditions of the USFS final decision, including maintenance and monitoring requirements, as it applies to the subject property and all related mitigation measures as required by the State Historic Preservation Office and the US Fish and Wildlife Service necessary to comply with the USFS final decision, the Endangered Species Act, and the National Historic Preservation Act, and (iii) provide public recreational access in perpetuity that is not inconsistent with the USFS final decision; and

B. No future use of the Property shall interfere with the City's rights and benefits, or the performance of its obligations, and access required therefor, related to the maintenance of watershed lands under applicable laws, including the Act of Congress, approved February 27, 1913, granting the City of Colorado Springs, Colorado, certain rights on the north slope of Pikes Peak, Public No. 392, H. R. 23293, for the protection of the water

supply of the City of Colorado Springs and the Town of Manitou, Colorado, and under the following agreements: (i) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of Colorado Springs and Manitou, Colorado, dated October 9, 1914, and (ii) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of the City of Colorado Springs, Colorado, dated January 9, 1924; and

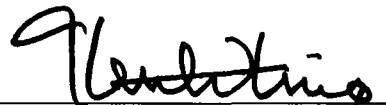
C. City shall retain the right of first refusal to reacquire the Property at no cost if County decides to transfer the Property at any point in the future; and

D. Should the City determine that the County has violated one or more of the covenants, restrictions, terms and conditions set forth in the quitclaim deed, then the County shall have ninety (90) days to cure such violation, after written notice from the City. In the City's sole reasonable discretion, should the City determine that the County has failed to timely cure the violation, then the City may exercise its right to seek appropriate judicial relief in the El Paso County District Court to enforce said covenants, restrictions, terms and conditions. If the City prevails, then the County shall comply with the requirements of the Court's Order; and

E. Within twenty four (24) months of transfer of ownership from the City to the County, the County shall impose upon the Property a conservation easement with conversation values consistent with the restrictions contained in the quitclaim deed and the USFS final decision, which will be held by an appropriate certified conservation easement holder.


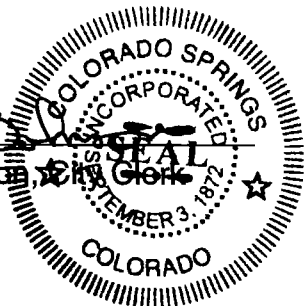
Section 4. Pursuant to the RES Manual, Chapter 2.11, the City's Real Estate Services Manager is authorized to execute all documents necessary to complete the disposition of Jones Park and to obtain the Mayor's signature on the deed donating Jones Park to the County.

DATED at Colorado Springs, Colorado, this 13th day of January, 2015.

  
\_\_\_\_\_

Keith King, Council President

ATTEST:

  
Sarah B. Johnson, City Clerk

Bell

CHUCK BROERMAN  
02/17/2015 09:10:24 AM  
Doc \$0.00 Page  
Rec \$0.00 1 of 5

El Paso County, CO  
215014486

677415  
Page 1 of 5  
Kristol Brown, Clerk & Recorder  
Teller County, Colorado RP \$0.00  
02-13-2015 12:33 PM Recording Fee \$31.00

3

QUITCLAIM DEED

D.F. \$0.00

The CITY OF COLORADO SPRINGS, COLORADO, a home rule city and Colorado municipal corporation, on behalf of its enterprise, Colorado Springs Utilities, acting by and through Steve Bach, Mayor ("Grantor"), whose street address is 30 South Nevada Avenue, Suite 502, Colorado Springs, Colorado, 80903, City of Colorado Springs, County of El Paso and State of Colorado, for the consideration of one dollar (\$1.00) and other good and valuable consideration in hand paid, hereby releases and quitclaims, subject to the covenants, restrictions, terms and conditions set forth herein, unto EL PASO COUNTY by and through the BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO, having the address of 200 South Cascade Avenue, Suite 150 Colorado Springs, Colorado, 80903 ("Grantee"), all rights, title and interest the Grantor may have in and to the following described property, if any, situated in the Counties of El Paso and Teller, in the State of Colorado, to wit (the "Property"):

See Exhibit "A" attached hereto and made a part hereof.

To have and to hold the same unto the Grantee, its successors and assigns, forever, subject to the, covenants, restrictions, terms and conditions set forth herein.

This conveyance is made subject to any and all easements, restrictions, rights, limitations of access, environmental conditions, and matters of record affecting the Property, and is further made subject to the following covenants, terms and conditions in perpetuity:

1. The Grantee, and any subsequent transferee, shall (i) fully collaborate and cooperate with the US Forest Service ("USFS") in the completion of the National Environmental Policy Act ("NEPA") Bear Creek Watershed Restoration Project planning process and subsequent Environmental Assessment, but Grantee shall have the right to negotiate with the USFS, State Historic Preservation Office, and US Fish and Wildlife Service, as may be applicable, terms and conditions that are necessary for the County's use and management of the Property, (ii) implement the terms and conditions of the USFS final decision, including maintenance and monitoring requirements, as it applies to the subject Property and all related mitigation measures as required by the State Historic Preservation Office and the US Fish and Wildlife Service necessary to comply with USFS final decision, the Endangered Species Act, and the National Historic Preservation Act, and (iii) provide public recreational access that is not inconsistent with the USFS final decision in the Bear Creek Watershed Restoration Project.
2. No future use of the Property shall interfere with the Grantor's rights and benefits, or the performance of its obligations, and access required therefor, related to the maintenance of watershed lands under applicable laws, including the Act of Congress, approved February 27, 1913, granting the City of Colorado Springs, Colorado, certain rights on the north slope of Pikes Peak, Public No. 392, H. R. 23293, for the protection of the water supply of the City of Colorado Springs and the Town of Manitou, Colorado, and under the following agreements: (i) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of Colorado Springs and Manitou, Colorado, dated October 9, 1914, and (ii) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of the City of Colorado Springs, Colorado, dated January 9, 1924.
3. The Grantee, and any subsequent transferee, shall within twenty-four (24) months from the date of this conveyance, impose upon the Property a conservation easement pursuant to C.R.S. § 38-30.5-101 et seq. having conservation values consistent with the above covenants, restrictions, terms and conditions contained in this quitclaim deed and with the USFS Bear Creek Watershed Restoration Project final decision which will be held by an appropriate certified conservation easement holder.

Grantor further reserves a right of first refusal to acquire the Property upon the following terms and conditions:

Before Grantee may sell, transfer, lease, or convey the Property, any portion thereof, or any beneficial interest therein, excepting a conservation easement pursuant to C.R.S. § 38-30.5-101 et seq., (hereinafter collectively a "Transfer") to a third party, Grantee shall first offer the Property to Grantor with no purchase price, cost, or expense, and with no conditions for sale imposed by Grantee. Grantor shall have 30 days from receiving written notice from Grantee of Grantee's intent to Transfer the Property ("ROFR Period") in which to exercise its right to accept conveyance of the



Property under this provision. Such notice shall be made in care of the Colorado Springs City Attorney and provided by hand delivery or commercial overnight carrier, such as UPS, to the Grantor at the address provided above or at such address as is hereafter designated by Grantor. Grantor may exercise its right to accept conveyance of the Property under this provision by providing written notice to Grantee of its decision to exercise its right to receive the offered Property prior to the expiration of the ROFR Period. Such notice shall be made to the Board of County Commissioners, with a copy to the Executive Director of the Community Services Department, and provided by hand delivery or commercial overnight carrier to the Grantee at the address provided above or at such address as is hereafter designated by Grantee. All notices hereunder shall be deemed made upon the date of the signed receipt therefore. In the event that Grantor exercises its right to receive the Property, Grantee shall convey the Property, free and clear of any liens or encumbrances, except those of record at the time of this conveyance, those which are necessary pursuant to the USFS final decision, referenced above, and those agreed to by Grantor, within 60 days following the expiration of the ROFR Period. If Grantor does not exercise its right to accept conveyance of the Property within the ROFR Period, Grantee may Transfer the Property to a third party. If Grantee does not effect such Transfer to the third party within 90 days following the expiration of the ROFR Period, however, Grantee's right to sell, transfer, or convey the Property shall continue to be subject to Grantor's rights of first refusal, according to the terms and procedures set forth above. If the Property is less than the entire Property the Grantor's rights of first refusal hereunder shall remain applicable to any portion of the Property Transferred.

Should the Grantor determine that Grantee has violated one or more of the covenants, restrictions, terms and conditions set forth above, then Grantor shall notify Grantee of the violation by the same method as utilized in the ROFR Period listed above, and Grantee shall have ninety (90) days to cure such violation. In Grantor's sole reasonable discretion, should Grantor determine that Grantee has failed to timely cure the violation, then Grantor may exercise its right to seek appropriate judicial relief in the El Paso County District Court to enforce said covenants, restrictions, terms and conditions. If Grantor prevails, then Grantee shall comply with the requirements of the Court's Order. The Grantor and Grantee shall individually be responsible for their own costs and attorney fees in any such action.

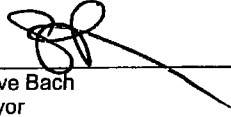
In witness whereof, the Grantor and Grantee have set their hands and seals through there duly authorized representatives, on the 30 day of JANUARY, 2015.

(THE REMAINDER OF THIS PAGE IS BLANK WITH SIGNATURES PROVIDED IN COUNTERPART ON THE FOLLOWING PAGES)

City of Colorado Springs (Grantor)

By:

Steve Bach  
Mayor



*SMB*

Attest:

City Clerk

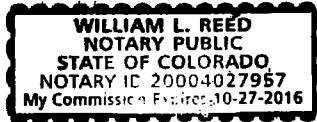
State of Colorado

County of El Paso

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of January 2015  
by Steve Bach, Mayor, and Sarah B. Johnson as City Clerk  
of the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation.

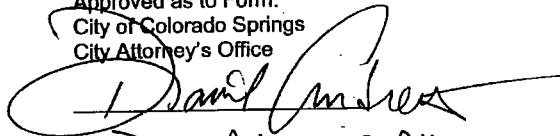
Witness my hand and seal

My Commission Expires: 10-27-16



W. L. Reed  
Notary Public

Approved as to Form:  
City of Colorado Springs  
City Attorney's Office



By: David Anderson, S. Attorney

Date: 1-16-15

ACCEPTED BY:  
BOARD OF COUNTY COMMISSIONERS OF EL  
PASO COUNTY (Grantee)

Dennis Hisey  
Dennis Hisey, Chair  
El Paso County Board of County Commissioners

ATTEST:  
By: Chuck Broerman  
Chuck Broerman 15-0103  
El Paso County Clerk and Recorder

STATE OF COLORADO     )  
  ) ss.  
COUNTY OF EL PASO     )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of January, 2015, by Dennis Hisey, Chair of the Board of County Commissioners of El Paso County, Colorado, and attested to by Chuck Broerman, El Paso County Clerk and Recorder.

Witness my hand and official seal.

My commission expires: March 12, 2016  
Mary A Bartelone  
Notary Public

Approved as to Form:  
El Paso County Attorney's Office

By: M. Cole Emmons  
Date: January 27, 2015



EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTH HALF OF THE NORTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE SOUTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHEAST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF TELLER, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE SOUTH HALF OF THE NORTHWEST QUARTER, AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE EAST HALF OF LOT 1 OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

30cc

(2)

**REAL ESTATE CONVEYANCE AGREEMENT**

This REAL ESTATE CONVEYANCE AGREEMENT ("Agreement") is made as of the 27 day of JANUARY, 2015, by and between EL PASO COUNTY by and through THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO ("County") and the CITY OF COLORADO SPRINGS, COLORADO, a home rule city and Colorado municipal corporation ("City"). County and City may each be referred to as a "Party" or collectively as the "Parties."

**RECITALS**

**WHEREAS**, the City, on behalf of its enterprise Colorado Springs Utilities ("Utilities"), holds title to multiple parcels of land in and around the Bear Creek watershed collectively known as Jones Park (the "Property"); and

**WHEREAS**, the Property is surplus property of no operational use and its disposal complies with section 6-80 of the City Charter, does not violate Utilities' bond covenants, and is in the public interest; and

**WHEREAS**, the City desires to dispose of the Property subject to appropriate terms, conditions and restrictions for uses of the property to ensure the Property continues to fulfill its function as a necessary and essential watershed resource; and

**WHEREAS**, *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* authorizes the disposal of properties for less than fair market value upon a finding of a public purpose; and

**WHEREAS**, evidence has been presented to the City Council that the County is the appropriate and one logical, potential purchaser/donee of the Property; and

**WHEREAS**, the County has expressed its willingness to accept conveyance of the Property from the City and implement the trail and stream improvement work identified and to be identified in the USFS Bear Creek Watershed Restoration Project final decision; and

**WHEREAS**, the County possesses and maintains a publicly supported parks, trails and open space system which uniquely qualifies it as the one, logical public steward ensuring the perpetual recreational use and the protection of the greenback cutthroat trout within Jones Park; and

**WHEREAS**, a donation of the Property to the County, subject to appropriate terms, conditions and restrictions, will serve a public purpose and is consistent with applicable laws and regulations; and

**WHEREAS**, the City has exchanged drafts of the scope of work for purposes of an application for a grant from the Colorado Water Conservation Board for improvements within

577414  
Page 1 of 47  
Rystal Brown, Clerk & Recorder  
El Paso County, Colorado  
2-13-2015 12:33 PM Recording Fee \$241.00 RP \$0.00

the Property in the amount of \$250,000, and the City desires to transfer its right, title and interest in such grant to the County as a condition of the conveyance of the Property.

**NOW THEREFORE**, in consideration of the mutual promises herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**TERMS**

1. **CONVEYANCE AND RELEASE:**

a. According to the title commitment of Land Title Guaranty Company, Order Number SC55033742 dated July 11, 2011, the City is the owner of certain interests in and to the real property as identified in the Recitals above and known as Jones Park (the "Property").

b. City agrees to transfer the Property that is legally described in **Exhibit A**, which is attached hereto and made a part hereof. City shall execute and deliver to the County a Quitclaim Deed as provided in Section 2 ("Closing") below.

c. The City, pursuant to *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* ("RES Manual") is authorized to dispose of properties for less than fair market value upon a finding of a public purpose. As evidenced by City Council Resolution No. 4-15 ("**Exhibit B**"), the City Council has made a determination that there is a public purpose for transferring Jones Park to the County at a cost of zero dollars (\$0.00).

d. At closing, County agrees to reimburse City's Utilities Enterprise for all costs associated with cultural resources studies and appraisals on the Jones Park property in an amount not to exceed \$41,478.18.

e. The Parties agree that no additional consideration, other than that set forth in this Agreement, shall be required of either Party.

f. As both Parties are tax exempt entities, transfer of the Property contemplated herein will not be recognized by the City or the County as a donation for IRS purposes.

g. Within twenty four (24) months of transfer of ownership from the City to the County, the County shall impose upon the Property a conservation easement with conversation values consistent with the restrictions contained in the quitclaim deed and the USFS Bear Creek Watershed Restoration Project final decision, which will be held by an appropriate certified conservation easement holder. This provision shall survive closing.

h. The City has exchanged drafts of the scope of work for purposes of an application for a grant from the Colorado Water Conservation Board for improvements within the Property in the

amount of \$250,000, and the City will transfer its right, title and interest, if any, in such grant to the County.

2. **CLOSING:**

a. **Time and Place.** The closing of the transfer of the Property contemplated herein ("Closing") shall be at the offices of Land Title Guarantee Company, located at 102 S. Tejon Street, Suite 760, in Colorado Springs, Colorado, 80903, ("Title Company") at a date and time to be determined by the Parties, but no later than February 15, 2015 ("Closing Date") unless extended in writing, with the escrow instructions to be based on the terms and conditions set forth in this Agreement.

b. **Procedure.** At Closing, the following shall occur:

i. City shall deliver the fully executed Quitclaim Deed, as shown in **Exhibit C**, attached hereto and made a part hereof, conveying the Property to County.

ii. City shall deliver a fully executed City Council Resolution ("**Exhibit B**") identifying the Real Estate Manager and Mayor as authorized to execute documents on behalf of the City with respect to the transactions contemplated herein. County shall deliver a fully executed Board Resolution ("**Exhibit D**") authorizing acceptance of the Property and identifying the authorized official(s) to execute documents on behalf of the County.

iii. County shall pay all recording fees, applicable documentary fees, transaction costs, and for Title Company's closing and escrow fees.

iv. The Parties shall instruct the Title Company to record this Agreement and the Quitclaim Deed with the El Paso County Clerk and Recorder's Office.

c. **Title:** County shall instruct the Title Company to prepare an updated title insurance commitment ("Title Commitment") for the Property. County shall have the right to review the Title Commitment. The County shall pay the costs associated with the Title Commitment, title examinations, updates, and any surveying. The City, through its Utilities Enterprise, shall pay the premium for a title insurance policy in an amount not to exceed \$1,425.00.

d. **Termination:** Closing must occur on or before the Closing Date, unless the Parties mutually extend the Closing Date in writing. If Closing does not occur prior to or on Closing Date, this Agreement will automatically terminate and the Parties shall be relieved of all obligations hereunder with the exception of payments for fees and services contracted for by the Parties for purposes of this Agreement.

2. **POSSESSION:** The County shall take immediate possession of the Property upon Closing.

3. **SPECIAL PROVISIONS:**

a. This Agreement is a contract and shall bind the Parties only when signed by both the City and the County and is approved as to form by the City Attorney's Office and the County Attorney's Office. This Agreement shall extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors and assigns of the Parties.

b. Pursuant to Chapter 2, subsection 2.11 of the City's RES Manual, the City's Real Estate Services Manager, or designee, shall execute the necessary escrow instructions and/or additional instructions, and acceptance of property interests which may be required to complete the closing of this real property transaction.

c. City and County represent and warrant that each is duly authorized to conduct the transactions contemplated in this Agreement. The applicable Council Resolution and Board Resolution shall be recorded concurrently with the Quitclaim Deed.

4. **NOTICES.** Any notice or other documents or materials required or permitted to be delivered by this Agreement shall be deemed properly delivered upon receipt by the Party to whom the documents or materials are to be delivered. Notices may be hand delivered, sent by first-class mail, return receipt requested, with postage prepaid, or transmitted by electronic facsimile. Notices shall be addressed and delivered as follows:

**COUNTY:**

ATTN: Board of County Commissioners  
200 S. Cascade Avenue, Suite 150  
Colorado Springs, CO 80903  
**COPY TO:**  
Executive Director  
Community Services Department  
2002 Creek Crossing  
Colorado Springs, Colorado 80905  
Phone: (719) 520-7529  
Fax: (719) 520-6389

**CITY:**

City of Colorado Springs  
Manager, Real Estate Services  
30 S. Nevada, Suite 502  
Colorado Springs, CO 80903  
Phone: (719) 385-5605  
Fax: (719) 385-5610

Either Party may, by notice properly delivered, change the person or address to which future notices or deliveries to that Party shall be made.

5. **SUCCESSORS AND ASSIGNS:** This Agreement is binding on County and City and their heirs, devisees, executors, administrators, legal representatives, successors, assigns, and designees.

6. **ASSIGNMENT:** Neither Party shall assign or otherwise transfer this Agreement or any right or obligation under this Agreement without the other Party's prior written consent, which shall not be unreasonably withheld.

7. **NO THIRD PARTY BENEFICIARY:** It is specifically agreed between the Parties that this Agreement is not intended by any of its terms, provisions, or conditions to create in the public or any individual member of the public a third party beneficiary relationship, or to authorize any person not a party to this Agreement to maintain suit for personal injuries or property damage

pursuant to the terms, conditions, or provisions of this Agreement. The Parties do not waive or intend to waive any protection, immunity, or other provision of the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., as now written or amended in the future.

8. **APPROPRIATION OF FUNDS:** This Agreement is expressly made subject to the limitations of the Colorado Constitution and Section 7-60 of the Charter of the City of Colorado Springs. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Colorado Springs, or the Board of County Commissioners of El Paso County, Colorado, contrary to Article X, § 20, Colo. Const., or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Agreement, with respect to any financial obligation of either the City or the County which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure (i) shall act to terminate this Agreement at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of this Agreement, including any sub-agreement, attachment, schedule, or exhibit thereto, by the City or the County. With respect to the City, the term "appropriation" shall mean and include the due adoption of an appropriation ordinance and budget and the approval of a Budget Detail Report (Resource Allocations) which contains an allocation of sufficient funds for the performance of fiscal obligations arising under this Agreement.

9. **GOVERNING LAW:** This Agreement is subject to and shall be interpreted under the laws of the State of Colorado, and the Charter, City Code, ordinances, rules and regulation of the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation, and under applicable rules and regulations of El Paso County, Colorado. Court venue and jurisdiction shall be exclusively in the Colorado District Court for El Paso County, Colorado. The Parties agree that this Agreement shall be deemed to have been made in, and the place of performance is deemed to be in, the City of Colorado Springs, El Paso County, State of Colorado.

10. **HEADINGS:** The headings in this Agreement are for convenience only and shall not be used in its interpretation or considered part of this Agreement.

11. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties with respect to the matters contained herein, and any prior agreements pertaining to the subject of this Agreement, whether oral or written, have been merged into and integrated into this Agreement. No subsequent modification of any of the terms of this Agreement shall be valid, binding upon the Parties, or enforceable unless made in writing and signed by the Parties. Any covenant, term, condition, obligation or agreement set forth in this Agreement or in the attached deed shall survive closing and continue in full force and effect and will not be merged by execution of this Agreement.

(THE REMAINDER OF THIS PAGE IS BLANK WITH SIGNATURES PROVIDED IN COUNTERPART ON THE FOLLOWING PAGES)

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

County:

BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO

By: *Dennis Hisey*  
Dennis Hisey, Chair  
Board of County Commissioners of El Paso County

Date: 1-27-15

ATTEST:

By: *Chuck Broerman*  
Chuck Broerman 15-040A  
El Paso County Clerk and Recorder

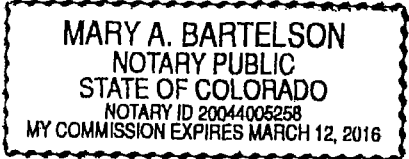
STATE OF COLORADO    )  
  )  
  )    ss.  
COUNTY OF EL PASO    )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of January, 2015, by Dennis Hisey, Chair of the Board of County Commissioners of El Paso County, Colorado, and attested to by Chuck Broerman, El Paso County Clerk and Recorder.

Witnesseth my hand and official seal.

My commission expires: March 12, 2016

*Mary A Bartelsson*  
Notary Public



City:

CITY OF COLORADO SPRINGS:

By: [Signature]  
Steve Bach, Mayor

1/22/15  
Date

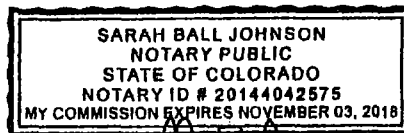
SWC

State of Colorado )  
) ss.  
County of El Paso )

The foregoing instrument was acknowledged before me this 23 day of January, 2015, by Steve Bach, Mayor on behalf of the City of Colorado Springs, Colorado.

Witness my hand and official seal

My commission Expires: 11-3-2018



[Signature]  
Notary Public

By: [Signature]  
Ronn Carlentine, Real Estate Services Manager

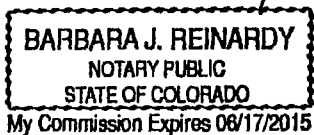
1.23.15  
Date

State of Colorado )  
) ss.  
County of El Paso )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of January, 2015, by Ronn Carlentine, Real Estate Services Manager for the City of Colorado Springs, Colorado.

Witness my hand and official seal

My commission Expires: 06/17/2015



[Signature]  
Notary Public



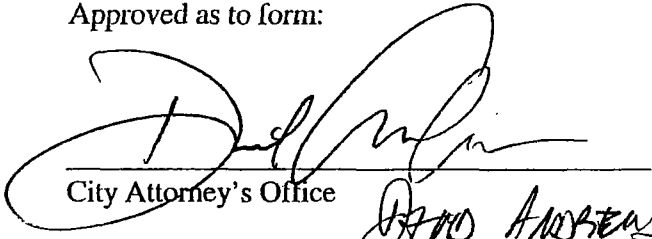
Approved as to form:

\_\_\_\_\_  
City Attorney's Office

Approved as to form:

  
\_\_\_\_\_  
County Attorney's Office

Approved as to form:



City Attorney's Office

DAVID ANDREWS, Sr. Attorney

Approved as to form:

\_\_\_\_\_  
County Attorney's Office

“EXHIBIT A”

LEGAL DESCRIPTION OF THE PROPERTY

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTH HALF OF THE NORTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE SOUTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHEAST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF TELLER, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE SOUTH HALF OF THE NORTHWEST QUARTER, AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE EAST HALF OF LOT 1 OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

EXHIBIT B

City Council Resolution No. 4-15

EXHIBIT B

City Council Resolution No. 4 -15

RESOLUTION NO. 4-15

A RESOLUTION AUTHORIZING THE DONATION OF THE PROPERTY KNOWN AS JONES PARK FOR A PUBLIC PURPOSE TO EL PASO COUNTY, COLORADO

**WHEREAS**, the City of Colorado Springs ("City"), on behalf of its enterprise Colorado Springs Utilities ("Utilities"), holds title to multiple parcels of land in and around the Bear Creek watershed collectively known as Jones Park (the "Property"); and

**WHEREAS**, the Property was purchased for potential use in the development of Utilities' local water system as a reservoir; and

**WHEREAS**, development by Utilities of the Property as a reservoir never occurred and the property provides no operational value or necessity to Utilities for efficient water system operations, but remains an important part of watersheds that serve the City; and

**WHEREAS**, the Property is not developable for future water system operations; and

**WHEREAS**, the Property is surplus property of no operational use and its disposal complies with section 6-80 of the City Charter, does not violate Utilities' bond covenants, and is in the public interest; and

**WHEREAS**, Utilities desires to dispose of the Property subject to appropriate terms, conditions and restrictions for uses of the property to ensure the Property continues to fulfill its function as a necessary and essential watershed resource; and

**WHEREAS**, Utilities must ensure that the purchaser/donee of the Property does not injure or adversely affect water quality within the watershed and that forest management and fire suppression efforts on the Property is consistent with management of surrounding United States Forest Service ("USFS") lands; and

**WHEREAS**, the Property is entirely surrounded by USFS property and is only physically accessible through USFS property by recreational trails; and

**WHEREAS**, the USFS is currently completing an environmental assessment under the National Environmental Policy Act of 1969 ("NEPA") regarding the management of property within the Bear Creek watershed, including the Property, with a final USFS decision expected in late 2014 or early 2015 that will evaluate and make recommendations concerning what actions should be performed, including what recreational access is appropriate in the watershed to avoid adverse impacts to the greenback cutthroat trout that inhabits Bear Creek and is designated as a threatened species under the federal Endangered Species Act ("ESA"); and

**WHEREAS**, disposal of the Property will eliminate future costs to Utilities' ratepayers for ongoing management, maintenance, and legal and regulatory compliance; and

**WHEREAS**, no City department or enterprise is interested in acquisition or receipt of the Property; and

**WHEREAS**, the anticipated use restrictions and land management requirements under the ESA for protection of the greenback cutthroat trout located on the property, and the requirements of the National Historic Preservation Act ("NHPA"), primarily limit the uses and value of the Property to recreational and natural resources purposes; and

**WHEREAS**, *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* ("RES Manual") authorizes the disposal of properties for less than fair market value upon a finding of a public purpose and for the transfer of property to an appropriate single, logical purchaser/donee; and

**WHEREAS**, evidence has been presented to the City Council that the Board of County Commissioners of El Paso County, Colorado ("County") is the appropriate and one logical, potential purchaser/donee of the Property; and

**WHEREAS**, the County has expressed its desire to accept conveyance of the Property from Utilities and implement the trail and stream improvement work identified and to be identified in the USFS final decision; and

**WHEREAS**, the County possesses and maintains a publicly supported parks, trails and open space system which uniquely qualifies it as the one, logical public steward ensuring such perpetual recreational use as may be consistent with the USFS final decision, protection of the watershed, and the protection of the greenback cutthroat trout within the Property; and

**WHEREAS**, excepting the cost of a title insurance policy to be paid for by the City, the County will pay Utilities all transaction costs and costs associated with cultural services studies and appraisals associated with the conveyance of the Property; and

**WHEREAS**, upon and after transfer the County will hold title to the Property and assume all associated liabilities; and

**WHEREAS**, a donation of the Property to the County, subject to appropriate terms, conditions and restrictions, will serve a public purpose and is consistent with applicable laws and regulations; and

**WHEREAS**, Utilities recommends authorization and approval for the City's Real Estate Services Manager to enter into a contract, subject to the terms, conditions and

restrictions listed below, for donation of the Property to the County as the one logical, potential purchaser/donee.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS**

Section 1. City Council finds that the Property is surplus property that is not necessary for the operation of the Utilities enterprise, is unneeded for the proper conduct of City affairs, and its disposal is in compliance with section 6-80 of the City Charter.

Section 2: Subject to the imposition of the appropriate terms, conditions and restrictions below and in accord with RES Manual, Chapter 1, Section 1.1(b), and Chapter 5, City Council hereby finds, for the reasons set forth in the recitals above, a public purpose is served by the donation of the Property to the County as the one logical, potential purchaser/donee and the County will provide management of recreational access and protection of the greenback cutthroat trout on the property.

Section 3: In addition to the requirements contained within the RES Manual and all other applicable laws, ordinances, rules and regulations, City Council finds that the following terms, conditions and restrictions shall be imposed on the County and all subsequent purchasers pursuant to the quitclaim deed transferring the Property:

A. The County, and any subsequent transferee of the Property, shall (i) fully collaborate and cooperate with the USFS in the completion of the National Environmental Policy Act ("NEPA") Bear Creek Watershed Restoration planning process and subsequent Environmental Assessment, but the County shall have the right to negotiate with the USFS, State Historic Preservation Office, and US Fish and Wildlife Service, as may be applicable, terms and conditions that are necessary for the County's use and management of the Property; (ii) implement the terms and conditions of the USFS final decision, including maintenance and monitoring requirements, as it applies to the subject property and all related mitigation measures as required by the State Historic Preservation Office and the US Fish and Wildlife Service necessary to comply with the USFS final decision, the Endangered Species Act, and the National Historic Preservation Act, and (iii) provide public recreational access in perpetuity that is not inconsistent with the USFS final decision; and

B. No future use of the Property shall interfere with the City's rights and benefits, or the performance of its obligations, and access required therefor, related to the maintenance of watershed lands under applicable laws, including the Act of Congress, approved February 27, 1913, granting the City of Colorado Springs, Colorado, certain rights on the north slope of Pikes Peak, Public No. 392, H. R. 23293, for the protection of the water



supply of the City of Colorado Springs and the Town of Manitou, Colorado, and under the following agreements: (i) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of Colorado Springs and Manitou, Colorado, dated October 9, 1914, and (ii) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of the City of Colorado Springs, Colorado, dated January 9, 1924; and

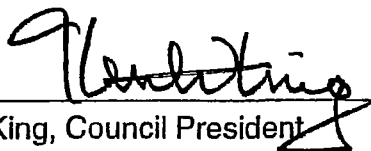
C. City shall retain the right of first refusal to reacquire the Property at no cost if County decides to transfer the Property at any point in the future; and

D. Should the City determine that the County has violated one or more of the covenants, restrictions, terms and conditions set forth in the quitclaim deed, then the County shall have ninety (90) days to cure such violation, after written notice from the City. In the City's sole reasonable discretion, should the City determine that the County has failed to timely cure the violation, then the City may exercise its right to seek appropriate judicial relief in the El Paso County District Court to enforce said covenants, restrictions, terms and conditions. If the City prevails, then the County shall comply with the requirements of the Court's Order; and

E. Within twenty four (24) months of transfer of ownership from the City to the County, the County shall impose upon the Property a conservation easement with conversation values consistent with the restrictions contained in the quitclaim deed and the USFS final decision, which will be held by an appropriate certified conservation easement holder.

Section 4. Pursuant to the RES Manual, Chapter 2.11, the City's Real Estate Services Manager is authorized to execute all documents necessary to complete the disposition of Jones Park and to obtain the Mayor's signature on the deed donating Jones Park to the County.

DATED at Colorado Springs, Colorado, this 13th day of January, 2015.

  
\_\_\_\_\_  
Keith King, Council President

ATTEST:


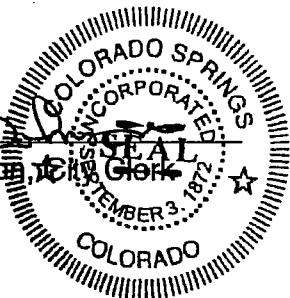
  
Sarah B. Johnson, City Clerk  


EXHIBIT C  
Quitclaim Deed

EXHIBIT C  
Quitclaim Deed

**QUITCLAIM DEED**

The CITY OF COLORADO SPRINGS, COLORADO, a home rule city and Colorado municipal corporation, on behalf of its enterprise, Colorado Springs Utilities, acting by and through Steve Bach, Mayor ("Grantor"), whose street address is 30 South Nevada Avenue, Suite 502, Colorado Springs, Colorado, 80903, City of Colorado Springs, County of El Paso and State of Colorado, for the consideration of one dollar (\$1.00) and other good and valuable consideration in hand paid, hereby releases and quitclaims, subject to the covenants, restrictions, terms, and conditions set forth herein, unto EL PASO COUNTY by and through the BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO, having the address of 200 South Cascade Avenue, Suite 150 Colorado Springs, Colorado, 80903 ("Grantee"), all rights, title and interest the Grantor may have in and to the following described property, if any, situated in the Counties of El Paso and Teller, in the State of Colorado, to wit (the "Property"):

See Exhibit "A" attached hereto and made a part hereof.

To have and to hold the same unto the Grantee, its successors and assigns, forever, subject to the covenants, restrictions, terms and conditions set forth herein.

This conveyance is made subject to any and all easements, restrictions, rights, limitations of access, environmental conditions, and matters of record affecting the Property, and is further made subject to the following covenants, terms and conditions in perpetuity:

1. The Grantee, and any subsequent transferee, shall (i) fully collaborate and cooperate with the US Forest Service ("USFS") in the completion of the National Environmental Policy Act ("NEPA") Bear Creek Watershed Restoration planning process and subsequent Environmental Assessment, but, Grantee shall have the right to negotiate with the USFS, State Historic Preservation Office, and US Fish and Wildlife Service, as may be applicable, terms and conditions that are necessary for the County's use and management of the Property, (ii) implement the terms and conditions of the USFS final decision, including maintenance and monitoring requirements, as it applies to the subject Property and all related mitigation measures as required by the State Historic Preservation Office and the US Fish and Wildlife Service necessary to comply with USFS final decision, the Endangered Species Act, and the National Historic Preservation Act, and (iii) provide public recreational access that is not inconsistent with the USFS final decision in the Bear Creek Watershed Restoration Project.
2. No future use of the Property shall interfere with the Grantor's rights and benefits, or the performance of its obligations, and access required therefor, related to the maintenance of watershed lands under applicable laws, including the Act of Congress, approved February 27, 1913, granting the City of Colorado Springs, Colorado, certain rights on the north slope of Pikes Peak, Public No. 392, H. R. 23293, for the protection of the water supply of the City of Colorado Springs and the Town of Manitou, Colorado, and under the following agreements: (i) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of Colorado Springs and Manitou, Colorado, dated October 9, 1914, and (ii) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of the City of Colorado Springs, Colorado, dated January 9, 1924.
3. The Grantee, and any subsequent transferee, shall within twenty-four (24) months from the date of this conveyance, impose upon the Property a conservation easement pursuant to C.R.S. § 38-30.5-101 et seq. having conservation values consistent with the above covenants, restrictions, terms, and conditions contained in this quitclaim deed and with the USFS Bear Creek Watershed Restoration Project final decision which will be held by and appropriate certified conservation easement holder.

Grantor reserves a right of first refusal to acquire the Property upon the following terms and conditions:

Before Grantee may sell, transfer, lease, or convey the Property, any portion thereof, or any beneficial interest therein, excepting a conservation easement pursuant to C.R.S. § 38-30.5-101 et seq. (hereinafter collectively a "Transfer") to a third party, Grantee shall first offer the Property to Grantor at no purchase price, cost, or expense, and with no conditions for sale imposed by Grantee. Grantor shall have 30 days from receiving written notice from Grantee of Grantee's intent to Transfer the Property ("ROFR Period") in which to exercise its right to accept conveyance of the

Property under this provision. Such notice shall be made in care of the Colorado Springs City Attorney and provided by hand delivery or commercial overnight carrier, such as UPS, to the Grantor at the address provided above or at such address as is hereafter designated by Grantor. Grantor may exercise its right to accept conveyance of the Property under this provision by providing written notice to Grantee of its decision to exercise its right to receive the Offered Property prior to the expiration of the ROFR Period. Such notice shall be made to the Board of County Commissioners, with a copy to the Executive Director of the Community Services Department, and provided by hand delivery or commercial overnight carrier to the Grantee at the address provided above or at such address as is hereafter designated by Grantee. All notices hereunder shall be deemed made upon the date of the signed receipt therefore. In the event that Grantor exercises its right to receive the Property, Grantee shall convey the Property, free and clear of any liens or encumbrances, except those record at the time of this conveyance, those which are necessary pursuant to the USFS final decision, referenced above, and those agreed to by Grantor, within 60 days following the expiration of the ROFR Period. If Grantor does not exercise its right to accept conveyance of the Property within the ROFR Period, Grantee may Transfer the Property to a third party. If Grantee does not effect such Transfer to the third party within 90 days following the expiration of the ROFR Period, however, Grantee's right to sell, transfer, or convey the Property shall continue to be subject to Grantor's rights of first refusal, according to the terms and procedures set forth above. If the Property is less than the entire Property the Grantor's rights of first refusal hereunder shall remain applicable to any portion of the Property Transferred.

Should the Grantor determine that Grantee has violated one or more of the covenants, restrictions, terms and conditions set forth above, then Grantor shall notify Grantee of the violation by the same methods utilized in the ROFR Period listed above, and Grantee shall have ninety (90) days to cure such violation. In Grantor's sole reasonable discretion, should Grantor determine that Grantee has failed to timely cure the violation, then Grantor may exercise its right to seek appropriate judicial relief in the El Paso County District Court to enforce said covenants, restrictions, terms and conditions. The Grantor and Grantee shall individually be responsible for their own costs and attorney fees in any such action.

In witness whereof, the Grantor and Grantee have set their hands and seals through their duly authorized representatives, on the \_\_\_\_\_ day of \_\_\_\_\_ 2015.

(THE REMAINDER OF THIS PAGE IS BLANK WITH SIGNATURES PROVIDED IN COUNTERPART ON THE FOLLOWING PAGES)

City of Colorado Springs (Grantor)

By: \_\_\_\_\_  
Steve Bach  
Mayor

Attest:

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

State of Colorado     )  
                                  ) ss.  
County of El Paso     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2015  
by Steve Bach, Mayor, and \_\_\_\_\_ as \_\_\_\_\_  
of the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation.

Witness my hand and seal

My Commission Expires: \_\_\_\_\_

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

Approved as to Form:  
City of Colorado Springs  
City Attorney's Office

\_\_\_\_\_

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

Date: \_\_\_\_\_

ACCEPTED BY:  
BOARD OF COUNTY COMMISSIONERS OF EL  
PASO COUNTY (Grantee)

\_\_\_\_\_  
Dennis Hisey, Chair  
El Paso County Clerk and Recorder

ATTEST:

By: \_\_\_\_\_  
Chuck Broerman  
El Paso County Clerk and Recorder

State of Colorado     )  
                                  ) ss.  
County of El Paso    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2015  
by Dennis Hisey, Chair of the Board of County Commissioners of El Paso County, Colorado, and  
attested to by Chuck Broerman, El Paso County Clerk and Recorder.

Witness my hand and official seal.

My Commission expires: \_\_\_\_\_

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

Approved as to Form:  
El Paso County Attorney's Office

\_\_\_\_\_

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

Date: \_\_\_\_\_

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTH HALF OF THE NORTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE SOUTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHEAST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF TELLER, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE SOUTH HALF OF THE NORTHWEST QUARTER, AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE EAST HALF OF LOT 1 OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.



EXHIBIT D

Board of County Commissioners Resolution

**EXHIBIT D**

**Board of County Commissioners Resolution**

EXHIBIT D

Board of County Commissioners Resolution

**RESOLUTION NO. 15-040**

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO**

**RESOLUTION TO APPROVE AND ACCEPT A REAL ESTATE CONVEYANCE  
AGREEMENT AND QUITCLAIM DEED FROM THE CITY OF COLORADO  
SPRINGS REGARDING PROPERTY KNOWN AS JONES PARK**

**WHEREAS**, pursuant to C.R.S. §§ 30-11-101(1)(c)-(d), 30-11-102, 30-11-103, and 30-11-107(1)(a), the Board of County Commissioners of El Paso County, Colorado (hereinafter "Board" or "County") has the legislative authority to purchase and hold real and personal property for the use of the County when deemed by the Board to be in the best interests of the County; and

**WHEREAS**, the City of Colorado Springs owns a parcel of property known as Jones Park (the "Property"), identified by the legal description attached hereto as Exhibit A, which comprises approximately 1,191 acres of land, including 731 acres located in El Paso County and 460 acres in Teller County; and

**WHEREAS**, the City of Colorado Springs desires to convey the Property to a potential purchaser/donee to ensure that the Property continues to fulfill its function as a necessary and essential watershed resource; and

**WHEREAS**, pursuant to the conveyance agreement, the City of Colorado Springs has identified the County to be the appropriate and logical recipient of Jones Park, ensuring perpetual recreational use and the protection of the greenback cutthroat trout within Jones Park; and

**WHEREAS**, the County maintains a parks, trails and open space system, and the Property holds promise as a location for prospective recreational activities, including, hiking, biking, fishing, hunting, wildlife viewing and non-motorized winter activities, which may be of benefit to the citizens of El Paso County; and

**WHEREAS**, on January 13, 2015, the City of Colorado Springs passed a Resolution Authorizing the Donation of the Property Known as Jones Park for a Public Purpose to El Paso County by Resolution No. 4-15, attached hereto as Exhibit B, authorizing conveyance of Jones Park to the County and approving a Real Estate Conveyance Agreement and Quitclaim Deed, attached hereto respectively as Exhibits C and D; and

**WHEREAS**, the Board has determined that it would serve the best interests of the public to approve the Real Estate Conveyance Agreement and Quitclaim Deed with the City of Colorado Springs, to effectuate the hereinabove described transaction; and

**NOW THEREFORE, BE IT RESOLVED** the Board of County Commissioners hereby approves the Real Estate Conveyance Agreement and Quitclaim Deed with the City of Colorado Springs regarding the property known as Jones Park, subject to the terms and conditions cited therein.

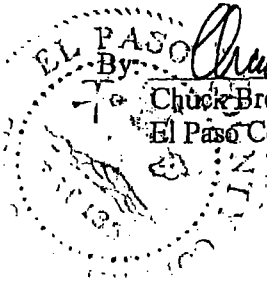
**BE IT FURTHER RESOLVED** that Dennis Hisey, duly elected, qualified member and Chair of the Board of County Commissioners, or Amy Lathen, duly elected, qualified member and

Vice Chair of the Board of County Commissioners, be and is hereby authorized and appointed on behalf of the Board to execute the Real Estate Conveyance Agreement, Quitclaim Deed, all closing documents, and any and all other documents necessary to carry out the intent of the Board as described herein.

DONE THIS 27<sup>th</sup> day of January, 2015 at Colorado Springs, Colorado.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
EL PASO COUNTY, COLORADO

By: Chuck Broerman  
Chuck Broerman  
El Paso County Clerk and Recorder

By: Dennis Hisey  
Dennis Hisey, Chair

"EXHIBIT A"

LEGAL DESCRIPTION OF THE PROPERTY

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTH HALF OF THE NORTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE SOUTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHEAST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF TELLER, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE SOUTH HALF OF THE NORTHWEST QUARTER, AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE EAST HALF OF LOT 1 OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

EXHIBIT B

City Council Resolution No. 4 -15

RESOLUTION NO. 4-15

A RESOLUTION AUTHORIZING THE DONATION OF THE  
PROPERTY KNOWN AS JONES PARK FOR A PUBLIC  
PURPOSE TO EL PASO COUNTY, COLORADO

**WHEREAS**, the City of Colorado Springs ("City"), on behalf of its enterprise Colorado Springs Utilities ("Utilities"), holds title to multiple parcels of land in and around the Bear Creek watershed collectively known as Jones Park (the "Property"); and

**WHEREAS**, the Property was purchased for potential use in the development of Utilities' local water system as a reservoir; and

**WHEREAS**, development by Utilities of the Property as a reservoir never occurred and the property provides no operational value or necessity to Utilities for efficient water system operations, but remains an important part of watersheds that serve the City; and

**WHEREAS**, the Property is not developable for future water system operations; and

**WHEREAS**, the Property is surplus property of no operational use and its disposal complies with section 6-80 of the City Charter, does not violate Utilities' bond covenants, and is in the public interest; and

**WHEREAS**, Utilities desires to dispose of the Property subject to appropriate terms, conditions and restrictions for uses of the property to ensure the Property continues to fulfill its function as a necessary and essential watershed resource; and

**WHEREAS**, Utilities must ensure that the purchaser/donee of the Property does not injure or adversely affect water quality within the watershed and that forest management and fire suppression efforts on the Property is consistent with management of surrounding United States Forest Service ("USFS") lands; and

**WHEREAS**, the Property is entirely surrounded by USFS property and is only physically accessible through USFS property by recreational trails; and

**WHEREAS**, the USFS is currently completing an environmental assessment under the National Environmental Policy Act of 1969 ("NEPA") regarding the management of property within the Bear Creek watershed, including the Property, with a final USFS decision expected in late 2014 or early 2015 that will evaluate and make recommendations concerning what actions should be performed, including what recreational access is appropriate in the watershed to avoid adverse impacts to the greenback cutthroat trout that inhabits Bear Creek and is designated as a threatened species under the federal Endangered Species Act ("ESA"); and



**WHEREAS**, disposal of the Property will eliminate future costs to Utilities' ratepayers for ongoing management, maintenance, and legal and regulatory compliance; and

**WHEREAS**, no City department or enterprise is interested in acquisition or receipt of the Property; and

**WHEREAS**, the anticipated use restrictions and land management requirements under the ESA for protection of the greenback cutthroat trout located on the property, and the requirements of the National Historic Preservation Act ("NHPA"), primarily limit the uses and value of the Property to recreational and natural resources purposes; and

**WHEREAS**, *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* ("RES Manual") authorizes the disposal of properties for less than fair market value upon a finding of a public purpose and for the transfer of property to an appropriate single, logical purchaser/donee; and

**WHEREAS**, evidence has been presented to the City Council that the Board of County Commissioners of El Paso County, Colorado ("County") is the appropriate and one logical, potential purchaser/donee of the Property; and

**WHEREAS**, the County has expressed its desire to accept conveyance of the Property from Utilities and implement the trail and stream improvement work identified and to be identified in the USFS final decision; and

**WHEREAS**, the County possesses and maintains a publicly supported parks, trails and open space system which uniquely qualifies it as the one, logical public steward ensuring such perpetual recreational use as may be consistent with the USFS final decision, protection of the watershed, and the protection of the greenback cutthroat trout within the Property; and

**WHEREAS**, excepting the cost of a title insurance policy to be paid for by the City, the County will pay Utilities all transaction costs and costs associated with cultural services studies and appraisals associated with the conveyance of the Property; and

**WHEREAS**, upon and after transfer the County will hold title to the Property and assume all associated liabilities; and

**WHEREAS**, a donation of the Property to the County, subject to appropriate terms, conditions and restrictions, will serve a public purpose and is consistent with applicable laws and regulations; and

**WHEREAS**, Utilities recommends authorization and approval for the City's Real Estate Services Manager to enter into a contract, subject to the terms, conditions and

restrictions listed below, for donation of the Property to the County as the one logical, potential purchaser/donee.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS**

Section 1. City Council finds that the Property is surplus property that is not necessary for the operation of the Utilities enterprise, is unneeded for the proper conduct of City affairs, and its disposal is in compliance with section 6-80 of the City Charter.

Section 2: Subject to the imposition of the appropriate terms, conditions and restrictions below and in accord with RES Manual, Chapter 1, Section 1.1(b), and Chapter 5, City Council hereby finds, for the reasons set forth in the recitals above, a public purpose is served by the donation of the Property to the County as the one logical, potential purchaser/donee and the County will provide management of recreational access and protection of the greenback cutthroat trout on the property.

Section 3: In addition to the requirements contained within the RES Manual and all other applicable laws, ordinances, rules and regulations, City Council finds that the following terms, conditions and restrictions shall be imposed on the County and all subsequent purchasers pursuant to the quitclaim deed transferring the Property:

A. The County, and any subsequent transferee of the Property, shall (i) fully collaborate and cooperate with the USFS in the completion of the National Environmental Policy Act ("NEPA") Bear Creek Watershed Restoration planning process and subsequent Environmental Assessment, but the County shall have the right to negotiate with the USFS, State Historic Preservation Office, and US Fish and Wildlife Service, as may be applicable, terms and conditions that are necessary for the County's use and management of the Property; (ii) implement the terms and conditions of the USFS final decision, including maintenance and monitoring requirements, as it applies to the subject property and all related mitigation measures as required by the State Historic Preservation Office and the US Fish and Wildlife Service necessary to comply with the USFS final decision, the Endangered Species Act, and the National Historic Preservation Act, and (iii) provide public recreational access in perpetuity that is not inconsistent with the USFS final decision; and

B. No future use of the Property shall interfere with the City's rights and benefits, or the performance of its obligations, and access required therefor, related to the maintenance of watershed lands under applicable laws, including the Act of Congress, approved February 27, 1913, granting the City of Colorado Springs, Colorado, certain rights on the north slope of Pikes Peak, Public No. 392, H. R. 23293, for the protection of the water

supply of the City of Colorado Springs and the Town of Manitou, Colorado, and under the following agreements: (i) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of Colorado Springs and Manitou, Colorado, dated October 9, 1914, and (ii) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of the City of Colorado Springs, Colorado, dated January 9, 1924; and

C. City shall retain the right of first refusal to reacquire the Property at no cost if County decides to transfer the Property at any point in the future; and

D. Should the City determine that the County has violated one or more of the covenants, restrictions, terms and conditions set forth in the quitclaim deed, then the County shall have ninety (90) days to cure such violation, after written notice from the City. In the City's sole reasonable discretion, should the City determine that the County has failed to timely cure the violation, then the City may exercise its right to seek appropriate judicial relief in the El Paso County District Court to enforce said covenants, restrictions, terms and conditions. If the City prevails, then the County shall comply with the requirements of the Court's Order; and


E. Within twenty four (24) months of transfer of ownership from the City to the County, the County shall impose upon the Property a conservation easement with conversation values consistent with the restrictions contained in the quitclaim deed and the USFS final decision, which will be held by an appropriate certified conservation easement holder.

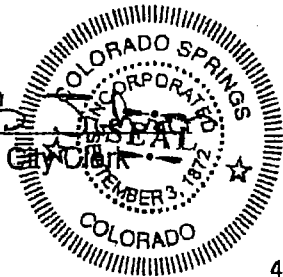
Section 4. Pursuant to the RES Manual, Chapter 2.11, the City's Real Estate Services Manager is authorized to execute all documents necessary to complete the disposition of Jones Park and to obtain the Mayor's signature on the deed donating Jones Park to the County.

DATED at Colorado Springs, Colorado, this 13th day of January, 2015.

  
\_\_\_\_\_  
Keith King, Council President

ATTEST:

  
Sarah B. Johnson, City Clerk



REAL ESTATE CONVEYANCE AGREEMENT

This REAL ESTATE CONVEYANCE AGREEMENT ("Agreement") is made as of the \_\_\_ day of \_\_\_\_\_, 2015, by and between EL PASO COUNTY by and through THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO ("County") and the CITY OF COLORADO SPRINGS, COLORADO, a home rule city and Colorado municipal corporation ("City"). County and City may each be referred to as a "Party" or collectively as the "Parties."

RECITALS

WHEREAS, the City, on behalf of its enterprise Colorado Springs Utilities ("Utilities"), holds title to multiple parcels of land in and around the Bear Creek watershed collectively known as Jones Park (the "Property"); and

WHEREAS, the Property is surplus property of no operational use and its disposal complies with section 6-80 of the City Charter, does not violate Utilities' bond covenants, and is in the public interest; and

WHEREAS, the City desires to dispose of the Property subject to appropriate terms, conditions and restrictions for uses of the property to ensure the Property continues to fulfill its function as a necessary and essential watershed resource; and

WHEREAS, *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* authorizes the disposal of properties for less than fair market value upon a finding of a public purpose; and

WHEREAS, evidence has been presented to the City Council that the County is the appropriate and one logical, potential purchaser/donee of the Property; and

WHEREAS, the County has expressed its willingness to accept conveyance of the Property from the City and implement the trail and stream improvement work identified and to be identified in the USFS Bear Creek Watershed Restoration Project final decision; and

WHEREAS, the County possesses and maintains a publicly supported parks, trails and open space system which uniquely qualifies it as the one, logical public steward ensuring the perpetual recreational use and the protection of the greenback cutthroat trout within Jones Park; and

WHEREAS, a donation of the Property to the County, subject to appropriate terms, conditions and restrictions, will serve a public purpose and is consistent with applicable laws and regulations; and

WHEREAS, the City has exchanged drafts of the scope of work for purposes of an application for a grant from the Colorado Water Conservation Board for improvements within

the Property in the amount of \$250,000, and the City desires to transfer its right, title and interest in such grant to the County as a condition of the conveyance of the Property.

NOW THEREFORE, in consideration of the mutual promises herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

TERMS

I. CONVEYANCE AND RELEASE:

a. According to the title commitment of Land Title Guaranty Company, Order Number SC55033742 dated July 11, 2011, the City is the owner of certain interests in and to the real property as identified in the Recitals above and known as Jones Park (the "Property").

b. City agrees to transfer the Property that is legally described in Exhibit A, which is attached hereto and made a part hereof. City shall execute and deliver to the County a Quitclaim Deed as provided in Section 2 ("Closing") below.

c. The City, pursuant to *The City of Colorado Springs Procedure Manual for the Acquisition and Disposition of Real Property Interests* ("RES Manual") is authorized to dispose of properties for less than fair market value upon a finding of a public purpose. As evidenced by City Council Resolution No. \_\_\_\_-15 ("Exhibit B"), the City Council has made a determination that there is a public purpose for transferring Jones Park to the County at a cost of zero dollars (\$0.00).

d. At closing, County agrees to reimburse City's Utilities Enterprise for all costs associated with cultural resources studies and appraisals on the Jones Park property in an amount not to exceed \$41,478.18.

e. The Parties agree that no additional consideration, other than that set forth in this Agreement, shall be required of either Party.

f. As both Parties are tax exempt entities, transfer of the Property contemplated herein will not be recognized by the City or the County as a donation for IRS purposes.

g. Within twenty four (24) months of transfer of ownership from the City to the County, the County shall impose upon the Property a conservation easement with conversation values consistent with the restrictions contained in the quitclaim deed and the USFS Bear Creek Watershed Restoration Project final decision, which will be held by an appropriate certified conservation easement holder. This provision shall survive closing.

h. The City has exchanged drafts of the scope of work for purposes of an application for a grant from the Colorado Water Conservation Board for improvements within the Property in the

amount of \$250,000, and the City will transfer its right, title and interest, if any, in such grant to the County.

2. CLOSING:

a. Time and Place. The closing of the transfer of the Property contemplated herein ("Closing") shall be at the offices of Land Title Guarantee Company, located at 102 S. Tejon Street, Suite 760, in Colorado Springs, Colorado, 80903, ("Title Company") at a date and time to be determined by the Parties, but no later than February 15, 2015 ("Closing Date") unless extended in writing, with the escrow instructions to be based on the terms and conditions set forth in this Agreement.

b. Procedure. At Closing, the following shall occur:

i. City shall deliver the fully executed Quitclaim Deed, as shown in Exhibit C, attached hereto and made a part hereof, conveying the Property to County.

ii. City shall deliver a fully executed City Council Resolution ("Exhibit B") identifying the Real Estate Manager and Mayor as authorized to execute documents on behalf of the City with respect to the transactions contemplated herein. County shall deliver a fully executed Board Resolution ("Exhibit D") authorizing acceptance of the Property and identifying the authorized official(s) to execute documents on behalf of the County.

iii. County shall pay all recording fees, applicable documentary fees, transaction costs, and for Title Company's closing and escrow fees.

iv. The Parties shall instruct the Title Company to record this Agreement and the Quitclaim Deed with the El Paso County Clerk and Recorder's Office.

c. Title: County shall instruct the Title Company to prepare an updated title insurance commitment ("Title Commitment") for the Property. County shall have the right to review the Title Commitment. The County shall pay the costs associated with the Title Commitment, title examinations, updates, and any surveying. The City, through its Utilities Enterprise, shall pay the premium for a title insurance policy in an amount not to exceed \$1,425.00.

d. Termination: Closing must occur on or before the Closing Date, unless the Parties mutually extend the Closing Date in writing. If Closing does not occur prior to or on Closing Date, this Agreement will automatically terminate and the Parties shall be relieved of all obligations hereunder with the exception of payments for fees and services contracted for by the Parties for purposes of this Agreement.

2. POSSESSION: The County shall take immediate possession of the Property upon Closing.

3. SPECIAL PROVISIONS:

a. This Agreement is a contract and shall bind the Parties only when signed by both the City and the County and is approved as to form by the City Attorney's Office and the County Attorney's Office. This Agreement shall extend to and bind the heirs, devisees, executors, administrators, legal representatives, successors and assigns of the Parties.

b. Pursuant to Chapter 2, subsection 2.11 of the City's RES Manual, the City's Real Estate Services Manager, or designee, shall execute the necessary escrow instructions and/or additional instructions, and acceptance of property interests which may be required to complete the closing of this real property transaction.

c. City and County represent and warrant that each is duly authorized to conduct the transactions contemplated in this Agreement. The applicable Council Resolution and Board Resolution shall be recorded concurrently with the Quitclaim Deed.

4. **NOTICES.** Any notice or other documents or materials required or permitted to be delivered by this Agreement shall be deemed properly delivered upon receipt by the Party to whom the documents or materials are to be delivered. Notices may be hand delivered, sent by first-class mail, return receipt requested, with postage prepaid, or transmitted by electronic facsimile. Notices shall be addressed and delivered as follows:

COUNTY:  
ATTN: Board of County Commissioners  
200 S. Cascade Avenue, Suite 150  
Colorado Springs, CO 80903  
*COPY TO:*  
Executive Director  
Community Services Department  
2002 Creek Crossing  
Colorado Springs, Colorado 80905  
Phone: (719) 520-7529  
Fax: (719) 520-6389

CITY:  
City of Colorado Springs  
Manager, Real Estate Services  
30 S. Nevada, Suite 502  
Colorado Springs, CO 80903  
Phone: (719) 385-5605  
Fax: (719) 385-5610

Either Party may, by notice properly delivered, change the person or address to which future notices or deliveries to that Party shall be made.

5. **SUCCESSORS AND ASSIGNS:** This Agreement is binding on County and City and their heirs, devisees, executors, administrators, legal representatives, successors, assigns, and designees.

6. **ASSIGNMENT:** Neither Party shall assign or otherwise transfer this Agreement or any right or obligation under this Agreement without the other Party's prior written consent, which shall not be unreasonably withheld.

7. **NO THIRD PARTY BENEFICIARY:** It is specifically agreed between the Parties that this Agreement is not intended by any of its terms, provisions, or conditions to create in the public or any individual member of the public a third party beneficiary relationship, or to authorize any person not a party to this Agreement to maintain suit for personal injuries or property damage

pursuant to the terms, conditions, or provisions of this Agreement. The Parties do not waive or intend to waive any protection, immunity, or other provision of the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., as now written or amended in the future.

8. **APPROPRIATION OF FUNDS:** This Agreement is expressly made subject to the limitations of the Colorado Constitution and Section 7-60 of the Charter of the City of Colorado Springs. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Colorado Springs, or the Board of County Commissioners of El Paso County, Colorado, contrary to Article X, § 20, Colo. Const., or any other constitutional, statutory, or charter debt limitation. Notwithstanding any other provision of this Agreement, with respect to any financial obligation of either the City or the County which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure (i) shall act to terminate this Agreement at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of this Agreement, including any sub-agreement, attachment, schedule, or exhibit thereto, by the City or the County. With respect to the City, the term "appropriation" shall mean and include the due adoption of an appropriation ordinance and budget and the approval of a Budget Detail Report (Resource Allocations) which contains an allocation of sufficient funds for the performance of fiscal obligations arising under this Agreement.

9. **GOVERNING LAW:** This Agreement is subject to and shall be interpreted under the laws of the State of Colorado, and the Charter, City Code, ordinances, rules and regulation of the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation, and under applicable rules and regulations of El Paso County, Colorado. Court venue and jurisdiction shall be exclusively in the Colorado District Court for El Paso County, Colorado. The Parties agree that this Agreement shall be deemed to have been made in, and the place of performance is deemed to be in, the City of Colorado Springs, El Paso County, State of Colorado.

10. **HEADINGS:** The headings in this Agreement are for convenience only and shall not be used in its interpretation or considered part of this Agreement.

11. **ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the Parties with respect to the matters contained herein, and any prior agreements pertaining to the subject of this Agreement, whether oral or written, have been merged into and integrated into this Agreement. No subsequent modification of any of the terms of this Agreement shall be valid, binding upon the Parties, or enforceable unless made in writing and signed by the Parties. Any covenant, term, condition, obligation or agreement set forth in this Agreement or in the attached deed shall survive closing and continue in full force and effect and will not be merged by execution of this Agreement.

(THE REMAINDER OF THIS PAGE IS BLANK WITH SIGNATURES PROVIDED IN  
COUNTERPART ON THE FOLLOWING PAGES)



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

County:

BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO

By: \_\_\_\_\_  
Dennis Hisey, Chair  
Board of County Commissioners of El Paso County

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Chuck Broerman  
El Paso County Clerk and Recorder

STATE OF COLORADO     )  
  )     ss.  
COUNTY OF EL PASO     )

The foregoing instrument was acknowledged before me this     day of     , 2015, by Dennis Hisey, Chair of the Board of County Commissioners of El Paso County, Colorado, and attested to by Chuck Broerman, El Paso County Clerk and Recorder.

Witnesseth my hand and official seal.

My commission expires: \_\_\_\_\_

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

City:

CITY OF COLORADO SPRINGS:

By: \_\_\_\_\_ Date \_\_\_\_\_  
Steve Bach, Mayor

State of Colorado )  
  ) ss.  
County of El Paso )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015,  
by Steve Bach, Mayor on behalf of the City of Colorado Springs, Colorado.

Witness my hand and official seal

My commission Expires: \_\_\_\_\_

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

By: \_\_\_\_\_ Date \_\_\_\_\_  
Ronn Carlentine, Real Estate Services Manager

State of Colorado )  
  ) ss.  
County of El Paso )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015,  
by Ronn Carlentine, Real Estate Services Manager for the City of Colorado Springs, Colorado.

Witness my hand and official seal

My commission Expires: \_\_\_\_\_

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

Approved as to form:

---

City Attorney's Office

Approved as to form:

---

County Attorney's Office

QUITCLAIM DEED

The CITY OF COLORADO SPRINGS, COLORADO, a home rule city and Colorado municipal corporation, on behalf of its enterprise, Colorado Springs Utilities, acting by and through Steve Bach, Mayor ("Grantor"), whose street address is 30 South Nevada Avenue, Suite 502, Colorado Springs, Colorado, 80903, City of Colorado Springs, County of El Paso and State of Colorado, for the consideration of one dollar (\$1.00) and other good and valuable consideration in hand paid, hereby releases and quitclaims, subject to the covenants, restrictions, terms and conditions set forth herein, unto EL PASO COUNTY by and through the BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO, having the address of 200 South Cascade Avenue, Suite 150 Colorado Springs, Colorado, 80903 ("Grantee"), all rights, title and interest the Grantor may have in and to the following described property, if any, situated in the Counties of El Paso and Teller, in the State of Colorado, to wit (the "Property"):

See Exhibit "A" attached hereto and made a part hereof.

To have and to hold the same unto the Grantee, its successors and assigns, forever, subject to the, covenants, restrictions, terms and conditions set forth herein.

This conveyance is made subject to any and all easements, restrictions, rights, limitations of access, environmental conditions, and matters of record affecting the Property, and is further made subject to the following covenants, terms and conditions in perpetuity:

1. The Grantee, and any subsequent transferee, shall (i) fully collaborate and cooperate with the US Forest Service ("USFS") in the completion of the National Environmental Policy Act ("NEPA") Bear Creek Watershed Restoration Project planning process and subsequent Environmental Assessment, but Grantee shall have the right to negotiate with the USFS, State Historic Preservation Office, and US Fish and Wildlife Service, as may be applicable, terms and conditions that are necessary for the County's use and management of the Property, (ii) implement the terms and conditions of the USFS final decision, including maintenance and monitoring requirements, as it applies to the subject Property and all related mitigation measures as required by the State Historic Preservation Office and the US Fish and Wildlife Service necessary to comply with USFS final decision, the Endangered Species Act, and the National Historic Preservation Act, and (iii) provide public recreational access that is not inconsistent with the USFS final decision in the Bear Creek Watershed Restoration Project.
2. No future use of the Property shall interfere with the Grantor's rights and benefits, or the performance of its obligations, and access required therefor, related to the maintenance of watershed lands under applicable laws, including the Act of Congress, approved February 27, 1913, granting the City of Colorado Springs, Colorado, certain rights on the north slope of Pikes Peak, Public No. 392, H. R. 23293, for the protection of the water supply of the City of Colorado Springs and the Town of Manitou, Colorado, and under the following agreements: (i) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of Colorado Springs and Manitou, Colorado, dated October 9, 1914, and (ii) the Cooperative Agreement for the Purpose of Conserving and Protecting the Water Supply of the City of Colorado Springs, Colorado, dated January 9, 1924.
3. The Grantee, and any subsequent transferee, shall within twenty-four (24) months from the date of this conveyance, impose upon the Property a conservation easement pursuant to C.R.S. § 38-30.5-101 et seq., having conservation values consistent with the above covenants, restrictions, terms and conditions contained in this quitclaim deed and with the USFS Bear Creek Watershed Restoration Project final decision which will be held by an appropriate certified conservation easement holder.

Grantor further reserves a right of first refusal to acquire the Property upon the following terms and conditions:

Before Grantee may sell, transfer, lease, or convey the Property, any portion thereof, or any beneficial interest therein, excepting a conservation easement pursuant to C.R.S. § 38-30.5-101 et seq., (hereinafter collectively a "Transfer") to a third party, Grantee shall first offer the Property to Grantor with no purchase price, cost, or expense, and with no conditions for sale imposed by Grantee. Grantor shall have 30 days from receiving written notice from Grantee of Grantee's intent to Transfer the Property ("ROFR Period") in which to exercise its right to accept conveyance of the

Property under this provision. Such notice shall be made in care of the Colorado Springs City Attorney and provided by hand delivery or commercial overnight carrier, such as UPS, to the Grantor at the address provided above or at such address as is hereafter designated by Grantor. Grantor may exercise its right to accept conveyance of the Property under this provision by providing written notice to Grantee of its decision to exercise its right to receive the offered Property prior to the expiration of the ROFR Period. Such notice shall be made to the Board of County Commissioners, with a copy to the Executive Director of the Community Services Department, and provided by hand delivery or commercial overnight carrier to the Grantee at the address provided above or at such address as is hereafter designated by Grantee. All notices hereunder shall be deemed made upon the date of the signed receipt therefore. In the event that Grantor exercises its right to receive the Property, Grantee shall convey the Property, free and clear of any liens or encumbrances, except those of record at the time of this conveyance, those which are necessary pursuant to the USFS final decision, referenced above, and those agreed to by Grantor, within 60 days following the expiration of the ROFR Period. If Grantor does not exercise its right to accept conveyance of the Property within the ROFR Period, Grantee may Transfer the Property to a third party. If Grantee does not effect such Transfer to the third party within 90 days following the expiration of the ROFR Period, however, Grantee's right to sell, transfer, or convey the Property shall continue to be subject to Grantor's rights of first refusal, according to the terms and procedures set forth above. If the Property is less than the entire Property the Grantor's rights of first refusal hereunder shall remain applicable to any portion of the Property Transferred.

Should the Grantor determine that Grantee has violated one or more of the covenants, restrictions, terms and conditions set forth above, then Grantor shall notify Grantee of the violation by the same method as utilized in the ROFR Period listed above, and Grantee shall have ninety (90) days to cure such violation. In Grantor's sole reasonable discretion, should Grantor determine that Grantee has failed to timely cure the violation, then Grantor may exercise its right to seek appropriate judicial relief in the El Paso County District Court to enforce said covenants, restrictions, terms and conditions. If Grantor prevails, then Grantee shall comply with the requirements of the Court's Order. The Grantor and Grantee shall individually be responsible for their own costs and attorney fees in any such action.

In witness whereof, the Grantor and Grantee have set their hands and seals through there duly authorized representatives, on the \_\_\_\_\_ day of \_\_\_\_\_ 2015.

(THE REMAINDER OF THIS PAGE IS BLANK WITH SIGNATURES PROVIDED IN COUNTERPART ON THE FOLLOWING PAGES)

City of Colorado Springs (Grantor)

By: \_\_\_\_\_  
Steve Bach  
Mayor

Attest:

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

State of Colorado     )  
                                  ) ss.  
County of El Paso     )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2015  
by Steve Bach, Mayor, and \_\_\_\_\_ as \_\_\_\_\_  
of the City of Colorado Springs, Colorado, a home rule city and Colorado municipal corporation.

Witness my hand and seal

My Commission Expires: \_\_\_\_\_

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

Approved as to Form:  
City of Colorado Springs  
City Attorney's Office

\_\_\_\_\_

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

Date: \_\_\_\_\_

ACCEPTED BY:  
BOARD OF COUNTY COMMISSIONERS OF EL  
PASO COUNTY (Grantee)

\_\_\_\_\_  
Dennis Hisey, Chair  
El Paso County Board of County Commissioners

ATTEST:

By: \_\_\_\_\_  
Chuck Broerman  
El Paso County Clerk and Recorder

STATE OF COLORADO     )  
                                  ) ss.  
COUNTY OF EL PASO     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Dennis Hisey, Chair of the Board of County Commissioners of El Paso County, Colorado, and attested to by Chuck Broerman, El Paso County Clerk and Recorder.

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

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

Approved as to Form:  
El Paso County Attorney's Office

\_\_\_\_\_

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

Date: \_\_\_\_\_

EXHIBIT "A"

LEGAL DESCRIPTION OF THE PROPERTY

THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER, THE SOUTH HALF OF THE SOUTHWEST QUARTER, THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 25, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTH HALF OF THE NORTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE SOUTHEAST QUARTER, THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE EAST HALF OF THE NORTHEAST QUARTER, AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 14 SOUTH, RANGE 68 WEST OF THE 6TH P.M., COUNTY OF TELLER, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE SOUTHEAST QUARTER, AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, THE SOUTH HALF OF THE NORTHWEST QUARTER, AND THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER, THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, AND THE EAST HALF OF LOT 1 OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.

THE WEST HALF OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 14 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF EL PASO, STATE OF COLORADO.