

After recording, return to:

City of Centennial
City Attorney's Office
13133 E. Arapahoe Road, Suite 100
Centennial, CO 80112

**EASEMENT DEED
(RECREATION TRAIL)**

This EASEMENT DEED (the "Easement Deed") is made as of this ___ day of _____, 20___, by and between COUNTY OF ARAPAHOE, A BODY CORPORATE AND POLITIC OF THE STATE OF COLORADO (hereinafter referred to as "Grantor") whose address is 5334 South Prince Street, Littleton, Colorado 80120 and the CITY OF CENTENNIAL, a Colorado home rule municipality, whose address is 13133 East Arapahoe Road, Centennial, Colorado 80112 ("City") (collectively the "Parties").

WITNESSETH:

WHEREAS, Grantor is the owner of certain real property ("Property") located in Centennial, Colorado, as more particularly set forth in **Exhibit A** attached hereto and incorporated herein by this reference; and

WHEREAS, the City desires to construct, maintain and operate a public recreation trail on and across the Property.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Grant of Easement. Grantor does hereby grant and convey unto the City, its successors and assigns, a perpetual easement for the installation, construction, maintenance, operation, use and replacement of a public recreation trail upon the Property, to have and to hold the same, together with all the appurtenances and privileges belonging or in any way pertaining to the proper use and benefit of the City, its successors and assigns. Grantor and City agree that the easement area shall be located as set forth in **Exhibit B** attached hereto and incorporated herein (the "Easement Area") and generally depicted on **Exhibit C** attached hereto and incorporated herein.

2. Warranty of Title. The Grantor warrants that Grantor has full and lawful authority to make the grant herein contained and promises and agrees to defend the City in the exercise of its rights hereunder against any defect in its title to the Property or its right to make the grant hereinabove contained.

3. Construction and Operation of Trail. The Parties hereto covenant and agree as follows:

(a) Vehicles allowed on the Easement Area will only be those necessary for emergency purposes or for work to be performed by the City or its permittee.

(b) This Easement Deed shall extend to and be for the use and benefit of the City and as authorized by the City, its permittees, agents, representatives, and the public. All use of the Easement Area shall be subject to regulation by the City.

(c) The Easement Area may be used by members of the public for access on, in and through the public recreation trail. The public's use of the Easement Area will be subject to all applicable City regulations.

(d) The City may improve the Easement Area in a manner acceptable to the City in its sole discretion. Such improvements shall be limited to grading, paving, bank stabilizing, installation of drainage culverts and other drainage structures, lighting, landscaping, benches, planters, sitting alcoves, shade trees, bollards, amenities required by the Americans with Disabilities Act and compliance with other state and federal laws and regulations, rest stops, interpretive stops, and exercise stops.

(e) The City may install signs within the Easement Area identifying the recreation path, its location, use, rules, and otherwise relating to use and protection of the Easement Area as is deemed appropriate in the City's sole discretion.

(f) The City shall not improve the Easement Area or install signs within the Easement Area if such improvements or signs would impair the visibility of any motor vehicle entering or exiting the Arapahoe County Sheriff's Office entry located immediately to the east of the Easement Area along East Broncos Parkway.

(g) The City may connect any recreational trail which it constructs in the Easement Area to any other trails located on adjoining properties so long as the Easement Area is not enlarged.

(h) Grantor shall neither cause nor permit the construction or placement of any structure, building, improvement, fence, fixture, other obstruction, or any tree, plant or other vegetation, of any kind, on any part of the Easement Area that impairs, obstructs or inhibits the use or access provided for herein except as noted in subsection (j). Any prohibited use, placement or installation located on the Easement Area as of after the date hereof may be removed by the City without liability for any damages arising therefrom.

(i) Grantor shall not alter or damage the public recreation trail or any of the City's improvements, fixtures or features located on or within the Easement Area, provided however, Grantor shall have no affirmative duty to maintain or repair the Easement Area, any of the vegetation or the City's improvements, fixtures or features located thereon. The City shall have the obligation, subject to annual appropriations of the City Council for the City of Centennial in its sole discretion, to maintain the Easement Area.

(j) Grantor reserves the right to temporarily close the public recreation trail to the public during times of public emergency. Grantor shall use its best efforts to notify the City before closing the trail to the public.

4. Subjacent and Lateral Support. The City shall have and may exercise the right of subjacent and lateral support to whatever extent is necessary or desirable for the full, complete

and unmolested enjoyment of the rights herein granted. Grantor shall neither take nor permit any action that would impair the lateral or subjacent support of any of the City's improvements or appurtenances.

5. Term. The benefits and servitude created by this Agreement shall inure to and be a burden upon the Property, shall be perpetual, and shall run with the land. Any breach of this Easement Deed shall not entitle any non-defaulting party to cancel, rescind or otherwise terminate this Easement Deed, or any of the conditions, covenants, easements and restrictions hereunder.

6. No Impact on Other City Law. This Easement Deed shall not affect any resolution, zoning, subdivision improvement agreement, public improvement agreement or special use permit affecting the Property, or any adjacent lands owned by Grantor.

7. No Waiver Under CGIA. Nothing in this Easement shall be construed as a waiver by either party of the protections afforded them pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101 *et seq.*, C.R.S. ("CGIA") as same may be amended from time to time. Specifically, neither party waives the monetary limitations or any other rights, immunities or protections afforded by the CGIA or otherwise available at law.

8. Attorney's Fees. If either party, its successors or assigns, shall institute any legal action against the other in connection with any controversy arising out of this Easement, the prevailing party, whether in court, through arbitration or by way of out-of-court settlement, shall be entitled to recovery from the non-prevailing party, its reasonable attorneys' fees, court costs, expert fees, arbitrator fees and other expenses relating to such controversy, including such fees costs and expenses on appeal, if any.

9. Severability. If any term or provision of this Easement Deed or the application thereof to any person or circumstance shall be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Easement shall not be affected thereby, and each term and provision of this Easement shall be valid and enforceable to the fullest extent permitted by law.

10. No Waiver. Failure of a party to invoke its rights hereunder on one or more occasions shall not be construed as a waiver of the right to enforce such rights as to future breaches or infractions.

11. Amendment; Entire Agreement. This Easement Deed cannot be modified, altered or amended, or any term or provision hereof waived, except by written agreement executed by both Parties and recorded with the Arapahoe County Clerk and Recorder. This Easement Deed completely sets forth the entire covenants and understandings of the Grantor and the City and supersedes all prior covenants and understandings, both oral and written, between the Grantor and the City relating to the matters set forth herein.

12. Counterparts. This Easement Deed may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

13. Governing Law. This Easement Deed shall be governed by the laws of the State of Colorado. Venue for any dispute concerning this Easement Deed shall be in the district courts for Arapahoe County.

14. Notices. All notices related to this Easement Deed shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph:

If to Grantor: Arapahoe County
 Attn: County Attorney
 5334 S. Prince St.
 Littleton, CO 80120_____

If to City: City of Centennial
 Attn: City Manager
 13133 East Arapahoe Road
 Centennial, CO 80112

With a copy to: City of Centennial
 City Attorney
 13133 East Arapahoe Road, Suite 100
 Centennial, CO 80112

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IN WITNESS WHEREOF, the Parties hereto have set their hands and seals the day and year first above written.

GRANTOR:

ARAPAHOE COUNTY

By: _____
Name: Shannon Carter
Title: Director, Open Spaces
Pursuant to Resolution No. 190049

STATE OF COLORADO)
) ss.
COUNTY OF _____)

Subscribed and sworn to before me this _____ day of _____, 20____ by
_____ as _____ of _____, Grantor.

Witness my hand and official seal.

My commission expires: _____

Notary Public

CITY OF CENTENNIAL

By _____
Matt Sturgeon, City Manager
(Pursuant to Section 2-2-130(b)(3) of the
Centennial Municipal Code)

Attest:

City Clerk or Deputy City Clerk

Reviewed By:

City Attorney's Office

EXHIBIT A
LOT 1, DOVE VALLEY BUSINESS PARK SUBDIVISION FILING NO. 18, COUNTY
OF ARAPAHOE, STATE OF COLORADO

EXHIBIT B
[METES AND BOUNDS LEGAL DESCRIPTION OF EASEMENT]

EXHIBIT C
[DEPICTION OF EASEMENT]