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AMENDED AND RESTATED DEED OF CONSERVATION EASEMENT

PIGG RANCH

Any time the Property itself, or any interest in it, is transferred by Grantor to any third party, Grantor shall pay a transfer fee of \$100 to Grantee and notify Grantee pursuant to the requirements of Section 11 of this Deed.

Notice: This conservation easement has been acquired in part with a grant from the State Board of the Great Outdoors Colorado Trust Fund (the "Board"). This Deed contains restrictions on the use and development of the property, which are intended to protect its open space, agricultural and conservation values. The State Board of the Great Outdoors Colorado Trust Fund has found that adoption of this deed restriction is in the public interest.

THIS AMENDED AND RESTATED DEED OF CONSERVATION EASEMENT ("Deed") is granted on this 19th day of November, 2004, by GEORGE WESLEY PIGG and LISA A. PIGG, whose address is 5380 I-25 South, Pueblo, CO 81004 ("Grantor"), to COLORADO OPEN LANDS, a Colorado non-profit corporation ("Grantee"), whose address is Suite 320, 274 Union Boulevard, Lakewood, CO 80228.

RECITALS:

A. **Description of Property.** Grantor is the owner of 280 acres of land, more or less, located in Pueblo County, Colorado, more particularly described as the existing conservation area ("**Existing Conservation Area**") in **Exhibit A** and depicted on **Exhibit B**, both attached hereto and made a part of this Deed, which is subject to that certain Deed of Conservation Easement recorded on April 2, 2003, at Reception Number 1493434 of the records of the Clerk and Recorder of Pueblo County, Colorado (the "**First Conservation Easement**"). Grantor is also the owner of the fee simple interest in 160 acres of land, more or less, legally described as new conservation area ("**New Conservation Area**") in **Exhibit A** and depicted in **Exhibit B**, which is adjacent to the Existing Conservation Area. The Existing Conservation Area and the New Conservation Area together with existing improvements (as further described in Section 4(A)), water and mineral rights, associated with or appurtenant to the Property located in Pueblo County, State of Colorado shall be collectively known as the "**Property**." The Property is a part of the 640-acre "Pigg Ranch" owned by the Grantor.



B. **Amended and Restated Easement.** This Deed grants a new conservation easement to encumber Parcel B which was not encumbered by the First Conservation Easement. The parties intend that this Deed encumber the Property and supercede and replace the First Conservation Easement in its entirety.

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

D. **Conservation Values.** The Property possesses open space, scenic, agricultural, and wildlife values (collectively, the "Conservation Values") of great importance to Grantor, the people of Pueblo County, Colorado, and the people of the State of Colorado. The Property possesses open space and scenic values that can be seen by the public from Burnt Mill Road. The Property is also located on the eastern slope of the Wet Mountains, a mountain backdrop for both the city of Pueblo and the I-25 corridor through Pueblo County. The Property contains important agricultural lands for seasonal grazing. The Property generally provides habitat for local populations of elk, deer, mountain lion, black bear, wild turkey and other species of wildlife. According to the Colorado Natural Heritage Program (CNHP), the Property is located in an area that possesses the Round-Leaf Four O'Clock, a globally and statewide imperiled plant species. Also according to CNHP, the Property is located in an area that also supports Simius Roadside Skipper, Rhesus Skipper, and Eaton's Lip Fern, rare and/or imperiled species. The location of the Property is important in that it is in close proximity to other lands that have been protected by conservation easements held by the Grantee.

E. **State Policy concerning Conservation Easements.** C.R.S. §§33-1-101, *et seq.*, provides in relevant part that "it is the declared policy of the State of Colorado that the wildlife and their environment are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and its visitors." Additionally, C.R.S. §§35-1-101, *et seq.*, provides in relevant part that "it is the declared policy of the State of Colorado to conserve, protect, and encourage the development and improvement of agricultural land for the production of feed and other agricultural products." C.R.S. §§38-30.5-101, *et seq.*, provides for the establishment of conservation easements to maintain land "in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural ... or other use or condition consistent with the protection of open land having wholesome environmental quality or life-sustaining ecological diversity."

F. **Documentation of Present Conditions.** The Conservation Values and the characteristics, current use, and status of improvements on and development of the Property of the date of this Deed are further documented in a "Documentation of Present Conditions," which report is acknowledged as accurate by Grantor and Grantee. The Documentation of Present Conditions will be used by Grantee to assure that any future changes in the use of the Property will be consistent with the terms of this Deed. However, the Documentation of Present Conditions is not intended to preclude the use of other evidence to establish the present condition of the Property if there is a controversy over its use.



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G. **Charitable Donation.** Grantor intends to sell a portion of the property interest conveyed by this Deed to the Grantee, and to donate to the Grantee the remaining property interest conveyed by this Deed, so as to qualify as a tax deductible charitable gift under the Internal Revenue Code.

ACKNOWLEDGEMENT OF INTENT:

As a guide to the interpretation of this Deed and administration of the Conservation Easement ("**Easement**") created by this Deed by future generations, Grantor and Grantee, for themselves, and for their successors and assigns, herein expressly declare their agreement and dedication to the following purpose and intent:

1. **Purpose.** The purpose (the "**Purpose**") of this Easement is to preserve and protect in perpetuity the Conservation Values of the Property. This Purpose is in accordance with §170(h) of the Internal Revenue Code. In order to achieve this Purpose, Grantor intends to convey this Deed to Grantee to ensure that the Conservation Values of the Property will be preserved and protected forever.

2. **Intent.** Subject only to the Purpose set forth above, the intent of the parties is to permit all other uses of the Property which are not inconsistent with the preservation and protection of the Conservation Values as determined by Grantee in its sole discretion and which are not expressly prohibited herein. Nothing in this Deed is intended to compel a specific use of the Property, such as agriculture, other than of the preservation and protection of the Conservation Values.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, Grantor and Grantee mutually agree as follows:

1. **Conveyance of Deed.** Grantor voluntarily grants and conveys to Grantee and Grantee voluntarily accepts, a perpetual Conservation Easement in gross, an immediately vested interest in real property defined by C.R.S. §§38-30.5-101, *et seq.*, and of the nature and character described in this Deed, for the purpose of preserving and protecting the Conservation Values of the Property in perpetuity.

2. **Rights of Grantee.** To accomplish the purpose of this Deed the following rights are hereby conveyed to Grantee:

A. To preserve and protect the Conservation Values of the Property;

B. Grantee, its employees and its representatives may enter upon the Property at reasonable times in order to monitor Grantors' compliance with and otherwise enforce the terms of this Deed; provided that, except in cases where Grantee determines that immediate entry is required to inspect, prevent, terminate, or mitigate a violation of this Deed, such entry shall be upon prior reasonable notice to Grantor, and Grantee shall not unreasonably interfere with Grantor's use and quiet enjoyment of the Property;



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C. To prevent any activity on or use of the Property that is inconsistent with the purpose of this Deed and to require the restoration of such areas or features of the Property that may be damaged by an inconsistent activity or use; and

D. Nothing in this section shall preclude the right of Grantee to enforce the preservation and protection of the Conservation Values of the Property or any other provisions of this Deed.

3. **Rights Retained by Grantor.** Grantor retains the right to perform any act not specifically prohibited or restricted by this Deed. These ownership rights include, but are not limited to, the retention of the economic viability of the Property provided that such acts and uses are not inconsistent with the preservation and protection of the Conservation Values.

4. **Property Improvements.** Any activity on or use of the Property inconsistent with the purpose of this Deed as identified herein in the Purpose section of the Acknowledgement of Intent is expressly prohibited. The parties agree, however, that the current use of and improvements to the Property are not inconsistent with the Conservation Values and are permitted. Without limiting the generality of any of the foregoing, Grantor and Grantee hereby acknowledge and agree:

(1) **Agricultural Improvements.** There are fences and temporary two-track roads currently existing on the Property.

B. **Construction of Improvements.** The construction or reconstruction of any improvement, except those existing on the date of this Deed, is prohibited except as described below. Any other improvements are prohibited unless Grantee determines in its sole discretion that the proposed construction is not inconsistent with the preservation and protection of the Conservation Values.

(1) **Existing Improvements Construction.**

a. **Agricultural Improvements.** Grantor may maintain, repair, replace, and reasonably enlarge the existing agricultural improvements at their current location without further permission of the Grantee. New minor, unenclosed agricultural improvements such as corrals, loafing sheds, hayracks, stock tanks and/or ponds, or minor erosion control devices may be constructed on the Property without permission of Grantee. Construction of new agricultural buildings or the construction of any agricultural building other than minor agricultural improvements is prohibited, unless Grantee in its sole discretion determines that the proposed construction is not inconsistent with the preservation and protection of the Conservation Values. Once constructed, Grantor may maintain, repair, and replace all Agricultural Buildings permitted herein.



b. **Paving and Road Construction.** Except for roads or driveways currently existing on the date of this Deed, as depicted on Exhibit B or those other roads and driveways which are intended to serve the improvements which may be constructed hereunder as depicted on Exhibit B, no new roads or driveways shall be constructed. Temporary, unpaved roads to access the adjacent properties, generally depicted on Exhibit B, may be constructed. Temporary, unpaved roads may be used as necessary for agriculture-related activities, provided that such roads are allowed to return to their preexisting condition after temporary use of such road(s) is discontinued. The paving or otherwise surfacing of new or existing roads or driveways with concrete, asphalt, or any impervious paving material is prohibited unless Grantee determines that said surfacing is not inconsistent with the preservation and protection of the Conservation Values.

c. **Fences.** Existing fences may be repaired and replaced, and new fences may be built anywhere on the Property for purposes of reasonable and customary management of livestock and wildlife that is consistent with the preservation and protection of the Conservation Values without any further permission of Grantee.

d. **Utilities.** Existing utilities may be repaired and replaced in the same location with a similar structure without any further permission of Grantee. Grantor may install new utility lines provided such new utility lines shall be installed underground in the new or existing roads or driveways as depicted on Exhibit B. Additional utility lines or the significant upgrading of existing utility lines may be approved by Grantee if Grantee determines said utility lines are not inconsistent with the preservation and protection of the Conservation Values.

e. **Billboards and Signs.** Grantor may not construct, maintain, or erect any signs or billboards on the Property that are inconsistent with the Conservation Values. Notwithstanding the foregoing, customary ranch signs, signs alerting the public to the availability of the Property for purchase or lease, "no trespassing" signs, signs regarding the private leasing of the Property for hunting, fishing or other low impact recreational uses, and signs informing the public of the status of ownership are permitted.

5. **Resource Management.** Grantor recognizes the importance of good resource management and stewardship to preserve and protect the Conservation Values. To this end, the Property shall be operated and managed in accordance with a conservation plan that is developed in consultation with NRCS and approved by the Conservation District (the "Conservation Plan"). This Conservation Plan shall be developed using the standards and specifications of the NRCS Field Office Technical Guide and 7 CFR part 12 that are in effect as of the date of this Easement.



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This plan, which will be prepared at Grantor's expense and accepted with the mutual consent of Grantor and Grantee, shall be completed within one year of the date of this Deed and shall be updated at least every five years. The following uses of the Property shall be conducted in accordance with the provisions below.

A. **Agriculture.** The Property shall be managed to prevent overgrazing by livestock, soil erosion and stream corridor degradation.

B. **Timber.** Tree thinning and cutting is allowed without Grantee approval on a limited and localized basis to control insects and disease, to control invasive non-native species, to maintain the character and nature of the habitat, to prevent personal injury and property damage; and for domestic uses on the Property, including firewood, and the construction of permitted buildings and fences. With the exception of the previously defined purposes, all other timber harvesting and silvicultural interventions on the Property shall be conducted in substantial accordance with a forest management plan prepared at Grantor's expense and approved by Grantee. A copy of the final, Grantee-approved plan will be sent to the Board.

C. **Minerals and Other Deposits.** Minerals and other deposits shall be subject to the following provisions.

(1) **Mining.** The exploration, development, mining or other extraction of minerals, coal or peat is prohibited.

(2) **Oil, Gas and Geothermal Resources.** The exploration, development, mining or other extraction of geothermal resources and hydrocarbons is prohibited.

D. **Recreation.** Commercial and noncommercial recreation on the Property is prohibited, except that those low-impact non-developed recreational uses not inconsistent with the Conservation Values and purposes of this Easement, such as hunting, outfitting, and bird watching, are permitted. No term or condition of this Easement shall be construed or interpreted as a prohibition, restriction, or curtailment of the right of the Grantor, its licensees, invitees, and assigns, to hunt and fish on the Property, provided that such activity is in compliance with all applicable laws and regulations and that such activity is consistent with the preservation and protection of the Conservation Values of the Property.

E. **Motorized Vehicles.** Motorized vehicles may be used in carrying out the activities permitted herein provided such use shall not result in any new trails or other visible impacts on the Property or any other impacts that are inconsistent with the preservation and protection of the Property's Conservation Values.

F. **Water.** Grantor shall retain and reserve the right to use water rights sufficient to maintain and improve the Conservation Values of the Property, and shall not transfer, encumber, lease, sell or otherwise separate water rights necessary and sufficient to



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maintain and improve the Conservation Values of the Property from title to the Property itself. Grantor shall have the right to construct, maintain and improve irrigation fixtures, water wells, and other water systems on the Property provided such activities are not inconsistent with the preservation and protection of the Conservation Values.

6. ***Restricted Practices.***

A. Subdivision. Parcel A and Parcel B are a single parcel and must remain in the same ownership at all times, and may not be sold or conveyed separately from each another. Any subdivision or partition of Parcel A and Parcel B from its status as a single parcel, whether by physical or legal process, is prohibited. The division or subdivision of Parcel A and parcel B into two or more parcels of land is prohibited, except that a sale or exchange with adjoining landowners is permitted for the purpose of consolidating or improving agricultural operations on the respective properties. In any event, all of Parcel A and Parcel B shall remain subject to the terms of this Deed. In the event Grantor sells and/or exchanges any portion of Parcel A or Parcel B as described herein, Grantor shall notify Grantee in writing and shall provide a map and legal description which accurately defines and depicts the subject parcel", and Grantee shall provide copies to the Board.

B. Commercial or Industrial Activity. All commercial or industrial uses on the Property are prohibited. However, commercial uses such as ranching activities, home businesses carried out within the Building Envelopes permitted under Section 4, and recreational activities permitted under Section 5.D. are permitted, provided that such uses are conducted in a manner that is consistent with §170(h) of the United States Internal Revenue Code and the Treasury Regulations adopted pursuant thereto, are consistent with the purpose of this Easement, and are not inconsistent with the preservation and protection of the Conservation Values of the Property.

C. Feed Lot. The establishment or maintenance of a feed lot is prohibited. For purposes of this Deed, "feed lot" is defined as a permanently constructed confined area or facility within which the Property is not grazed or cropped annually, and which is used and maintained for purposes of feeding livestock. Nothing in this section shall prevent Grantor from seasonally confining livestock into an area for feeding or from leasing pasture for the grazing of livestock owned by others.

D. Public Access. Nothing herein contained shall be construed as affording the public access to any portion of the Property, although the Grantor may permit public access to the Property on such terms and conditions, as it deems appropriate, provided that such access is not inconsistent with the Conservation Values of the Property.

E. Trash. The dumping or accumulation of any kind of trash, sludge, or refuse on the Property is prohibited. The dumping or accumulation of farm-related trash and refuse produced on the Property is permitted, provided it is not inconsistent with the



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Conservation Values. However, this shall not prevent the storage of agricultural products and by-products on the Property in accordance with all applicable government laws and regulations.

F. **Hazardous Materials.** Grantor may use agri-chemicals in accordance with all applicable federal, state or local laws and regulations. Otherwise, the treatment, permanent storage, disposal or release of hazardous materials on, from or under the Property is prohibited. For the purpose of this Deed, hazardous materials shall mean any hazardous or toxic material or waste, which is subject to any federal, state, or local law or regulation. Notwithstanding anything in the Deed to the contrary, this prohibition does not impose any liability on Grantee or the Board for hazardous materials nor does it make Grantee an owner of the Property, nor does it permit or require Grantee to control any use of the Property that may result in the treatment, storage, disposal or release of hazardous materials.

G. **Weed Control.** The Property shall be managed to control noxious weeds to the extent reasonably possible, in accordance with the Conservation Plan and State and local regulations.

H. **Other Restricted Uses.** Sod farms, helicopter pads, and airstrips are prohibited.

7. **Responsibilities of Grantor and Grantee Not Affected.** Other than as specified herein, this Deed is not intended to impose any legal or other responsibility on Grantee, or in any way to affect any existing obligations of Grantor as owner of the Property. Additionally, unless otherwise specified below, nothing in this Deed shall require Grantor to take any action to restore the condition of the Property after any Act of God or other event over which Grantor had no control. Grantor shall continue to be solely responsible and Grantee shall have no obligation for the upkeep and maintenance of the Property and Grantor understands that nothing in this Deed relieves Grantor of any obligation or restriction on the use of the Property imposed by law. Among other things, this shall apply to:

A. **Taxes.** Grantor shall continue to be solely responsible for payment of all taxes and assessments levied against the Property. If for any reason Grantor fails to pay any taxes, assessments or similar requisite charges, Grantee may pay such taxes, assessments or similar requisite charges, and may bring an action against Grantor to recover all such taxes, assessments and similar charges plus interest thereon at the rate charged delinquent property taxes by the county assessor's office in which the Property is located.

B. **Liability.** Grantor shall indemnify, defend, and hold Grantee, the Board and their respective members, officers, directors, employees, agents, and contractors (collectively, the "Indemnified Parties") harmless from and against any and all loss, damage, cost, or expense, including reasonable attorneys' fees, arising from or in any way related to: (i) injury to or the death of any person, or damage to property, occurring on or



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about or related to the Property, unless due solely to the gross negligence or intentional acts of any of the Indemnified Parties; (ii) the obligations under this Section 7 or (iii) the presence or release of hazardous materials on, under, or about the Property under Section 6(F).

8. **Enforcement.** Grantee shall have the right to prevent and correct or require correction of violations of the terms and purposes of this Deed. In those cases where Grantee determines that immediate entry is required to inspect for, prevent, terminate, or mitigate a violation of this Deed, Grantee may enter the Property without advance notice. If, in the Grantee's estimation, the violation poses a significant negative impact to the Conservation Values and/or cannot be resolved within 60 days, in those instances Grantee shall provide written notification to Grantor and the Board of the nature of the alleged violation. Upon receipt of this written notice, Grantor shall immediately cease the alleged violation and either (a) if necessary, restore or remediate the Property to its condition prior to the violation or (b) provide a written plan for restoration and remediation of the Property acceptable to Grantee. If Grantor is unable or unwilling to cease the immediate alleged violation, restore or remediate the Property to its condition prior to the violation or provide a written plan for restoration and remediation of the Property acceptable to Grantee, both parties agree to resolve the dispute through mediation, or court procedures. At any point in time, the parties may take appropriate legal action including an injunction to stop the alleged violation. Any costs incurred by Grantee in enforcing the terms of this Deed against Grantor, including, without limitation, costs and expenses of suit, and attorneys' fees and any costs of restoration necessitated by Grantor's violation of the terms of this Deed, shall be borne by Grantor unless the deciding body determines that Grantee has acted in bad faith in seeking to enforce this Deed, in which case, each party shall be responsible for their own costs. The parties will share equally in the mediation fees. Grantee's remedies described in this paragraph shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including the right to recover any damages for loss of Conservation Values. The failure of Grantee to discover a violation or to take action shall not waive any of Grantee's rights, claims or interests in pursuing any such action at a later date.

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

10. **Transfer of Easement.** Grantee shall have the right to transfer this Easement to any public agency or private non-profit organization that, at the time of transfer, is a "qualified organization" under § 170(h) of the U.S. Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and under C.R.S. §§38-30.5-101, *et seq.*, and only if the agency or the organization expressly agrees to assume the responsibility imposed on Grantee by this Easement. Grantee shall obtain permission from Grantor in advance of any proposed transfers, and such permission shall not be



unreasonably withheld. Additionally, Grantee shall provide the Board with a written request to assign the Easement at least forty-five (45) days prior to the date of the assignment transaction, and the receiving agency or organization must be approved in writing as a transferee by the Board. Grantor intends that any "qualified organizations" receiving this Easement be committed to sustaining agricultural opportunities for the Property if feasible. Examples of such organizations include the Colorado Cattlemen's Agricultural Land Trust and the American Farmland Trust. If Grantee desires to transfer this Easement to a qualified organization having similar purposes and mission as Grantee and that agrees to assume responsibility of enforcing this Easement, but Grantor or the Board unreasonably refuses to approve the transfer, a court with jurisdiction shall transfer this Easement to another qualified organization having similar purposes and mission as Grantee and that agrees to assume responsibility of enforcing this Easement, provided that Grantor and the Board receive notice of and an opportunity to participate in the court proceeding. The Board shall have the right to require Grantee to assign its rights and obligations under this Easement to a different organization if Grantee ceases to exist, no longer qualifies under federal or state law, or for any reason fails or refuses to enforce the terms and provisions of this Easement. If Grantee ceases to exist or no longer qualifies under federal or state law prior to an assignment of this Easement, the Easement shall automatically revert to an organization designated by the Board that is a qualified organization at the time of transfer under § 170(h) of the U.S. Internal Revenue Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder, and under C.R.S. §§38-30.5-101, *et seq.*, and having similar purposes and mission as Grantee.

11. **Transfer of Property.** Anytime the Property itself, or any interest in it, is transferred by Grantor to any third party, Grantor shall notify Grantee and pay a \$100 transfer fee to Grantee within (5) business days after closing in writing using the form in Exhibit C attached hereto. The document of conveyance shall expressly refer to this Deed of Conservation Easement. Upon receipt of this notice from Grantor, Grantee shall promptly notify the Board.

12. **Real Property Interest.** This Easement constitutes a real property interest immediately vested in Grantee. The parties stipulate that this Easement has a fair market value equal to 55 percent (55%) of the full fair market value of the Property, as unencumbered by the Easement, on the date this Easement is first recorded. The values at the time of this Easement shall be those values used to calculate the deduction for federal income tax purposes allowable by reason of this Grant, pursuant to Section 170(h) of the Internal Revenue Code of 1986, as amended whether or not Grantee claims any deduction for federal income tax purposes. For the purposes of this Easement, the ratio of the value of the Easement to the value of the Property as unencumbered by the Easement shall remain constant.

13. **Condemnation or Other Extinguishment.** If this Easement is taken, in whole or in part, by exercise of the power of eminent domain, or if circumstances arise in the future that render the purpose of this Easement impossible to accomplish, this Easement can only be terminated or extinguished, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction. The total loss of all the Conservation Values and the inability to further the purposes of this Easement are the only grounds under which this Deed can be terminated.



Each party shall promptly notify the other when it learns of such circumstances, and shall, in addition, notify the Board in writing of such circumstances. Upon such termination, Grantee may use the endowment funds associated with this Deed for purposes consistent with Grantee's organizational mission. Grantee shall be entitled to compensation in accordance with applicable law, after the satisfaction of prior claims, from any sale, exchange, condemnation, or other involuntary or voluntary conversion of all or any portion of the Property subsequent to such termination or extinguishment. Grantee's compensation shall be an amount equal to the Easement value percentage listed in Paragraph 12 above, multiplied by the amount of the full proceeds from any sale, exchange, condemnation, or other involuntary or voluntary conversion of all or a portion of the Property. Grantee's use of the proceeds shall comply with Treasury Regulation §1.170A-14(g)(6)(i). The Board shall be entitled to receive 29.9 percent (29.9%) of Grantee's compensation, which figure is equal to that portion of the Board's grant attributable to the fair market value of the Easement (the "Board's Proceeds"). Grantee shall remit promptly to the Board its respective share of the proceeds.

14. ***Perpetual Duration.*** The easement created by this Deed shall be a servitude running with the land in perpetuity. Every provision of this Deed that applies to Grantor or Grantee shall also apply to their respective agents, heirs, executors, administrators, assigns, and all other successors as their interests may appear; provided, however, that either party's rights and obligations under this Deed shall terminate (as to such party, but not as to such party's successor, who shall be bound as provided herein) upon a transfer of such party's entire interest in this Deed or the Property (provided that the Board has consented to a transfer of this Easement), except that liability of such transferring party for act or omissions occurring prior to such transfer shall survive the transfer.

15. ***Change of Circumstance.*** The fact that any use of the Property that is expressly prohibited by this Easement, or any other use as determined to be inconsistent with the purpose of this Deed, may become greatly more economically valuable than permitted uses, or that neighboring properties may in the future be put entirely to uses that are not permitted thereunder, has been considered by the Grantor in granting this Deed. It is Grantor's belief that any such changes will increase the benefit to the public of the continuation of this Deed, and it is the intent of both Grantor and Grantee that any changes should not be assumed to be circumstances justifying the termination or extinguishment of this Deed pursuant to this paragraph. In addition, the inability to carry on any or all of the permitted uses, or the unprofitability of doing so, shall not impair the validity of this Deed or be considered grounds for its termination or extinguishment pursuant to this paragraph.

16. ***Notice of Intention to Undertake Certain Permitted Actions.*** The purpose of requiring Grantor to notify Grantee prior to Grantor undertaking certain permitted activities is to afford Grantee an opportunity to ensure that the activities in question are designed and carried out in a manner consistent with the purpose of this Easement. Whenever notice is required, Grantor shall notify Grantee in writing not less than sixty (60) days prior to the date Grantor intend to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purpose of this

Easement.



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17. **Grantee's Approval.** Where Grantee's approval is required Grantee shall grant or withhold its approval in writing within thirty (30) days of receipt of Grantor's written request. Grantee's approval may be withheld only upon a reasonable determination by Grantee that the action as proposed would be inconsistent with the purpose of this Easement.

18. **Notices.** As specified here in, any notices required by this Deed shall be sent as appropriate to Grantor, Grantee and the Board respectively at the following addresses, unless a party has been notified by the other of a change of address:

Grantor: George Wesley and Lisa A. Pigg
5380 I-25 South
Pueblo, CO 81004
Phone: (719) 676-7444

Grantee: Colorado Open Lands
274 Union Blvd., Suite 320
Lakewood, CO 80228
Phone: (303) 988-2373

Board: State Board of the Great Outdoors Colorado Trust Fund
1600 Broadway, Suite 1650
Denver, CO 80202
Phone: (303) 863-7522

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

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

17. **Grantor's Representations and Warranties.**

A. Grantor warrants that Grantor has good and sufficient title to the Property, free from all liens and encumbrances securing monetary obligations except ad valorem property taxes for the current year, and hereby promises to defend title to the Property against all claims that may be made against it by any person claiming by, through, or under Grantor.



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B. Grantor represents and warrants that, after reasonable investigation and to the best of its knowledge:

(1) No hazardous substance or toxic waste exists nor has been generated, treated, stored, used, disposed of, deposited, or transported, in, on, or across the Property, and that there are not now any underground storage tanks located on the Property;

(2) Grantor and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;

(3) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property; and

(4) No civil or criminal proceedings or investigations have been instigated at any time or are now pending, and no notices, claims, demands, or orders have been received, arising out of any violation or alleged violation of, or failure to comply with, any federal, state, or local law, regulation, or requirement applicable to the Property or its use.

18. **Acceptance.** Grantee hereby accepts without reservation the rights and responsibilities conveyed by this Deed of Conservation Easement.

19. **General Provisions:**

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

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

C. **Waiver of Defenses.** Grantor hereby waives any defense of laches, estoppel or prescription and acknowledges and agrees that the one-year statute of limitation provided under C.R.S. § 38-41-119 does not apply to this Deed, and Grantor waives any rights of Grantor pursuant to such statute.

D. **Controlling Law and Interpretation.** This Deed shall be performed and broadly interpreted under the laws of Colorado, resolving any ambiguities and questions of the validity of specific provisions so as to favor maintaining the Conservation Values of the Property.



E. **Counterparts.** The parties may execute this instrument in two or more counterparts which shall, in the aggregate, be signed by all parties; each counterpart shall be deemed an original instrument as against any party who has signed it; all counterparts, when taken together, shall constitute this instrument.

F. **Amendment.** If the circumstances arise under which an amendment to or modification of this Easement would be appropriate, Grantor and Grantee are free to jointly amend this Easement; provided that no amendment shall be allowed that will confer a private benefit to the Grantor or any other individual greater than the benefit to the general public (see IRS Reg. 1.170A-14(h)(3)(i)) or result in private inurement for a Board member, staff or contract employee of Grantee (see IRS Reg. 1.501(c)(3)-1(c)(2)), or affect the qualifications of this Easement under any applicable laws, and provided, further, that the prior written approval of the Board shall be required. Any amendment must not be inconsistent with the preservation and protection of the Conservation Values of the Property and may not affect the perpetual duration of the Easement. Grantee shall have the right to charge a fee to Grantor for time and costs associated with any amendment. Any amendment must be in writing, signed by both parties, and recorded in the official records of Pueblo County, Colorado.

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

H. **Entire Agreement.** This instrument sets forth the entire agreement of the parties with respect to the terms of this Deed and supercedes all prior discussions, negotiations, understandings, or agreements relating to the terms of this easement, all of which are merged herein. Upon execution and recordation of this Deed, the First Conservation Easement is hereby amended and restated in its entirety by this Deed, and the First Conservation Easement shall have no further force or effect.

20. **Development Rights.** Grantor hereby grants to Grantee all development rights except as specifically reserved herein, and the parties agree that such rights are terminated and extinguished, and may not be used on or transferred off of the Property to any other property adjacent or otherwise. Under no circumstances shall the Property be used for the purpose of calculating or giving credits that result in additional density of development beyond what is allowed in this easement, on or off the Property. By way of example, no portion of this Property subject to this easement shall be included or aggregated with adjacent lands for purposes of complying with local, county or state building or subdivision requirements.

21. **Recording.** The Grantee shall record this instrument in timely fashion in the official records of Pueblo County, Colorado, and may re-record it at any time as may be required to preserve its rights in this Conservation Easement.



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11/19/2004 03:07P

ChrisC.Munoz PuebloCtyClk&Rec AM EASE R 105.00 D 0.00

TO HAVE AND TO HOLD, this Deed of Conservation Easement unto Grantee, its successors and assigns, forever.

IN WITNESS WHEREOF, Grantor and Grantee, intending to legally bind themselves, have set their hands on the date first written above.

GRANTOR:

By:

George Wesley Pigg
George Wesley Pigg

Lisa A. Pigg
Lisa A. Pigg

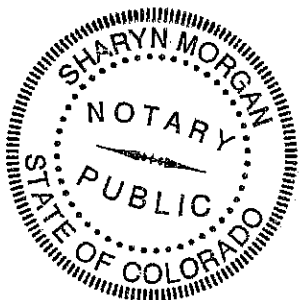
STATE OF COLORADO)

COUNTY OF Pueblo) ss.

The foregoing instrument was acknowledged before me this 19th day of November, 2004, by George Wesley Pigg and Lisa A. Pigg in their individual capacity as owners.

Witness my hand and official seal.

My commission expires: 10/21/06



Sharyn Morgan
Notary Public



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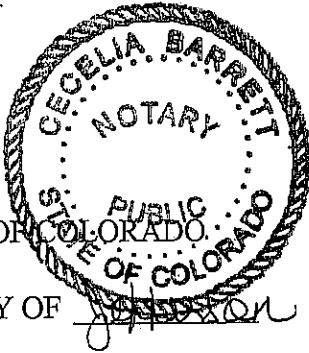
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ChrisC.Munoz PuebloCtyCik&Reo AM EASE R 106.00 D 0.00

GRANTEE:

COLORADO OPEN LANDS,
a Colorado non-profit corporation

By 
Daniel E. Pike, President

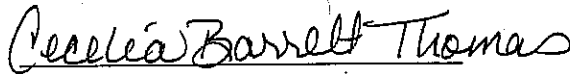


STATE OF COLORADO)
COUNTY OF JEFFERSON) ss.

The foregoing instrument was acknowledged before me this 18th day of November, 2004, by Daniel E. Pike as President of Colorado Open Lands, a Colorado non-profit corporation.

Witness my hand and official seal.

My commission expires: 11-21-2004


Notary Public



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ChrisC.Munoz PuebloCtyC1k&Rec AM EASE R 106.00 D 0.00

EXHIBIT A

Legal Description of the Property

Existing Conservation Area:

Township 23 South, Range 66 West of the 6th P.M., Pueblo County, Colorado

Section 2: W1/2 of the NE1/4, the E1/2 of the SW1/4, and the W1/2 of the SE1/4;

Section 11: NE1/4 of the NW1/4;

Approximately 280 acres

New Conservation Area:

Township 23 South, Range 66 West of the 6th P.M., Pueblo County, Colorado

Section 2: NW1/4 of the SW1/4, SE1/4 of the NW1/4, NE1/4 of the NE1/4;

Township 22 South, Range 66 West of the 6th P.M., Pueblo County, Colorado

Section 35: SE1/4 of the SE1/4;

Approximately 160 acres



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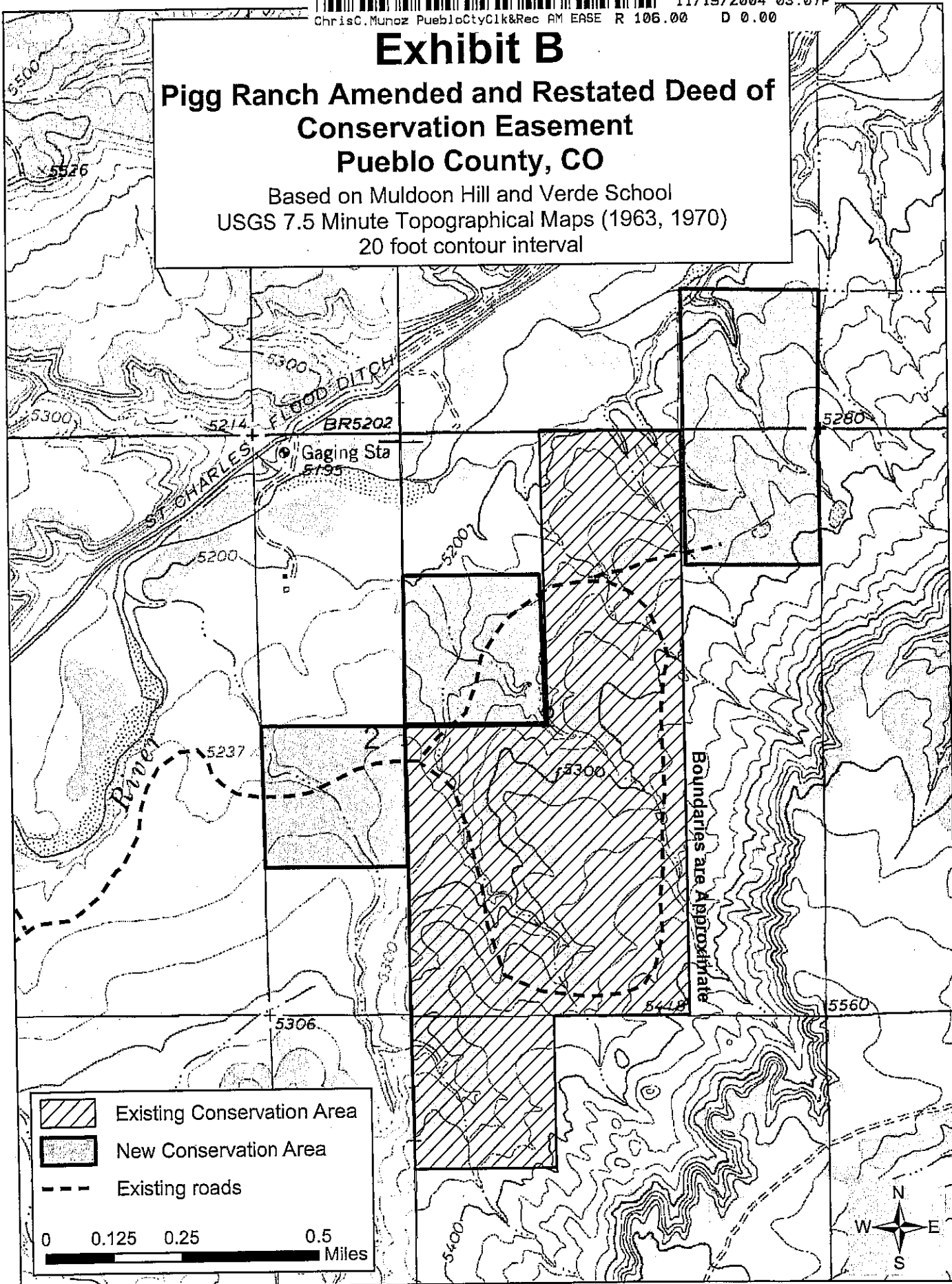
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ChrisC.Munoz PuebloCtyCik&Rec AM EASE R 106.00 D 0.00

Exhibit B

Pigg Ranch Amended and Restated Deed of Conservation Easement Pueblo County, CO

Based on Muldoon Hill and Verde School
USGS 7.5 Minute Topographical Maps (1963, 1970)
20 foot contour interval





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ChrisC.Munoz PuebloCtyCik&Rec AM EASE R 106.00 D 0.00

EXHIBIT CSample Notice of Transfer of Property

To: Colorado Open Lands ("Grantee")
 From: [Insert name of fee owner] ("Grantor")

Pursuant the Section 10 of the Deed of Conservation Easement, Grantee is hereby notified by Grantor of the transfer of the fee simple interest in the subject Property legally described in Exhibit A attached hereto effective [insert date of closing] to [insert name of new Grantor], who can be reached at [insert name, legal address, phone and fax number].

GRANTOR:

By: _____
 Title: _____

STATE OF COLORADO)
) ss.
 COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 200_,

by _____ as _____ of _____.

Witness my hand and official seal.

My commission expires: _____

 Notary Public

Date: _____