

REAL ESTATE DONATION AGREEMENT
(Axton Ranch Mountain Park)

THIS REAL ESTATE DONATION AGREEMENT (“Agreement”) made and entered into as of the Effective Date, between the **CITY AND COUNTY OF DENVER**, a home rule city and municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 (the “**City**”), and **STARR PEAK HOLDINGS LLC**, a Colorado limited liability company, whose address is 11333 Camp Eden Road, Golden, Colorado 80403 (“**Donor**”). City and Donor are collectively referred to herein as the “**Parties**” and individually as a “**Party.**”

RECITALS

A. Donor is the fee owner of approximately 488 acres of certain real property located in Jefferson and Gilpin Counties, State of Colorado, as generally depicted on **Exhibit 1** (“**Subject Property**”).

B. Donor desires to donate to the City approximately 450 acres of the Subject Property, as generally depicted on **Exhibit 2** and defined in Section 2 below as the Donated Property with the intent that the City protect and manage the Donated Property as a public park and open space including the scenic viewshed, wildlife habitat, passive recreational uses, public access to the historic Thorodin Mountain fire-lookout trail, and water and forest resources (collectively, “**Park Purposes**”) through the City’s Parks and Recreation Department.

C. The City has agreed to accept the donation of the Donated Property with the intent that the City protect and manage the Park Purposes in accordance with the terms and provisions of this Agreement, through the City’s Parks and Recreation Department.

D. Donor will retain approximately 38 acres of the Subject Property as generally depicted on **Exhibit 3** including the ranch house, outbuildings, and historic farm equipment, defined in Section 2 below as the Retained Parcel, together with an Ingress/Egress Easement as defined in Section 2 below and generally depicted on **Exhibit 4**. Subject to the terms of this Agreement, Donor also agrees to convey to the City a Right Of First Offer (“**ROFO**”) on the Retained Parcel.

E. Donor will obtain an appraisal of the value of the Donated Property (and all improvements thereon) to determine the fair market value of the Donated Property (“**Appraised Value**”). Donor intends that the Appraised Value of the Donated Property shall be treated as a charitable contribution by Donor to the City less Transaction Costs, as defined herein in Section 3, provided by the City to Donor.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and obligations set forth herein, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. RECITALS INCLUDED. The Recitals set forth at the beginning of this Agreement are hereby incorporated as if fully set forth herein and are made part of this Agreement.

2. DONATED PROPERTY.

A. Subject to the terms of this Agreement, the Donor shall donate the Donated Property to the City together with Donor's interest, if any, in:

(i) all easements, rights of way and vacated roads, streets and alleys appurtenant to the Donated Property, except that the Donor shall reserve an access easement, as generally depicted on **Exhibit 4** ("**Ingress/Egress Easement**"), attached hereto and incorporated herein by reference, for itself, its heirs, successors and assigns, for the purposes of ingress and egress to the Retained Parcel;

(ii) all buildings, fixtures and improvements on the Donated Property;

(iii) all of Donor's right, title and interest, if any, in and to all utility taps, licenses, permits, contract rights, and warranties and guarantees associated with the Donated Property;

(iv) any and all mineral rights, including but not limited to, sand, gravel, coal, and oil, gas and other hydrocarbons in, under, and that may be produced from the Donated Property; and

(v) any and all water, water rights, ditches, ditch rights, springs, spring rights, storage rights, ponds, reservoirs, reservoir rights, wells, well permits, stock certificates, contract rights, water allotments and other rights in and to water, whether or not adjudicated, including storage rights, all associated infrastructure which are appurtenant to or used on or in connection with the Donated Property including the water and water rights under **Exhibit 5**.

Everything in this Section 2(A) is hereinafter collectively referred to as the "**Donated Property**". A legal description of the approximately 450 acres of land and the Ingress/Egress Easement will be prepared as part of the survey of the Donated Property and the Retained Parcel, pursuant to Section 7, below. The legal description of the Donated Property will replace the depiction in **Exhibit 2** initially attached to this Agreement and the legal description of the Ingress/Egress Easement will replace the depiction in **Exhibit 4** initially attached to this Agreement.

B. Subject to the terms of this Agreement, the Donor shall donate and the City shall accept a ROFO to the Retained Parcel, together with Donor's interest, if any, in:

(i) all easements, rights of way and vacated roads, streets and alleys appurtenant to the Retained Parcel;

(ii) all buildings, fixtures and improvements on the Retained Parcel;

(iii) all of Donor's right, title and interest, if any, in and to all utility taps, licenses, permits, contract rights, and warranties and guarantees associated with the Retained Parcel;

(iv) any and all mineral rights, including but not limited to, sand, gravel, coal, and oil, gas and other hydrocarbons in, under, and that may be produced from the Retained Parcel;

(v) any and all water, water rights, ditches, ditch rights, springs, spring rights, storage rights, ponds, reservoirs, reservoir rights, wells, well permits, stock certificates, contract rights, water allotments and other rights in and to water, whether or not adjudicated, including storage rights, all associated infrastructure which are appurtenant to or used on or in connection with the Retained Parcel including Axton Well No. 1-718, Axton Well No. 2, Axton Well No. 3 and Axton Spring No. 1.

Everything in this Section 2(B) is hereinafter collectively referred to as the “**Retained Parcel**”. A legal description of the Retained Parcel will be prepared as part of the survey of the Donated Property, pursuant to Section 7, below. The legal description of the Retained Parcel will replace the depiction in **Exhibit 3** initially attached to this Agreement.

3. TRANSACTION COSTS. Donor agrees to donate and convey the Donated Property and grant the ROFO to the Retained Parcel to the City in consideration of the covenants, conditions, warranties, stipulations and agreements herein contained, plus other good and valuable consideration, including **EIGHTY THOUSAND AND 00/100 DOLLARS (\$80,000.00)** provided by the City to Donor at Closing for expenses incurred by Donor to donate and convey the Donated Property to the City (“**Transaction Costs**”), the receipt and sufficiency thereof being hereby acknowledged by Donor, it being the intent of the Parties that this Agreement, once executed and approved by the City, shall be enforceable by its terms contained herein and shall not fail for lack of consideration.

4. CITY OBLIGATIONS. Subject to appropriations of monies expressly made by the City Council, the City agrees to make reasonable efforts, in its sole discretion, to perpetually perform the following:

- i. Protect and manage the Donated Property for Park Purposes.
- ii. Limit public uses on the Donated Property to passive recreation, including but not limited to: hiking, wildlife/bird watching, cross country skiing, snowshoeing, fishing, horseback riding, small-group camping and other non-motorized recreation (Americans with Disabilities Act access and recreation are not prohibited); and environmental education, youth programs, nature history and outdoor education studies.
- iii. Limit development on the Donated Property to structures and improvements, including but not limited to: hiking trails, welcome center, picnic shelters and tables, gazebos, restrooms, small-group camping areas, parking lots, interpretive and other signage, picnic tables, fire pits and maintenance facilities.
- iv. Maintain the historic 1930’s Civilian Conservation Corps constructed fire-lookout trail on the Donated Property and to provide interpretive signage and information regarding the history of the fire-lookout tower on Thorodin Mountain.

- v. Conduct forest management (including but not limited to selective thinning and dead tree harvesting) on the Donated Property to maintain forest health and prevent forest fires.
- vi. Keep Donor informed and allow Donor to comment regarding the development of applicable planning efforts related to the Donated Property.
- vii. Consider acquisition opportunities surrounding the Donated Property and cooperate with other park and open space agencies, including governmental or private landowners in the area, to expand the Donated Property or trail connections to existing park or open space lands.
- viii. Name the Donated Property “**Axton Ranch Mountain Park**” and designate it a City park by ordinance pursuant to § 2.4.5 of the Charter of the City as soon as possible after Closing.

5. DONATION VALUE. The City, as a municipal corporation, agrees, subject to approval by its Mayor and City Council, to accept and use the Donated Property for the Park Purposes, and recognizes Donor’s gift of the Donated Property as a charitable contribution to the City for such public use and for federal tax purposes. For purposes of this Agreement, the gift shall be valued by Donor in a total amount equal to (i) the Appraised Value of the Donated Property as established by Donor based on a qualified appraisal prepared by a qualified appraiser as defined under IRC § 170(f)(11)(E), obtained by Donor within sixty (60) days, and provided to the City no less than thirty (30) days, prior to the Closing; less (ii) the Transaction Costs. As reasonably requested by Donor, the City agrees to complete and properly execute all documents, including those required by the Internal Revenue Service (“**IRS**”) including Form 8283, necessary to properly recognize the Donor’s gift of the Donated Property as a charitable contribution to the City. However, the City makes no representation, warranty or agreement as to the fair market value of the Donated Property and makes no representation that the contribution is valid or acceptable as a charitable contribution pursuant to the United States Internal Revenue Code, IRS rulings or any other law or regulation. In all cases, the burden of proof of such contribution qualification and value shall remain with the Donor. The arguments, evidence, and justifications for the contribution qualification and value shall be the responsibility of the Donor. Except as expressly stated herein this Agreement, the City accepts no responsibility for any costs or liabilities that Donor or the City may incur in regard to this donation and Donor agrees to hold the City harmless from and indemnify the City for any such costs or liabilities. Donor is aware that it should seek the advice of an attorney or tax advisor to the extent the Donor deems necessary prior to execution of this Agreement.

6. ENVIRONMENTAL CONDITION.

A. Environmental Information. By the timeframe set forth in Section 13(A), Donor shall disclose, in writing, to the City all information Donor has actual knowledge of regarding any environmental contamination (including asbestos-contaminated soils) or the presence of any hazardous substances or toxic substances on, under, or about the Donated Property. If Donor acquires any actual knowledge of any additional information regarding environmental

contamination, Donor has the ongoing duty to provide such information to the City up to the time of Closing, and will do so within five (5) days of the receipt of such additional information. For purposes of this Agreement: “hazardous substances” means all substances listed pursuant to regulation and promulgated under the Comprehensive Environmental Response, Compensation, and Liability Act (“**CERCLA**”), 42 U.S.C., § 9601 *et seq.*, or applicable state law, and any other applicable federal or state laws now in force or hereafter enacted relating to hazardous waste disposal; provided, however, that the term hazardous substance also includes “hazardous waste” and “petroleum” as defined in the Resource Conservation and Recovery Act (“**RCRA**”), 42 U.S.C. § 6901 *et seq.* § 6991(1). The term “toxic substances” means and includes any materials present on the Donated Property that are subject to regulation under the Toxic Substance Control Act (“**TSCA**”), 15 U. S. C. § 2601 *et seq.*, applicable state law, or any other applicable federal or state law now in force or later enacted relating to toxic substances. The term “toxic substances” includes, but is not limited to, asbestos, polychlorinated biphenyls (PCB’s), and lead-based paints.

B. Environmental Review. City, at its sole option and expense, may conduct or cause to be conducted environmental audits and perform other environmental tests on the Donated Property to identify any existing or potential environmental problems located in, on, or under the Donated Property, including but not limited to, the presence of any hazardous waste, hazardous substances or toxic substances. Donor hereby grants the City and any of its employees and consultants access to the Donated Property to perform such audits and tests.

C. Notice of Unacceptable Environmental Conditions, Cure, City Election. By the deadline set forth in Section 13(B) of this Agreement, the City shall give notice to Donor of any unacceptable environmental condition relating to the Donated Property. Donor may elect (in Donor’s sole discretion), at Donor’s sole cost and expense, to cure such unacceptable environmental conditions by the deadline set forth in Section 13(C) to the City’s satisfaction. In the event Donor declines to cure the unacceptable environmental conditions or fails to respond to City’s notice thereof by the date set forth in Section 13(C) of this Agreement, the City, in its sole discretion, may elect to waive such unacceptable conditions and proceed to Closing by the deadline set forth in Section 13(D) of this Agreement or treat this Agreement as terminated with no further obligation on the part of either Party.

7. INSPECTION/SURVEY. The City has the right to inspect the physical condition of the Donated Property. Donor, at its sole cost and expense, shall provide to the City copies of any surveys of the Donated Property in its possession or under its control in accordance with the delivery schedule set forth in Section 13(A) below. In addition, the City, at its sole cost and expense, shall have the right to either update any survey delivered to the City by Donor, or have its own survey prepared in accordance with ALTA requirements. At its sole cost and expense, the City shall have legal descriptions and exhibit maps of the Donated Property, Ingress/Egress Easement and the Retained Parcel prepared as well as any applicable survey work necessary for Closing. This right to inspect is in addition to the right of the City to obtain an environmental audit. The City shall give notice of any unacceptable physical or survey condition of the Donated Property to Donor by the deadline set forth in Section 13(B). Donor may elect (in Donor’s sole discretion) at Donor’s sole cost and expense, to cure such unacceptable physical or survey condition by the deadline in Section 13(C) of this Agreement to the City’s satisfaction. In the event Donor declines to cure the unacceptable physical or survey conditions or fails to respond to the City’s notice thereof by the date set forth in Section 13(C) of this Agreement, the City, at its sole discretion, may elect to waive such unacceptable physical or survey condition by the date set forth

in Section 13(D) of this Agreement and proceed to Closing or treat this Agreement as terminated with no further obligation on the part of either Party.

Donor shall, within fourteen (14) days of the Effective Date, deliver to City copies of any and all existing leases, agreements, contracts or arrangements for management, service, maintenance or operation with respect to the Donated Property, that are currently in Donor's possession ("**Service Contracts**"). Prior to the expiration of the Due Diligence Period (defined in Section 13(B)(i) below), City shall notify Donor which of the Service Contracts it elects to assume at Closing, if any. In the event City fails to notify Donor of such election, the Service Contracts shall be terminated by Donor on or before the Closing Date at the sole and exclusive cost of Donor.

8. TITLE.

A. Title Review. The City will obtain, at its sole cost and expense, a commitment for Donor's title insurance policy for the Donated Property, including updates thereto, and all copies or abstracts of instruments or documents identified in the commitment ("**Title Documents**"). For informational purposes, the City will obtain a commitment for Donor's title insurance policy for the Retained Parcel, including updates thereto, and all copies or abstracts of instruments or documents identified in the commitment. The City has the right to review the Title Documents. The City shall provide a copy of the Title Documents to Donor within fourteen (14) days of the Effective Date of this Agreement.

B. Matters Not Shown by the Public Records. By the deadline set forth in Section 13(A) of this Agreement, Donor shall deliver to the City complete and accurate copies of all lease(s) and survey(s) in Donor's possession pertaining to the Donated Property that are not included in the Title Documents and shall disclose, in writing, to the City all easements, licenses, right to use agreements, liens or other title matters, including the Donated Property's water and mineral rights, not shown by the public records of which Donor has actual knowledge that are not included in the Title Documents. In addition, Donor shall provide all documents that pertain to the Donated Property and to the extent in Donor's possession, including but not limited to, soil reports, geo tech reports, water rights and engineering analyses, traffic studies, surveys, leases, and operating expenses for the Donated Property.

C. Notice of Unacceptable Condition, Cure, and City Elections. The City shall give notice of any unacceptable condition of title to Donor by the deadline set forth in Section 13(B) of this Agreement. At Donor's sole cost and expense, Donor may cure such unacceptable conditions by the date in Section 13(C) of this Agreement to the City's satisfaction. In the event Donor declines to cure such unacceptable conditions or fails to respond to the City's notice thereof by the date in Section 13(C) of this Agreement, the City in its sole discretion and by the date set forth in Section 13(D) of this Agreement, may elect to waive such unacceptable conditions and proceed to Closing or treat this Agreement as terminated with no further obligation on the part of either Party.

D. Subsequently Discovered Defects. At any time prior to Closing, if any matter affecting title to the Donated Property ("**Defect**") shall arise or be discovered by the City which is not set out in the Title Documents or disclosed to the City by Donor prior to the expiration of the Due Diligence Period, the City shall have the right to object to such Defect by the delivery to Donor of notice of such Defect within seven (7) days after the City discovers such Defect provided that, if such Defect is discovered within seven (7) days prior to the Closing Date, the Closing shall be extended for such period as may be necessary to give effect to the provisions of this Section

8(D). Upon receipt of notice of the City's objection to any such Defect, Donor shall have the right, but not the obligation, to cure such Defect to the satisfaction of the City and the Title Company (defined in Section 15) for a period of fourteen (14) days from the date of such notice or for a period mutually agreed to in writing by the Parties. If such cure period extends beyond the Closing Date, the Closing Date shall be extended to seven (7) days after the expiration of such cure period. If Donor cures the City's objection to the satisfaction of the City within such cure period, then the Closing shall occur on the original or postponed date of the Closing, but otherwise upon the terms and provisions contained herein. If Donor has not cured such Defect to the satisfaction of the City and the Title Company, the City shall (a) close on such original or postponed date (and the City shall thereby be deemed to have waived such objection); or (b) extend the Closing Date by written notice to Donor to allow such additional time as the Parties may agree for Donor to cure the Defect; or (c) treat this Agreement as terminated with no further obligation on the part of either Party.

9. LEGAL ACCESS TO DONATED PROPERTY. Notwithstanding the process and deadlines stated in Section 8(C) for matters related to the Title Documents and matters not shown in the Title Documents, the City's obligations under this Agreement are contingent upon a right of legal access being established to the Donated Property. If the City determines that a public right of way does not provide legal access to the Donated Property, the right of legal access must be a recorded easement that connects the Donated Property to a public right of way across the existing physical access road crossing the abutting property north of the Donated Property in Jefferson County ("**Legal Access**"). The abutting property north of the Donated Property is currently owned by Beth Eden Centenary Baptist Church. Prior to Closing, the City shall negotiate the terms of the Legal Access with the owner of the abutting property north of the Donated Property in Jefferson County and the Legal Access will be granted to the Donor benefitting the Donated Property and the Retained Parcel. In the event Legal Access, in a form and upon terms approved by the City, is not granted to Donor prior to Closing, the City may elect to waive the terms and conditions of this Section of the Agreement and proceed to Closing or provide notice to Donor and terminate this Agreement. Donor shall fully cooperate with the City and execute such document(s) as may reasonably be necessary for obtaining Legal Access, as negotiated by the City, to the Donated Property.

10. LEGAL ACCESS TO NEIGHBORING PROPERTY. Donor has disclosed to City that the owners of four properties south of the Retained Parcel, known as Jefferson County Assessor Parcel ID Nos.: 22-121-00-003, 22-121-00-002, 22-121-00-001, and 22-121-00-004 ("**Neighboring Properties**"), have been granted permission by Donor to use Donor's driveway and that the owner of one of these Neighboring Properties may have a claim to an ingress/egress easement. Notwithstanding the process and deadlines stated in Section 8(C) for matters related to the Title Documents and matters not shown in the Title Documents, and prior to Closing, the City and the Donor may negotiate the terms of the rights of legal access in the form of agreements being established to the Neighboring Properties across the Donated Property ("**Neighbor Access**"). Donor shall fully cooperate with the City and execute such document(s) as may reasonably be necessary for granting Neighbor Access, as negotiated by the City and Donor, to the Neighboring Properties. The Neighbor Access agreements may be recorded.

11. ENTITLEMENTS. The City's obligations under this Agreement are contingent upon its securing any applicable and required location and extent reviews, permits, lot changes or mergers, zoning changes and any and all other land use approvals (the "**Approvals**") necessary to acquire, use and operate the Donated Property for the Park Purposes. Prior to Closing, the City

shall obtain the Approvals from the appropriate entities. In the event the City fails to obtain the Approvals, the City may elect to waive the terms and conditions of this Section of the Agreement and proceed to Closing or provide notice to Donor and terminate this Agreement. Donor shall fully cooperate with the City and execute such document(s) as may reasonably be necessary for the City to obtain the requisite permits, authorizations, consents or approvals for its intended use.

12. CLOSING PRE-CONDITIONS.

A. Delivery of title shall be evidenced by the willingness of the Title Company to issue to City, at Closing, an ALTA form of extended coverage owner's policy of title insurance insuring marketable fee simple title to the Donated Property in the City in the amount of the Appraised Value, subject only to the permitted exceptions accepted by the City in accordance with Section 8 above (the "**Title Policy**"). Donor shall cooperate with the Title Company by executing, as necessary, reasonable and customary affidavits and provide reasonable assurances necessary for removal of the standard exceptions for defects, liens, mechanic's liens, tax or assessment liens, title insurance, encumbrances, encroachments, prescriptive easements, adverse claims, or similar matters, regarding such matters. The issuance of the Title Policy shall be a condition to City's obligation to close hereunder.

B. Prior to Closing, Donor shall have terminated the Service Contracts unless such Service Contract has been assumed in writing by City. Donor's aforementioned obligation to execute necessary affidavits and provide adequate assurances for the removal of the standard exceptions from title insurance to be issued is a condition precedent to the City's obligation to acquire the Donated Property.

C. From the Effective Date until the Closing Date or earlier termination of this Agreement, Donor: (a) shall operate and maintain the Donated Property in the manner that it is currently being operated and maintained by Donor; (b) shall not enter into any new lease, lease modification, lease extension or other occupancy or use agreement without obtaining City's prior written consent, which consent may be withheld or delayed in City's sole and absolute discretion; and (c) shall not enter into any contracts or commitments that will survive the Closing.

13. TIMEFRAMES.

A. Donor's Disclosure. Except as otherwise provided in this Agreement, Donor shall deliver any documents and make the disclosures required by this Agreement, including as required under Sections 6(A) and 8(B) of this Agreement, no later than 5:00 p.m. Mountain Time (Standard or Daylight Savings as applicable) (hereinafter referred to as "**Local Time**") fourteen (14) days after the Effective Date.

B. City's Objection Notice and Right to Terminate.

- i. The City shall notify Donor in writing of any unacceptable environmental, physical, survey, title conditions and all other unacceptable matters under Sections 6(C), 7, and 8(C) of this Agreement, above, no later than 5:00 p.m. Local Time, one hundred fifty-four (154) days after the Effective Date ("**Due Diligence Period**").

- ii. The City may terminate this Agreement for any reason or no reason at all in the City's sole and absolute discretion by delivering written notice to Donor.

C. Donor's Cure. Unless otherwise mutually agreed to in writing by the Parties, Donor shall have until no later than 5:00 p.m. Local Time fourteen (14) days from the date of City's objection notice to elect to cure all the unacceptable conditions set forth in any objection notice under Sections 6(C), 7, 8(C), and 13(B) of this Agreement.

D. City's Election. The City, by written notice to Donor, may elect to waive any uncured objections and proceed to Closing or to terminate this Agreement within seven (7) days of the deadline to cure established in Section 13(C) of this Agreement unless otherwise mutually agreed to in writing by the Parties which shall not be unreasonably withheld by Donor. In the event the City terminates this Agreement, the Parties shall be relieved of any further obligation under this Agreement.

E. Deadlines. In the event any date for a Party's performance occurs on a Saturday, Sunday, national or City holiday, or mandatory City scheduled furlough day, the date for such performance shall occur on the next regular business day following such weekend, national or City holiday, or mandatory City scheduled furlough day.

14. DATE OF CLOSING. The date of closing will occur on a date mutually agreed to by the Parties in writing signed by the Director of the Division of Real Estate or his designee, and the Donor, but in no event later than two hundred ten (210) days from the Effective Date unless mutually extended in writing by the Parties which shall not be unreasonably withheld by Donor ("**Closing Date**").

15. CLOSING. The Closing shall take place at a location mutually agreed to in writing by the Parties with a title company selected by the City ("**Title Company**") and shall be completed on or before 4:00 p.m. Local Time on the Closing Date ("**Closing**"). Donor or City may elect to close in escrow without attending the Closing.

A. Obligations of Donor at Closing. The following events shall occur at the Closing:

- i. Donor shall execute and deliver a deed in substantially the form set forth as **Exhibit 6** herein ("**Deed**") to the City at Closing conveying the Donated Property free and clear of all taxes (with proration as provided herein).
- ii. Donor shall execute and deliver the ROFO in substantially the form set forth as **Exhibit 7** herein to the City at Closing granting the opportunity for the City to purchase the Retained Parcel.
- iii. If requested by the City, Donor shall execute, have acknowledged and deliver to the City a bill of sale conveying to City all of Donor's right,

title and interest in and to any personal property located on the Donated Property.

- iv. Donor shall execute, have acknowledged and deliver to the City an assignment of leases, and a notice to all tenants or other occupants of the Donated Property under any occupancy agreement regarding the conveyance of the Donated Property to the City and providing that all future payments of rent or other monies due under the occupancy agreement shall be made to the City.
- v. Donor shall deliver such other instruments and documents as may be reasonably necessary or required to transfer title to the Donated Property to City, in the condition herein contemplated, including without limitation any affidavit or agreement required by the Title Company.

B. Obligations of City at Closing. The following events shall occur at Closing:

- i. City shall deliver or cause to be delivered to the Title Company good funds by wire transfer for the actual Transaction Costs and Closing Costs. Such delivery may be made pursuant to a closing instruction letter. Title Company shall disburse the Transaction Costs as instructed by the Donor.
- ii. At or after Closing, the City shall issue a contemporaneous written acknowledgement of Donor's gift of the Donated Property which will include a disclosure of the consideration Donor received from City for the Transaction Costs; and, as requested by Donor, execute and deliver to Donor IRS Form 8283.

C. Closing Costs. Closing Costs shall be as provided for in Section 19 below.

D. No Material Adverse Change. During the period from the date of Donor's execution of this Agreement to the Closing Date, there shall have been no material adverse change in the environmental condition or results of operations of the Donated Property, and the Donated Property shall not have sustained any loss, damage or encumbrances, which, in the sole discretion of the City, materially adversely affects its use.

16. POSSESSION. Possession of the Donated Property shall be delivered to the City at Closing.

17. REPRESENTATIONS AND WARRANTIES.

- A. Donor warrants and represents, to the best of Donor's actual present knowledge, without obligation of further inquiry, that as of the Effective Date and at the time of conveyance:
- i. There are no other parties in possession and the City shall have possession as of Closing or as otherwise agreed to herein; and
 - ii. There are no leasehold interests in the Donated Property; and
 - iii. There is no known condition existing with respect to the Donated Property or its operation, that violates any law, rule regulation, code or ruling of the City, the State of Colorado, the United States, or any agency or court thereof; and
 - iv. There are no patent or latent defects, soil deficiencies, or subsurface anomalies existing on the Donated Property; and
 - v. There is no pending or threatened litigation, proceeding, or investigation by any governmental authority or any other person affecting the Donated Property, nor does Donor know of any grounds for any such litigation, proceeding or investigations, other than as previously disclosed in Section 10; and
 - vi. Each and every document, schedule, item, and other information delivered or to be delivered by the Donor to the City or made available to the City for inspection under this Agreement is complete and accurate, or will be complete and accurate on the timeframes set forth herein; and
 - vii. Donor has provided or will provide, on the timeframes set forth herein, the City with a copy of all leases or rental and all other agreements and documents not shown in the real property records relating to the Donated Property, or to any part thereof under Section 8 of this Agreement (Title); and
 - viii. There are no improvements, real or personal, on the Donated Property not owned by the Donor and Donor warrants to the City that it is the lawful owner of all other improvements located in or on the Donated Property and is entitled to the consideration, as stated in Section 3, as compensation for the same; and
 - ix. There are no claims of possession not shown by record, as to any part of the Donated Property; and
 - x. With respect to environmental matters, except as previously disclosed herein:

1. No part of the Donated Property has ever been used as a landfill by Donor; and
2. Donor has no reason to believe or suspect and has no actual knowledge of the presence of asbestos-contaminated soils existing within the Donated Property; and
3. Donor has no knowledge or information that the Donated Property is or may be contaminated with any hazardous substances or toxic substances; and
4. Donor has not caused and will not cause, and to the best of the Donor's knowledge, there never has occurred, the release of any hazardous substances or toxic substances on the Donated Property; and
5. Donor has received no written or official notification that the Donated Property is subject to any federal, state or local lien, proceedings, claim, liability or action or the threat or likelihood thereof, for the cleanup, removal, or remediation of any hazardous substances or toxic substances from the Donated Property; and
6. Donor has no knowledge or information as to any storage tanks on or beneath the Donated Property.

By donating the Donated Property, Donor does not transfer, nor is it released from, any liability for the cleanup, removal, or remediation of any hazardous or toxic substances from the Donated Property or any liability, cost, or expense for the oversight, management, and removal of any asbestos (including asbestos-contaminated soils) or underground storage tank from the Donated Property, to the extent such liability may exist under federal, state, or local law.

B. Each Party hereto represents to the other Party that:

- i. It has the requisite power and authority to execute and deliver this Agreement and the related documents to which such Party is a signatory; and
- ii. The execution and delivery of this Agreement by such Party has been duly authorized by all requisite action(s) and creates valid and binding obligations of such Party, enforceable in accordance with its terms subject to the effect of general principles of equity, including without limitation concepts of materiality, reasonableness, good faith and fair dealing, the possible unavailability of specific performance or injunctive relief, regardless of whether considered in a proceeding in equity or at law, and subject to or limited by bankruptcy, insolvency,

reorganization, arrangement, moratorium or other similar laws relating to or affecting the rights of creditors; and

- iii. To the actual knowledge, without duty of inquiry, of (a) the Director of the Division of Real Estate for the City; and (b) Donor: neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate any constitution, statute, regulation, rule, injunction, judgment, order, decree or other restriction of any governmental authority or conflict with, result in a breach of, or constitute a default under any contract, lease, license instrument or other arrangement to which such Party is bound; and
- iv. It is authorized to execute this Agreement on behalf of its officers, directors, representatives, employees, subsidiaries, affiliates, members/shareholders, partners, agents, trustees, beneficiaries, attorneys, insurers, successors, predecessors and assigns. Each person who signs this Agreement in a representative capacity represents that he or she is duly authorized to do so; and
- v. It has not sold, assigned, granted or transferred to any other person, natural or corporate, any chose in action, demand or cause of action encompassed by this Agreement; and
- vi. IT IS FREELY AND VOLUNTARILY ENTERING INTO THIS AGREEMENT UNCOERCED BY ANY OTHER PERSON AND THAT IT HAS READ THIS AGREEMENT AND HAS BEEN AFFORDED THE OPPORTUNITY TO OBTAIN THE ADVICE OF LEGAL COUNSEL OF ITS CHOICE WITH REGARD TO THIS AGREEMENT IN ITS ENTIRETY AND UNDERSTANDS THE SAME.

18. PAYMENT OF ENCUMBRANCES. Donor is responsible for paying all encumbrances at or before Closing from the proceeds of this transaction or from any other source.

19. CLOSING COSTS, DOCUMENTS AND SERVICES.

A. The City shall pay for any title insurance policy to be issued on the Donated Property for the benefit of the City, all document fees and all fees for real estate closing services. The City and Donor shall sign and complete all customary or required documents at or before Closing, including the Deed and the ROFO. Any documents executed before Closing shall be held in escrow until all conditions of Closing are satisfied. The City's Director of Real Estate or his designee, shall sign all such closing documents and post-closing documents, including the ROFO and, if necessary, an escrow agreement, on behalf of the City.

20. PRORATIONS. Donor shall pay any and all taxes and special assessments accrued and owed on the Donated Property prorated through the date of Closing. Based on the most recent levy and the most recent assessment, at or before Closing, Donor shall pay all utility, water and

sewer charges, and other items related to the Donated Property prorated through the date of Closing.

21. BROKER'S FEES. The City and Donor represent to each other that they have had no negotiations through or brokerage services performed by any broker or intermediary with the exception of Dayton Land & Real Estate LLC, the Donor's broker. Donor is responsible for all commissions payable related to this transaction and any fees to Donor's broker shall be dispersed by Title Company to Broker at Closing as instructed by Donor.

22. RISK OF LOSS. The risk of loss or damage by fire or other casualty prior to Closing, except for those damages or casualties caused by the City or the City's agents, contractors or employees, shall be borne and assumed by Donor. If, prior to Closing, any portion of or the entire Donated Property is destroyed or made unsuitable for the City's intended use, including the Park Purposes, as solely determined by the City, through no fault of the City or the City's agents, contractors, or employees, the City may elect to terminate this Agreement by written notice delivered to Donor.

23. TIME IS OF THE ESSENCE/REMEDIES. Time is of the essence in this Agreement. All the agreements and representations set forth in this Agreement shall be binding upon and for the benefit of each Party's successors and assigns. If any payment due in accordance with this Agreement is not paid, honored or tendered when due, or if any other obligation under this Agreement is not performed or waived as provided in this Agreement, then there shall be the following remedies:

A. If City Is In Default. Donor may treat this Agreement as canceled and the Parties shall thereafter be released from all obligations under this Agreement. Donor expressly waives the remedies of specific performance and damages, including delay damages and attorney fees, or both, or any other legal or equitable remedy; provided, however, that in the event the Agreement has not been terminated prior to the expiration of the timeframes set forth in Sections 13(B) and 13(D), and the City is in default, Donor may, as its exclusive remedy, terminate this Agreement by written notice to the City.

B. If Donor Is In Default. The City may elect to treat this Agreement as canceled, in which case any things of value received by a Party under this Agreement shall be returned to the providing Party and the Parties shall thereafter be released from all obligations under this Agreement.

24. TERMINATION. If this Agreement is terminated, then all things of value received by a Party under this Agreement shall be returned to the providing Party, and the Parties shall be relieved of all obligations under this Agreement. In the event the City terminates this Agreement, the City shall reimburse the Donor for Transaction Costs incurred by the Donor not to exceed **TWENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$25,000.00)**. If requested by the City, Donor shall provide documentation, including receipts, substantiating that the Donor has incurred such expenses.

25. COOPERATION OF THE PARTIES. In the event that any third-party brings an action against a Party to this Agreement regarding the validity or operation of this Agreement, the other Party will reasonably cooperate in any such litigation. Any Party named in an action shall

bear its own legal costs.

26. SEVERABILITY. In the event that any provision of this Agreement would be held to be invalid, prohibited, or unenforceable in any applicable jurisdiction for any reason unless narrowed by construction, this Agreement shall, as to such jurisdiction, be construed as if such invalid, prohibited, or unenforceable provision had been more narrowly drawn so as not to be invalid, prohibited, or unenforceable in any jurisdiction for any reason. Such provision, as to such jurisdiction, shall be ineffective to the extent of such invalidity, prohibition, or unenforceability, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

27. NO DISCRIMINATION IN EMPLOYMENT. In connection with the performance duties under the Agreement, the Donor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts relating to the Agreement.

28. WHEN RIGHTS AND REMEDIES NOT WAIVED. In no event shall any performance under this Agreement constitute or be construed to be a waiver by either Party of any breach of covenant or condition or of any default that may then exist. The rendering of any such performance when any breach of default exists in no way impairs or prejudices any right of remedy available with respect to the breach of default. Further, no assent, expressed or implied, to any breach of any one or more covenants, provisions, or conditions of this Agreement may be deemed or taken to be a waiver or any other default or breach.

29. SUBJECT TO LOCAL LAWS; VENUE. The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

30. NOTICES. All notices provided for in this Agreement must be in writing and be personally delivered, sent via electronic mail, or mailed by registered or certified United States mail, postage prepaid, return-receipt requested, if to the Donor at the addresses listed below and if to the City at the addresses given below. Notices delivered personally or sent electronically are effective when sent. Notices sent by certified or registered mail are effective upon receipt. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered; however, these substitutions will not become effective until actual receipt of written notification.

If to City:

Director
Division of Real Estate
Department of Finance

201 West Colfax Avenue, Department 1010
Denver, Colorado 80202
e-mail: Jeffrey.Steinberg@denvergov.org

and

Acquisition & Asset Manager
Division of Real Estate
Department of Finance
201 West Colfax Avenue, Department 1010
Denver, Colorado 80202
e-mail: Luke.McKay@denvergov.org

and

Executive Director
Department of Parks and Recreation
201 West Colfax Avenue, Department 601
Denver, Colorado 80202
e-mail: Happy.Haynes@denvergov.org

With copies of termination and similar notices to:

Mayor
City and County of Denver
1437 Bannock Street, Room 350
Denver, Colorado 80202

and

Denver City Attorney's Office
201 West Colfax Avenue, Department 1207
Denver, Colorado 80202

If to Donor:

Starr Peak Holdings LLC
Attn: Alan Axton
5021 23rd Street
Greeley, Colorado 80634
Email: aaaxton@gmail.com

and

Dayton Land & Real Estate LLC
Attn: Nancy Dayton
7691 Hygiene Road
Longmont, Colorado 80503
nancydayton@hotmail.com

31. **RIGHT TO ALTER TIME FOR PERFORMANCE.** The Parties may alter any time for performance set forth in this Agreement by a letter signed by the Director of the Division of Real Estate or his designee, and an authorized representative of Donor.

32. **AGREEMENT AS COMPLETE INTEGRATION; AMENDMENTS.** This Agreement is intended as the complete integration of all understandings between the Parties. No prior or contemporaneous addition, deletion or other amendment to this Agreement will have any force or effect whatsoever, unless embodied in writing in this Agreement. Except as expressly provided for in this Agreement, no subsequent novation, modification, renewal, addition, deletion, or other amendment to this Agreement shall have any force or effect unless embodied in a written amendatory or other agreement executed by both Parties.

33. **THIRD-PARTY BENEFICIARY.** It is the intent of the Parties that no third-party beneficiary interest is created in this Agreement except for any assignment pursuant to this Agreement. The Parties are not presently aware of any actions by them or any of their authorized representatives that would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Agreement.

34. **APPROPRIATION BY CITY COUNCIL.** All obligations of the City under and pursuant to this Agreement are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Agreement and paid into the Treasury of the City.

35. **REASONABLENESS OF CONSENT OR APPROVAL.** Whenever under this Agreement “reasonableness” is the standard for the granting or denial of the consent or approval of either Party, such Party shall be entitled to consider public and governmental policy, moral and ethical standards, as well as business and economic considerations.

36. **NO PERSONAL LIABILITY.** No elected official, director, officer, agent or employee of the City nor any director, officer, employee or personal representative of Donor shall be charged personally or held contractually liable by or to the other Party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

37. **CONFLICT OF INTEREST BY CITY OFFICER.** Donor represents that to the best of Donor’s information and belief no officer or employee of the City is either directly or indirectly a party to or in any manner interested in this Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

38. **MERGER.** The terms of this Agreement survive Closing and do not merge into the Deed conveying the Donated Property.

39. **CONSTRUCTION.** This Agreement may not be interpreted in favor of or against either Donor or the City merely because of their respective efforts in preparing it. The rule of strict construction against the drafter does not apply to this Agreement. This instrument is subject to the following rules of construction:

A. Specific gender references are to be read as the applicable masculine, feminine, or gender neutral pronoun.

B. The words “include,” “includes,” and “including” are to be read as if they were followed by the phrase “without limitation.”

C. The words “Party” and “Parties” refer only to a named party to this Agreement.

D. Unless otherwise specified, any reference to a law, statute, regulation, charter or code provision, or ordinance means that statute, regulation, charter or code provision, or ordinance as amended or supplemented from time to time and any corresponding provisions of successor statutes, regulations, charter or code provisions, or ordinances.

E. Headings and captions contained herein are inserted as a matter of convenience and for reference, and in no way define, limit, extend, or describe the scope of this Agreement or any provisions hereof.

40. ASSIGNMENT. The City is not obligated or liable under this Agreement to any party other than Donor named in this Agreement. Donor understands and agrees that it may not assign any of its rights, benefits, obligations, or duties under this Agreement without the City’s prior written approval.

41. CITY EXECUTION OF AGREEMENT. This Agreement is subject to, and will not become effective or binding on the City until full execution by all signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

42. COUNTERPARTS. This Agreement may be executed in counterparts, each of which is an original and together constitute the same document. This Agreement may be executed by electronically scanned signatures which shall be deemed an original.

43. EFFECTIVE DATE. The effective date shall be the date the City delivers a fully executed, as per Section 41 of this Agreement, electronic copy of this Agreement via electronic mail to the Donor (“**Effective Date**”).

44. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS. Each Party consents to the use of electronic signatures by the other Party. This Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the Parties in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

45. NO RELIANCE. The Parties expressly assume any and all risks that the facts and law that may be or become different from the facts and law as known to, or believed to be, by the Parties as of the date of this Agreement. In executing this Agreement, no Party has relied upon any information supplied by the other or by their attorneys, or upon any obligation or alleged obligation

of the other Party to disclose information relevant to this Agreement other than the information specifically required to be disclosed by this Agreement.

List of Exhibits:

Exhibit 1 – Depiction of Subject Property

Exhibit 2 – Depiction/Description of Donated Property

Exhibit 3 – Depiction/Description of Retained Parcel

Exhibit 4 – Depiction/Description of Ingress/Egress Easement

Exhibit 5 – Water Rights Description

Exhibit 6 – Form of Deed

Exhibit 7 – Form of Right of First Offer

[Remainder of Page Intentionally Left Blank]

Contract Control Number:
Contractor Name:

FINAN-202157840-00
STARR PEAK HOLDINGS LLC

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By:

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

Attorney for the City and County of Denver

By:

By:

By:

Contract Control Number:
Contractor Name:

FINAN-202157840-00
STARR PEAK HOLDINGS LLC

SEE SIGNATURES ATTACHED

By: _____

Name: _____
(please print)

Title: _____
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

(Donor's Signature Page)

STARR PEAK HOLDINGS LLC

Kathleen A. Axton
Kathleen A. Axton, Member Manager



STATE OF Arizona)
) ss
COUNTY OF Maricopa

The foregoing instrument was acknowledged before me on December 23, 2020 by Kathleen A. Axton a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: July 16, 2022

Minnie Jo Gurule
Notary Public

Alan A. Axton
Alan A. Axton, Member Manager



STATE OF Arizona)
) ss
COUNTY OF Maricopa

The foregoing instrument was acknowledged before me on December 23, 2020 by Alan A. Axton a Member Manager of Starr Peak Holdings I.I.C., a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: July 16, 2022

Minnie Jo Gurie
Notary Public


Annette Iszler, Member Manager



STATE OF Arizona)
) ss
COUNTY OF Maricopa)

The foregoing instrument was acknowledged before me on December 23, 2020 by Annette Iszler a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: July 16, 2022


Minnie Jo Gurule
Notary Public

[Signature]
Cody Tszler, Member Manager



STATE OF Arizona)
) ss
COUNTY OF Maricopa)

The foregoing instrument was acknowledged before me on December 23, 2020 by Cody Tszler a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.
My commission expires: July 16, 2020

[Signature: Minnie Jo Gurule]
Notary Public



Joshua Iszler, Member Manager



STATE OF Arizona)

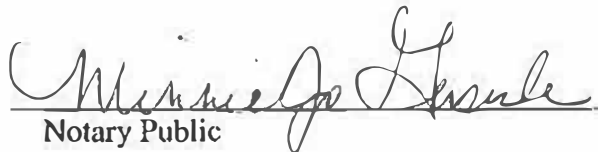
) ss

COUNTY OF Maricopa

The foregoing instrument was acknowledged before me on December 23, 2020 by Joshua Iszler a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

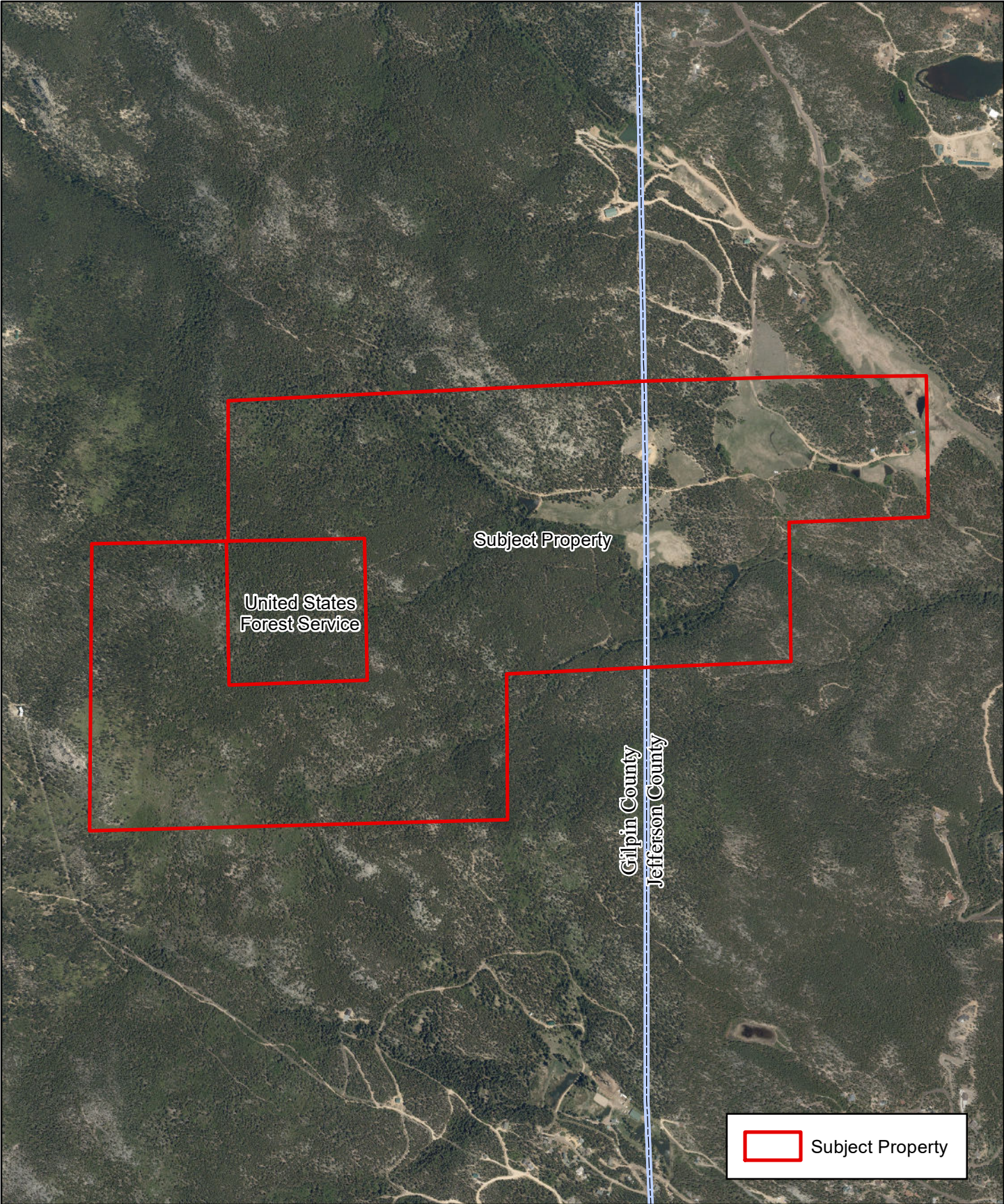
My commission expires: July 16, 2022



Notary Public

EXHIBIT 1

(Depiction of Subject Property)



Axton Ranch

Exhibit 1: Subject Property

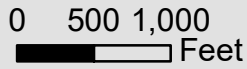
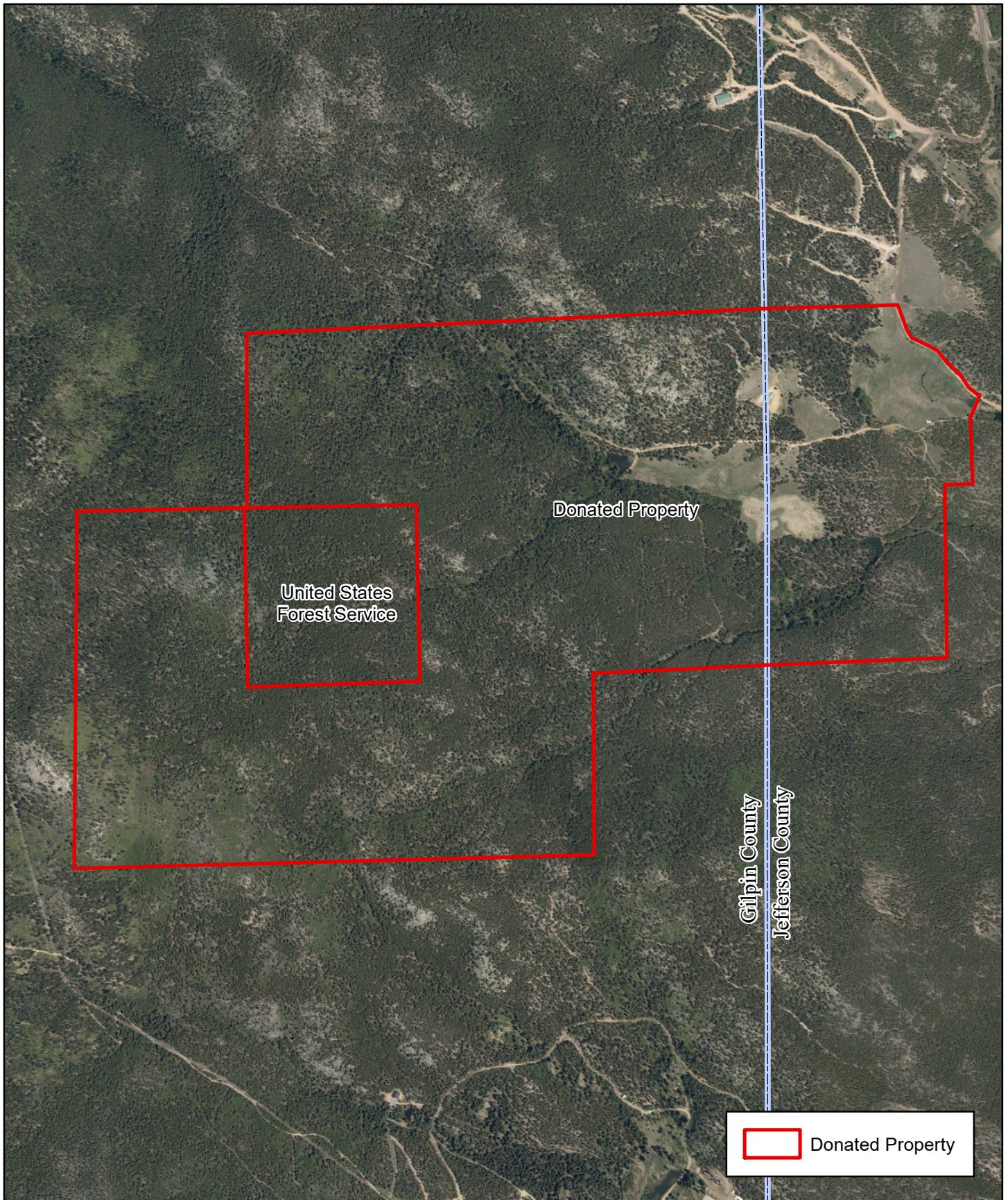


EXHIBIT 2

(Depiction/Description of Donated Property)

And also including any and all water rights appurtenant to or used in connection with the Donated Property and any and all mineral rights, including but not limited to, sand, gravel, coal, and oil, gas and other hydrocarbons in, under, and that may be produced from the lands described herein.



Axton Ranch

Exhibit 2: Donated Property

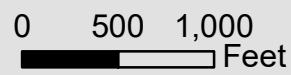
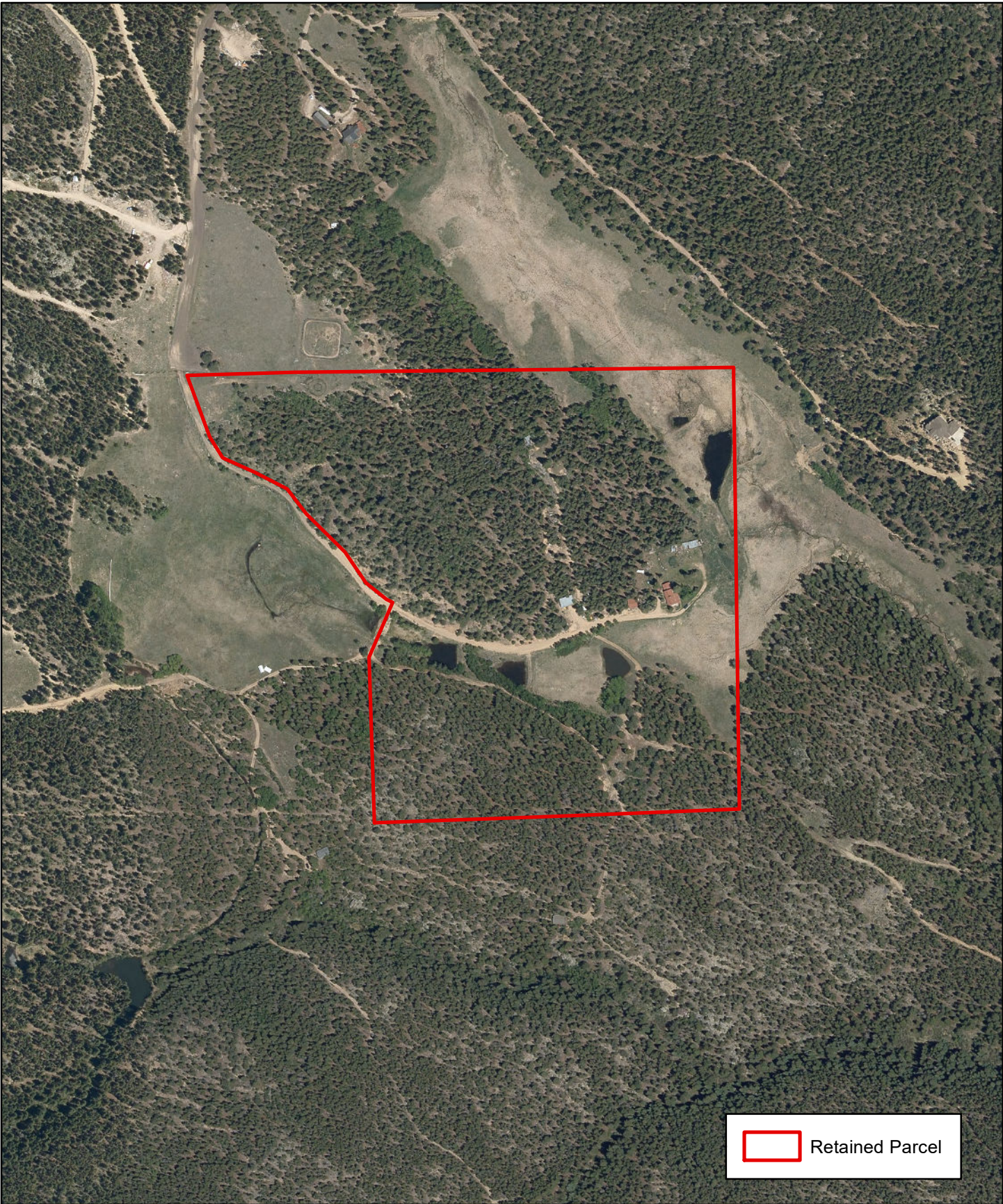



EXHIBIT 3

(Depiction/Description of Retained Parcel)

And also including any and all water rights appurtenant to or used in connection with the Retained Parcel and any and all mineral rights, including but not limited to, sand, gravel, coal, and oil, gas and other hydrocarbons in, under, and that may be produced from the lands described herein.



 Retained Parcel

Axton Ranch

Exhibit 3: Retained Parcel


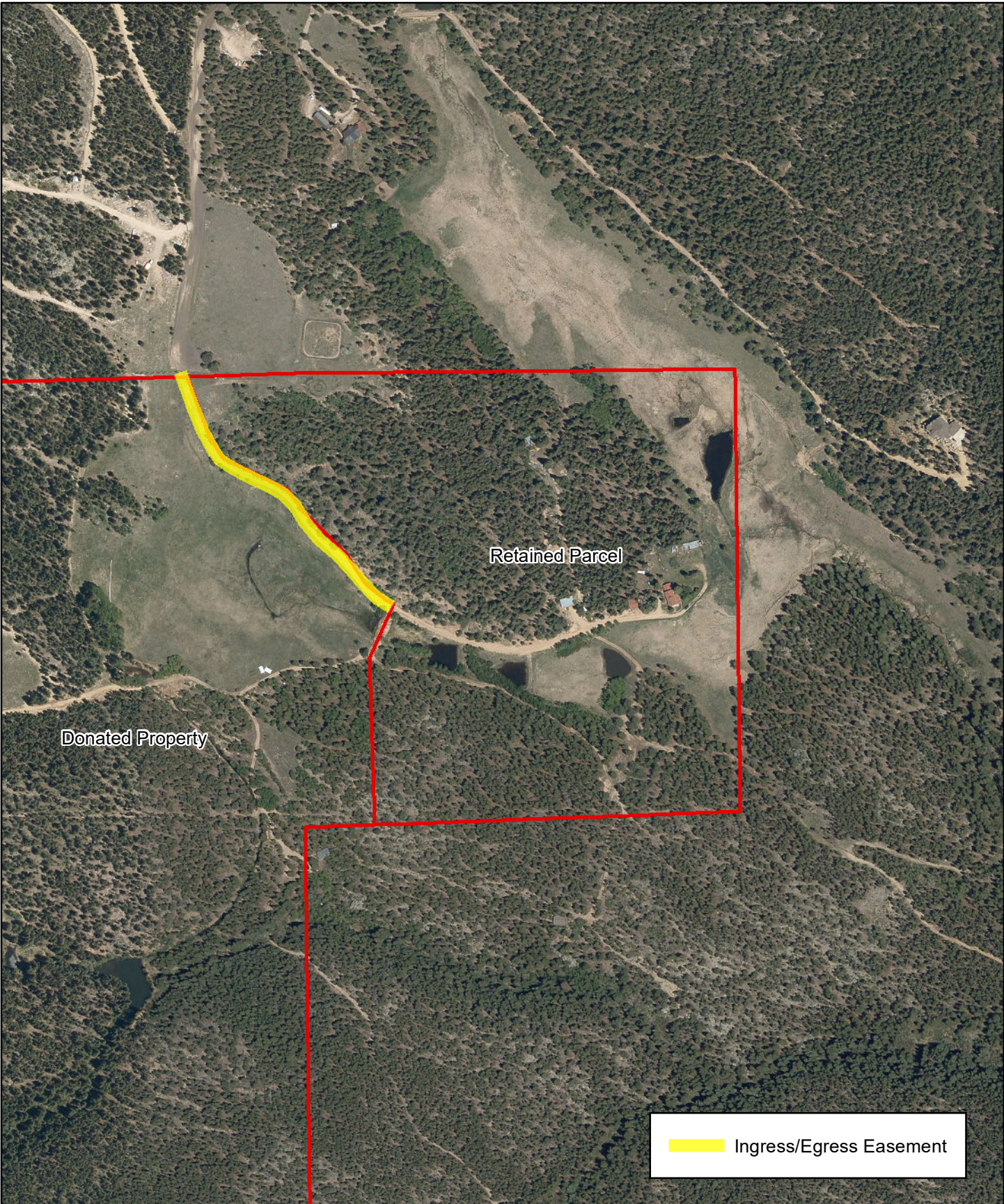
0 200 400
 Feet



EXHIBIT 4

Depiction/Description of Ingress/Egress Easement



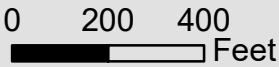
Donated Property

Retained Parcel

 Ingress/Egress Easement

Axton Ranch

Exhibit 4: Ingress/Egress Easement



The City and County of Denver shall not be liable for damages arising out of the use of this information. The information is provided "as is" without warranty of any kind, expressed or implied, including, but not limited to the fitness for a particular use.

EXHIBIT 5

(Water Rights Description)

1. Axton Well No. 4-unregistered adjudicated June 29, 1972 in Case Number W-5394 in the Water Court in and for Water Division Number 1, with an appropriation date of March 31, 1954.
2. Axton Well No. 5-unregistered adjudicated June 29, 1972 in Case Number W-5394 in the Water Court in and for Water Division Number 1, with an appropriation date of August 5, 1954.

EXHIBIT 6

(Form of Deed)

After recording, return to:
Luke McKay
Division of Real Estate
City and County of Denver
201 West Colfax Avenue, Department. 1010
Denver, Colorado 80202
Project: _____
Asset Management No.: _____

DEED

(No documentary Fee Required – CRS 38-13-104 and No Recording Fee)

THIS DEED (“Deed”), made as of this _____ day of _____, 202__, by STARR PEAK HOLDINGS LLC, a Colorado limited liability company, whose address is 11333 Camp Eden Road, Golden, Colorado 80403 (“Grantor”) to the CITY AND COUNTY OF DENVER, a Colorado municipal corporation of the State of Colorado and home rule city, whose address is 1437 Bannock Street, Denver, Colorado 80202 (“Grantee”).

WITNESSETH, that the Grantor, for and in consideration of the sum of _____ Dollars (\$) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and by these presents does hereby grant, bargain, sell, convey and confirm, unto the Grantee, and its successors and assigns forever, the real property described below, together with all improvements thereon, owned by the Grantor situate, lying and being in the County of Jefferson and the County of Gilpin, State of Colorado, and being more particularly described on Exhibit A attached hereto and incorporated herein (“Property”), RESERVING, however, unto Grantor a non-exclusive ingress and egress easement for residential access to Grantor’s undivided 38-acre parcel that is abutting the Property, such easement being more particularly described on Exhibit B and Grantor’s 38-acre parcel being more particularly described on Exhibit C;

TOGETHER WITH all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all of the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, of, in, and to the above-bargained Property, together with the hereditaments and appurtenances;

TO HAVE AND TO HOLD the Property above bargained and described with the appurtenances, unto the Grantee, and its successors and assigns forever. The Grantor, for itself and its successors and assigns does covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the above-bargained Property in the quiet and peaceable possession of the Grantee, and its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through, or under the Grantor.

PROVIDED, HOWEVER, the Grantee will make reasonable efforts, in its sole discretion, and subject to appropriations of monies expressly made by the Grantee's City Council, to perform the following:

- i. Protect and manage the Property as a public park and open space.
- ii. Limit public uses on the Property to passive recreation, including but not limited to: hiking, wildlife/bird watching, cross country skiing, snowshoeing, fishing, horseback riding, small-group camping and other non-motorized recreation (Americans with Disabilities Act access and recreation are not prohibited); and environmental education, youth programs, nature history and outdoor education studies.
- iii. Limit development on the Property to structures and improvements, including but not limited to: hiking trails, welcome center, picnic shelters and tables, gazebos, restrooms, small-group camping areas, parking lots, interpretive and other signage, picnic tables, fire pits and maintenance facilities.
- iv. Maintain the historic 1930's Civilian Conservation Corps constructed fire-lookout trail on the Property and to provide interpretive signage and information regarding the history of the fire-lookout tower on Thorodin Mountain.
- v. Conduct forest management (including but not limited to selective thinning and dead tree harvesting) on the Property to maintain forest health and prevent forest fires.
- vi. Keep Grantor informed and allow Grantor to comment regarding the development of applicable planning efforts related to the Property.
- vii. Consider acquisition opportunities surrounding the Property and cooperate with other park and open space agencies, including governmental or private landowners in the area, to expand the Property or trail connections to existing park or open space lands.
- viii. Name the Property "Axton Ranch Mountain Park" and designate it a City and County of Denver park by ordinance pursuant to § 2.4.5 of the Charter of the City and County of Denver as soon as possible after closing.

No separate bill of sale with respect to improvements on the Property will be executed.

IN WITNESS WHEREOF, the Grantor has executed this Deed on the date set forth above.

STARR PEAK HOLDINGS LLC

Kathleen Axton, Member Manager

STATE OF _____)
) ss
 COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Kathleen Axton a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Alan Axton, Member Manager

STATE OF _____)
) ss
 COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Alan Axton a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Annette Axton Iszler, Member Manager

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Annette Axton a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Cody Iszler, Member Manager

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Cody Iszler a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Joshua Iszler, Member Manager

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Joshua Iszler a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A
TO
DEED

Legal Description of the Property:

And also including any and all water rights appurtenant to or used in connection with the Property and any and all mineral rights, including but not limited to, sand, gravel, coal, and oil, gas and other hydrocarbons in, under, and that may be produced from the lands described herein.

EXHIBIT B
TO
DEED

Legal Description of the Easement:

EXHIBIT C
TO
DEED

Legal Description of the Grantor's 38-acre parcel:

EXHIBIT 7

(Form of Right of First Offer)

After recording, return to:

Division of Real Estate
City and County of Denver
201 West Colfax Avenue, Department 1010
Denver, Colorado 80202
Project: _____
Asset Management No.: _____

RIGHT OF FIRST OFFER AGREEMENT

THIS RIGHT OF FIRST OFFER AGREEMENT (the “**Agreement**”) is made this ____ day of _____, 20__, by **STARR PEAK HOLDINGS LLC**, a Colorado limited liability company, whose address is 11333 Camp Eden Road, Golden, Colorado 80403 (“**Grantor**”), and **CITY AND COUNTY OF DENVER**, a home rule city and municipal corporation of the State of Colorado, whose address is 1437 Bannock Street, Denver, Colorado 80202 (“**Grantee**”);

1. Recitals

1.1 Grantor, by deed (the “**Deed**”) dated _____, 20__, and recorded _____, 20__, at Reception No. _____ of the real estate records in the Office of the Clerk and Recorder of Jefferson County, Colorado and recorded _____, 20__, at Reception No. _____ of the real estate records in the Office of the Clerk and Recorder of Gilpin County, Colorado, conveyed to Grantee certain lands and water rights described in the Deed. As part of the real estate transaction for the land described in the Deed, Grantor retained an abutting approximately 38-acre parcel of land and water rights (the “**Property**”), which are the subject of this Agreement, and which Grantor owns in fee simple, as more particularly described in **Exhibit A**, attached hereto and by this reference made a part hereof.

1.2 Grantor has agreed to grant to Grantee a right of first offer to acquire the Property upon the terms and conditions herein set forth.

2. Consideration

2.1 In consideration of the donation and conveyance by Grantor to Grantee of the lands and water rights described in the Deed, and for the further consideration of Ten Dollars (\$10.00) in hand paid to Grantor by Grantee, and other good and valuable consideration, the receipt and sufficiency of which are hereby confessed and acknowledged by Grantor, the parties hereto agree as hereinafter set forth.

3. Right of First Offer

3.1 Grantor, for Grantor and Grantor's heirs, successors, and assigns, hereby agrees that Grantor will not sell the Property, or any part thereof, without first offering same to Grantee for purchase. This Agreement creates in Grantee a right of first offer to purchase the Property, or any portion thereof, according to the terms and conditions hereof.

3.2 The right of first offer granted in Section 3.1 above shall be honored by Grantor and exercised by Grantee in the following manner:

(a) If the Grantor wants to sell the Property to any third-party, Grantor must notify the Grantee of their intent to sell the Property and, until the Grantee has had the opportunity to purchase the Property as described in this Agreement, the Grantor must not (a) list the Property for sale with a broker or other agent or otherwise offer it for sale or other transfer to any third-party or (b) discuss or negotiate the terms of a transfer with any third-party.

(b) Grantor's notice of intent to sell must include the purchase price and other terms of sale that Grantor is willing to accept in consideration of the sale of the Property (the "**Grantor's Offer**").

(c) Within sixty (60) days after receiving the notice of intent to sell (the "**Acceptance Period**"), the Grantee may, by notice to the Grantor, accept the Grantor's Offer or make a counteroffer setting forth the purchase price that Grantee is willing to pay and other terms the Grantee is willing to accept in consideration of the Property.

(d) If the Grantee responds to the Grantor's Offer with the Grantee's counteroffer, then during the time remaining of the Acceptance Period and the sixty (60) days following (together, the "**Negotiation Period**"), the Grantor and the Grantee must make good faith attempts to find mutually acceptable terms for the sale of the Property. The initial offer and counteroffer remain open and available for acceptance for the entire Negotiation Period.

(e) The Grantee's rights under this Agreement are ended and Grantor is free to offer the Property for sale to third parties if:

(i) at the end of the Acceptance Period, the Grantor has not received notice that the Grantee has either: (1) accepted the Grantor's Offer; or (2) elected to negotiate during the Negotiation Period by submitting the Grantee's counteroffer; or

(ii) at the end of the Negotiation Period: (1) no offer has been accepted and (2) the Grantor and the Grantee fail to reach agreement on mutually acceptable terms for the transfer of the Property.

(f) The Grantee's rights under this Agreement are on-going if the Grantor has not completed a sale of the Property to a third-party within one (1) year following the end of the Acceptance Period.

(g) Grantee's failure to exercise, or Grantee's disclaimer of, such right with respect to any transfer of less than all of the Property shall not be deemed a waiver of such right with respect to that part of the Property owned by Grantor after such transfer.

3.3 This right of first offer shall apply to all transactions involving a conveyance of title to the Property, or any portion thereof, including but not limited to a purchase, an exchange, or any other transfer of an interest in the Property for consideration, other than a lease of no more than three (3) years' duration.

4. Miscellaneous

4.1 In the event that any provision of this Agreement would be held to be invalid, prohibited, or unenforceable in any applicable jurisdiction for any reason unless narrowed by construction, this Agreement shall, as to such jurisdiction, be construed as if such invalid, prohibited, or unenforceable provision had been more narrowly drawn so as not to be invalid, prohibited, or unenforceable in any jurisdiction for any reason. Such provision, as to such jurisdiction, shall be ineffective to the extent of such invalidity, prohibition, or unenforceability, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

4.2 The Agreement will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into the Agreement. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to the Agreement will be in the District Court of the State of Colorado, First Judicial District (Jefferson District Court).

4.3 All notices provided for in this Agreement must be in writing and be personally delivered, sent via electronic mail, or mailed by registered or certified United States mail, postage prepaid, return-receipt requested, if to the Grantor at the addresses listed below and if to the Grantee at the addresses given below. Notices delivered personally or sent electronically are effective when sent. Notices sent by certified or registered mail are effective upon receipt. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered; however, these substitutions will not become effective until actual receipt of written notification.

If to Grantee:

Director
Division of Real Estate
Department of Finance
201 West Colfax Avenue, Department 1010
Denver, Colorado 80202
e-mail: RealEstate@denvergov.org

and

Executive Director
Department of Parks and Recreation
201 West Colfax Avenue, Department 601
Denver, Colorado 80202
e-mail: ParksandRecreation@denvergov.org

With copies to:

Mayor
City and County of Denver
1437 Bannock Street, Room 350
Denver, Colorado 80202

and

Denver City Attorney's Office
201 West Colfax Avenue, Department 1207
Denver, Colorado 80202

If to Grantor:

Starr Peak Holdings LLC
Attn: Alan Axton
5021 23rd Street
Greeley, Colorado 80634
Email: aaaxton@gmail.com

4.4 This Agreement shall be binding upon and shall inure to the benefit of the heirs, assigns, successors, and personal representatives of the parties hereto.

4.5 This Agreement may, at the option of the Grantee, be recorded in the public records of Jefferson County. Once the Grantee's opportunities to purchase under this Agreement have ended without possibility of reinstatement, the Grantee must execute, at the request of the Grantor, a release of this agreement for recording in the public records of Jefferson County.

IN WITNESS WHEREOF, the parties have hereunder set their hands and seals as of the day and year first above written.

GRANTOR:
STARR PEAK HOLDINGS LLC

Kathleen Axton, Member Manager

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Kathleen Axton a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Alan Axton, Member Manager

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Alan Axton a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Annette Axton Iszler, Member Manager

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Annette Axton a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Cody Iszler, Member Manager

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Cody Iszler a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

Joshua Iszler, Member Manager

STATE OF _____)
) ss
COUNTY OF _____)

The foregoing instrument was acknowledged before me on _____, 202_ by Joshua Iszler a Member Manager of Starr Peak Holdings LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A
TO
RIGHT OF FIRST OFFER AGREEMENT

Legal Description of the Property:

And also including any and all water rights appurtenant to or used in connection with the Property and any and all mineral rights, including but not limited to, sand, gravel, coal, and oil, gas and other hydrocarbons in, under, and that may be produced from the lands described herein.