

Any time the Property itself or any interest in it is transferred by Landowner to any third party, Landowner shall pay a transfer fee of 0.25 percent of the sales price and be used by Land Trust for purposes consistent with its mission, pursuant to the terms and provisions of Paragraph 24 of this Easement.

**DEED OF CONSERVATION EASEMENT  
PAULSON RANCH**

**NOTICE: This Conservation Easement has also been acquired in part with a grant (“Grant”) from the Colorado Water Conservation Board (“CWCB”).**

10 THIS DEED OF CONSERVATION EASEMENT (“**Easement**” or “**Deed**”) is made this day of December, 2020, by and between **ROCK PAULSON aka ROCK B. PAULSON** and **TERRI PAULSON aka TERRI R. PAULSON** having their address at 1551 Swede Lane, Monte Vista, CO 81144 (“**Landowner**”), in favor of the **RIO GRANDE HEADWATERS LAND TRUST**, a Colorado nonprofit corporation, with a principal place of business at 840 Grande Avenue, Del Norte, Colorado 81132 (“**Land Trust**”). Landowner and Land Trust are referred to herein individually as a “**Party**” and collectively as “**Parties**”. The following exhibits are attached and incorporated:

<b>Exhibit A</b>	Legal Description of the Property
<b>Exhibit B</b>	Maps of Property
<b>Exhibit C</b>	Survey
<b>Exhibit D</b>	Water Rights
<b>Exhibit E</b>	Acknowledgement of Baseline
<b>Exhibit F</b>	Exceptions to Title

**RECITALS:**

A. Landowner is the sole owner in fee simple of certain real property legally described in **Exhibit A** attached hereto which consists of approximately one hundred and ninety-five (195) acres of land, together with Water Rights as described in **Exhibit D** beneficially used on such land located in Rio Grande County, Colorado (the “**Property**”).

B. The Property possesses relatively natural habitat, scenic open space, and agricultural productivity (collectively, “**Conservation Values**”) that are important to the Landowner, the people of Rio Grande County and the people of the State of Colorado.

In accordance with 26 U.S.C.A. § 170(h)(4)(A)(iii), and the Treasury Regulations adopted pursuant thereto, the Easement on the Property will preserve the Property’s open space characteristics for the scenic enjoyment of the general public and pursuant to the governmental conservation policies outlined below, yield a significant public benefit. The Property is highly visible from Swede Lane, a well-traveled County road which passes through the center of the Property. This Easement will protect the scenic values offered to travelers along this route. Protection of the Property contributes to the conservation of the intact ranching and natural

landscapes that currently characterize this area. Additionally, the Property contains productive agricultural lands with surface water rights, supporting irrigated meadows and livestock grazing.

In accordance with 26 U.S.C.A. § 170(h)(4)(A)(ii), and the Treasury Regulations adopted pursuant thereto, the Easement on the Property will preserve the Property's relatively natural habitat of fish, wildlife, or plants, or similar ecosystem, and yield a significant public benefit pursuant to the governmental conservation policies outlined below. Approximately 430' of active channel of the Rio Grande flows through the Property. Protection of this section of the River would add to other protected reaches of the River in Rio Grande County, as well as other protected sections of the River in adjacent counties upstream and downstream of the Paulson Ranch. The Property provides important diverse wildlife habitat for a number of wildlife species. The special habitat components found on the ranch include the River and its floodplain, wetlands, marshes, ponds, mature cottonwood woodlands, and the hay production areas. The wetland areas offer breeding and foraging habitat for waterfowl and amphibious species. Mature cottonwood galleries provide important nesting, roosting, and perching habitat for a variety of resident and migratory bird species. The hay production areas also provide foraging habitat for large and small mammals, birds and amphibians, especially during periods outside of the haying season.

The conservation purpose of this Easement is recognized by, and the grant of this Easement will serve, at least and without limitation, the following clearly delineated governmental conservation policies:

- The Farmland Protection Policy Act, P.L. 97-98, 7 U.S.C.A. §§ 4201- 4209 whose purpose is "to minimize the extent to which Federal programs and policies contribute to the unnecessary and irreversible conversion of farmland to nonagricultural uses, and to assure that Federal programs are administered in a manner that, to the extent practicable, will be compatible with state, unit of local government and private programs and policies to protect farmland." 7 U.S.C.A. § 4201(b) (2011).
- C.R.S. §§ 38-30.5-101 to 38-30.5-111, providing for the establishment of conservation easements to maintain land "in a natural, scenic, or open condition, or for wildlife habitat, or for agricultural, horticultural, wetlands, recreational, forest, or other use or condition consistent with the protection of open land, environmental quality or life-sustaining ecological diversity." C.R.S. § 38-30.5-102 (2010).
- The Colorado Parks and Wildlife Statutes, C.R.S. §§ 33-1-101 to 33-1-121, which provide that "it is the 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." C.R.S. § 33-1-101(1) (2010).
- The Colorado Parks and Wildlife Statutes, C.R.S. §§ 33-2-101 to 33-2-106, which provide that "it is the policy of this state to manage all nongame wildlife, recognizing the private property rights of individual property owners, for human enjoyment and welfare, for scientific purposes, and to ensure their perpetuation as members of ecosystems; that species or subspecies of wildlife indigenous to this state which may be found to be endangered or threatened within the state should be accorded protection in order to maintain and enhance their numbers to the extent

possible; that this state should assist in the protection of species or subspecies of wildlife which are deemed to be endangered or threatened elsewhere..." C.R.S. § 33-2-102 (2010).

- The Colorado Parks and Wildlife Statutes, C.R.S. §§ 33-10-101 to 33-10-114, which provide that "it is the policy of the state of Colorado that the natural, scenic, scientific, and outdoor recreation areas of this state are to be protected, preserved, enhanced, and managed for the use, benefit, and enjoyment of the people of this state and visitors of this state." C.R.S. § 33-10-101(2) (2010).
- The Colorado Department of Agriculture Statutes, C.R.S. § 35-3-102, which provides in part that "the soil resources and fertility of the land of this state, and the economic use thereof, the prosperity of the farming population of this state, and the waters of the rivers of this state, and the prevention of floods are matters affected with a public interest." C.R.S. § 35-3-102(1)(a) (2010).
- The Colorado Department of Agriculture Statutes, C.R.S. § 35-3-102, which provides in part that "the welfare of this state has been impaired and is in danger of being further impaired by destruction of its soil fertility, by uneconomic use and waste of its land, by exploitation and wasteful and unscientific use of its soil resources, by floods and impairment of its rivers as a result of soil erosion and by the decrease in the purchasing power of the net income per person on farms in the state as compared with the net income per person in the state not on farms." C.R.S. § 35-3-102(1)(b) (2010).
- The Rio Grande County "Right to Farm and Ranch Policy 98-18" which states that "The Board of County Commissioners of Rio Grande County, Colorado recognizes the need to protect the viability and to emphasize the importance of farming, ranching and other agricultural activities in Rio Grande County" and the "the Board shall attempt and aspire to Conserve, enhance and encourage farming, ranching and associated agricultural activities and operations within Rio Grande County."
- The Rio Grande County Joint Master Plan, adopted in 2016 includes the following:

Section 3: Accomplishments. 3.3: Collaboration of Governmental, Non-Profit and Private Organizations: "In an effort to conserve natural resources and preserve the cultural heritage of Rio Grande County for future generations, the County partners with many private, non-profit and other governmental agencies. One such organization is the Rio Grande Headwaters [Land] Trust. This organization, through conservation easements with private land owners, preserves the natural beauty and wildlife habitat of the area and promotes a sustainable agricultural way of life. The Headwaters goals are to protect and support working ranches and farms, water resources, wildlife habitat, scenic landscapes, and to inspire a culture of conservation in the San Luis Valley."

Section 6: Land Use, Zoning and Natural Hazards:

Objective: Protect public health and safety in environmentally constrained and sensitive areas such as flood plains, wildfire areas and steep terrain. Action 7. Discourage new

developments within the 100-year floodplain so as to minimize the risks of potential flood hazards.

Objective: Protect significant natural areas, wetlands, wildlife habitat and cultural resources. Actions: 1. Work with the Rio Grande Headwaters [Land] Trust, land owners and others to establish conservation easements using the Colorado Conservation Tax Exchange Program.

Objective: Protect agricultural and other economically productive natural resources in the County. Action 2. Acknowledge the work of the Rio Grande Headwaters [Land] Trust, land owners and others to establish conservation easements using the Colorado Conservation Tax Exchange Program

- Rio Grande County Land Use Code, Article IV “To provide for higher quality in site and land planning, to conserve open space and to provide more efficient and attractive open space”; and Article IX “permitted land uses within the [Rural District and Agricultural District] are to encourage the preservation and protection of irrigated croplands, rangelands, watershed and wildlife habitats in the County; the maintenance of agricultural production; and preservation of associated life styles.”

C. Landowner is donating a portion of its Property interest to Land Trust for the exclusive purpose of assuring that, under Land Trust’s perpetual stewardship, the Conservation Values of the Property will be conserved and maintained forever. Landowner intends that the Conservation Values be preserved and protected, and that any uses be prohibited that would materially diminish or impair the Conservation Values or that otherwise would be inconsistent with the Purpose of this Easement, as defined in Paragraph 1.

The covenants, terms, conditions, and restrictions of this Easement shall be servitudes running with the land in perpetuity. Every provision of this Easement that applies to Landowner or Land Trust 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 Easement 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 Easement or the Property, except that liability of such transferring Party for acts or omissions occurring prior to such transfer shall survive the transfer.

The Parties acknowledge and agree that uses expressly permitted by this Easement and the current land use patterns, including, without limitation, those relating to operation of an agricultural operation, such as producing hay and grazing livestock, and to low-impact recreation uses such as fishing or hunting, do not materially diminish or impair the Conservation Values and are consistent with the Purpose of the Easement.

D. Landowner further intends, as owner of the Property, to convey to Land Trust the affirmative right to enforce the terms of this Easement in order to conserve and protect the Conservation Values of the Property in perpetuity in accordance with the Purpose of this Easement, as defined in Paragraph 1. Land Trust accepts the responsibility of enforcing the terms of this Easement.

E. The Effective Date of this Easement shall be the date and year of recording of this easement.

F. Land Trust is a publicly-supported, tax-exempt organization described in Section 501(c)(3) and 170(h) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto, whose primary purpose is “Conserving our land, water and way of life in Colorado’s Rio Grande Basin, the San Luis Valley”.

G. Land Trust is also a charitable organization as required under Colorado Revised Statutes (C.R.S.) §§ 38-30.5-101 *et seq.*, which provides for conservation easements to maintain land and water in a natural, scenic or open condition, for wildlife habitat, or for agricultural and other uses or conditions consistent with the protection of open land in Colorado.

H. Land Trust is certified by the State of Colorado’s Department of Revenue and Division of Real Estate and is accredited by the Land Trust Alliance Accreditation Commission.

I. The voters of the State of Colorado by adoption of Article XXVII to the Constitution of the State of Colorado, the legislature of the State of Colorado by adoption of enabling legislation, by adopting and administering competitive grant applications and rigorous due diligence review processes, have established that it is the policy of the State of Colorado and its people to preserve, protect, enhance and manage the state’s wildlife, park, river, trail and open space heritage, to protect critical wildlife habitats through the acquisition of lands, leases or easements, and to acquire and manage unique open space and natural areas of statewide significance.

J. Land Trust agrees by accepting this Easement to preserve and protect in perpetuity the Conservation Values for the benefit of this and future generations;

**NOW, THEREFORE**, for the reasons given, and in consideration of the foregoing and the mutual covenants, terms, conditions and restrictions contained herein, and pursuant to the laws of the State of Colorado, and in particular C.R.S. §§ 38-30.5-101 *et seq.*, Landowner hereby voluntarily grants and conveys to Land Trust, and Land Trust hereby voluntarily accepts, a perpetual conservation easement in gross, over the Property and Water Rights of the nature and character and to the extent hereinafter set forth. Landowner will neither perform, nor knowingly allow others to perform, any act on or affecting the Property that is inconsistent with the covenants contained herein. Landowner authorizes Land Trust to enforce these covenants in the manner described below.

## **1. Purpose**

The purpose of this Easement is to ensure that the Conservation Values are preserved and protected in perpetuity (“**Purpose**”). This Purpose is in accordance with §170(h) of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto. To effectuate the Purpose of this Easement, Landowner and Land Trust intend to permit only uses of the Property that do not materially diminish or impair the Conservation Values and to prevent any use of the Property that will materially diminish or impair the Conservation Values. Notwithstanding the foregoing, nothing in this Easement is intended to

compel a specific use of the Property, such as agriculture, other than the preservation and protection of the Conservation Values. Additionally, the Parties acknowledge that the Permitted Water Uses and the Water Rights provide a substantial benefit to the Property's Conservation Values.

## 2. Baseline Documentation Report

The Parties acknowledge that a written report has been prepared, reviewed, and approved by both Parties that documents the Property's condition as of the conveyance date of this Easement (the "**Baseline Report**"). A copy of the Baseline Report shall be kept on file with both Parties and by this reference is incorporated into this Easement. The Parties acknowledge that the Baseline Report is intended to establish the condition of the Property as of the conveyance date of this Easement in accordance with Treasury Regulations, 26 C.F.R. § 1.170a-14(g)(5)(i) and both Parties have acknowledged the same in a signed statement, a copy of which is attached hereto as **Exhibit E**. The Baseline Report may be used by the Parties to establish that a change in the use or character of the Property has occurred; however, the Parties further agree that its existence shall in no way limit the Parties' ability to use other pertinent information in resolving any controversy that may arise with respect to the condition of the Property as of the conveyance date of this Easement.

## 3. Land Trust's Affirmative Rights and Responsibilities

To accomplish the terms of this Easement, in addition to the rights described in C. R. S. §§ 38-30.5-101, *et seq.*, as the same may be amended from time to time, the following rights are hereby conveyed to Land Trust:

- (a) To preserve and protect the Conservation Values of the Property;
- (b) To enter upon the Property pursuant to Paragraph 9 at reasonable times to monitor Landowner's compliance with and, if necessary, to enforce the terms of this Easement; provided, that such right of entry shall not unreasonably interfere with Landowner's use and quiet enjoyment of the Property;
- (c) To enjoin or prevent any activity on or use of the Property that is inconsistent with the Purpose of this Easement and to require the restoration of such areas or features of the Property that may be damaged by any inconsistent activity or use; and,
- (d) To require Landowner to consult with Land Trust regarding the exercise of certain reserved rights that may impact or disturb the Conservation Values, and to have the right to review and approve or deny any such activity prior to it being undertaken. Nothing in this Easement is intended to require Land Trust to approve any action or agreement that is inconsistent with the terms of this Easement.

#### 4. Rights and Responsibilities Reserved by Landowner

Notwithstanding any provisions of this Easement to the contrary, Landowner and Landowner's personal representatives, heirs, successors and assigns reserve all rights accruing from Landowner's ownership of the Property, including the right to sell, lease, license and devise the Property, as well as any other rights consistent with the Conservation Values of the Property and not prohibited or limited by this Easement. Additionally, Landowner reserves the right to engage in or permit or invite others to engage in all uses of the Property that are not prohibited or restricted by this Easement and that do not materially diminish or impair the Conservation Values.

#### 5. Uses and Restrictions on Uses

The following uses and practices are not an exhaustive recital of current or potential uses and practices on the Property. Some of these uses and practices are identified as being subject to specified conditions or to the requirement of prior approval by the Land Trust. The procedures for such prior approval are provided in Paragraph 7. Except as prohibited or otherwise limited by this Paragraph 5, Landowner reserves the right to use and enjoy the Property in any manner which is consistent with the terms of this Easement. Any activity on or use of the Property that is inconsistent with the terms of this Easement is prohibited.

##### *a. Development Rights*

To fulfill the Purpose of this Easement, Landowner hereby conveys to Land Trust all development rights deriving from, based upon, or attributable to the Property in any way ("**Land Trust's Development Rights**"), except those expressly reserved by Landowner herein, and the Parties agree that Land Trust's Development Rights shall be held by Land Trust in perpetuity in order to fulfill the Purpose of this Easement, and to ensure that such rights are forever released, terminated, and extinguished as to Landowner, and may not be used on or transferred off of the Property to any other property or used for the purpose of calculating permissible lot yield of the Property or any other property.

##### *b. Buildings and Other Structures*

The parties have designated two (2) building envelopes on the Property referred to as Building Envelope #1 and Building Envelope #2 (herein referred jointly as the "**Building Envelopes**"). The Building Envelopes are described and depicted on the survey attached hereto as **Exhibit C**. "**Building Envelope #1**" encompasses 2.78 acres and "**Building Envelope #2**" encompasses 1.23 acres. Any new structures and improvements must be located within the Building Envelopes, except for minor agricultural structures and improvements less than 1,000 square feet as permitted below in Paragraph 5.b.(3).

The construction of any new structures is prohibited except in accordance with this Paragraph 5b. Before undertaking any construction within the Building Envelopes, **Landowner** shall notify Land Trust in accordance with Paragraph 8, except for commercial

structures and improvements which require advance written approval in accordance with Paragraph 7. Before undertaking any construction outside of the Building Envelopes Landowner shall obtain written approval from Land Trust in accordance with Paragraph 7.

*(1) All Structures and Improvements*

All existing structures and improvements may be maintained, repaired, and demolished. Existing structures may be replaced with Land Trust's advance written approval in accordance with Paragraph 7. Existing structures and improvements may not, however, be converted to other uses that are inconsistent with the Purpose of the Easement.

The location and design of any structures shall not detract from the Conversation Values and the substantially unbuilt character of the Property when viewed from public vantage points. In no event shall any building height exceed thirty (30) feet above finished grade.

Square footage includes calculating each building's footprint according to the exterior dimensions of the outermost perimeter walls of the structure, including any attached structures that share a common wall, such as, but not limited to garages, greenhouses and porches.

*(2) Residential Structures and Improvements*

There is an existing residence in Building Envelope #1, however, under no circumstances shall any new residential structures be built on the Property after the Effective Date of this Easement, including structures that might be used for short term or long-term rentals or seasonal housing.

*(3) Agricultural Structures and Improvements*

Major agricultural structures and improvements larger than 1,000 square feet, including without limitation barns and sheds may be constructed with Land Trust's prior written approval in accordance with Paragraph 7, provided that no such structure or improvement exceeds thirty (30) feet in height above high finished grade, except for a major barn, which may be thirty-five (35) feet in height above high finished grade contract. Major agricultural structures may only be built within the Building Envelopes noted above.

Minor agricultural structures and improvements smaller than 1,000 square feet, such as loafing sheds, corrals, water lines, and water tanks, that neither individually or collectively have an adverse impact on the agricultural use and future viability and related conservation values of the Property, may be constructed and/or repaired or replaced anywhere on the Property without Land Trust's approval.

Notwithstanding the foregoing, no agricultural improvements shall be constructed in the wetlands, riparian areas, or hay meadows, identified on **Exhibit B** attached hereto, the preservation of which is central to the Purpose of this Easement. Construction of any other new agricultural buildings or improvements other than those covered by this subparagraph (3) is prohibited.



*(4) Recreational Improvements*

Under no circumstances shall any new recreational improvement be built on the Property, including but not limited to, off-road vehicle courses, athletic fields, golf courses or ranges, race tracks, airstrips, helicopter pads, or commercial shooting range.

*(5) Commercial Structures and Improvements*

Commercial structures or improvements for uses described in subparagraph 5h may be built within the Building Envelopes with the advance written approval of Land Trust in accordance with Paragraph 7.

*(6) Fences*

Existing fences may be repaired and replaced, and new fences may be built anywhere on the Property for purposes of reasonable management of livestock in a manner as is customary in the region within which the Property is located, without any further permission of Land Trust.

*c. Paving and Road and Trail Construction*

Landowner shall not pave or otherwise cover any portion of the Property with any impervious surface, except for the road providing access to the Building Envelopes and within the Building Envelopes.

Landowner may only construct new roads or trails with the advance written approval of the Land Trust in accordance with Paragraph 7.

Maintenance of unpaved roads shall be limited to normal practices for unpaved roads, including, without limitation, grading; placing porous road surface gravel; the removal of vegetation; necessary pruning or removal of hazardous trees and plants; application of permeable materials necessary to correct erosion; placement of culverts, water control structures, and bridges; and maintenance of roadside ditches.

*d. Agriculture and Ranching*

*(1) Agricultural Purposes*

Landowner retains the right to use the Property for agricultural purposes, or to permit others to use the Property for agricultural purposes, in accordance with applicable law and as is customary for the area in which the Property is located. For purposes of this Easement, agriculture is defined as the production of food, fiber, and forage. Agricultural uses include the breeding, raising, boarding, pasturing, and grazing of livestock; breeding and raising bees, fish, poultry, and other fowl; planting, raising, harvesting, and producing agricultural, horticultural, and forestry crops; and the primary processing, storage, and sale, including direct retail sale to the public, of crops and

products, except as prohibited in Paragraph 5h regarding commercial feed lots and other intensive growth livestock farms.

The Landowner and Land Trust recognize that changes in economic conditions, agricultural technologies, best management practices and landowner preferences may result in an evolution of agricultural activities on the Property. Such evolution shall be permitted so long as it is consistent with the Purpose and terms of this Easement.

*(2) Conservation Programs*

The Landowner reserves the right to participate in conservation directed agricultural contracts, programs, or leases offered by any private entity or governmental entity, such as the United States Department of Agriculture, the United States Department of Interior, and the State of Colorado, unless such contracts, programs, or leases involve activities that are otherwise prohibited by the terms of this Easement.

*(3) Agrichemicals*

The Landowner reserves the right to use agrichemicals, in accordance with label instructions, including, but not limited to, fertilizers, biocides, herbicides, and rodenticides, except that the use of agrichemicals shall not result in the significant impairment of any natural ecosystem or process on the Property.

*e. Vegetation and/or Forest Management*

Subject to other provisions of this Easement, Landowner may selectively cut, burn, mow, and clear vegetation in existing fields to maintain the character and nature of the habitat, preserve winter range for deer, elk, and other wildlife, and for fire mitigation, road maintenance, weed control, insect control and to prevent personal injury and property damage.

Conversion of grasslands, meadows, riparian areas or wetlands to cultivated annual crops is prohibited except with the advance written approval of Land Trust in accordance with Paragraph 7.

Trees may be cut to control insects and disease, to control invasive non-native species, for fire mitigation, to promote forest health, to prevent personal injury and property damage, to prevent encroachment into pastureland, and for firewood and other permitted uses, including construction of permitted buildings and fences on the Property without a forest management plan, so long as any tree cutting does not substantially diminish or impair the Conservation Values of the Property.

Notwithstanding the foregoing, Landowner may cut and remove grass or other vegetation and, to the extent customary, perform routine upkeep, maintenance, and landscaping, including the planting of trees, shrubs, flowers, a domestic garden, and other native and non-native plant species within the Building Envelopes.

*f. Recreational Uses*

Landowner reserves the right to engage in low impact recreational activities, such as horseback riding, hiking, cross-country skiing, or other similar recreational uses. Fishing and hunting are also permitted, so long as they are undertaken in compliance with applicable state and federal laws and regulations and pursued in a manner that does not materially diminish or impair the Conservation Values. To the extent required to qualify for exemption from federal estate tax under §2031(c) of the Code, and only to the extent such activity is not otherwise prohibited or limited under this Easement, commercial recreational uses are not permitted within the Property.

*g. Industrial Uses*

Industrial uses are strictly prohibited and shall not be allowed on the Property.

*h. Commercial Uses*

Limited commercial uses are allowed, as long as they are conducted in a manner that is consistent with § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the Treasury Regulations adopted pursuant thereto, are customary rural enterprises, consistent with the Purpose of the Easement, and do not materially diminish or impair the Conservation Values. Without limiting other potential commercial uses that meet the foregoing criteria, the following uses are allowed:

- (a) Farm machinery repair;
- (b) Veterinary services;
- (c) Commercial hunting and fishing; and,
- (d) Rental of residential structures.

The foregoing descriptions of allowed commercial uses notwithstanding, commercial feed lots are inconsistent with the terms of this Easement and are prohibited. For purposes of this Easement, "commercial 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 engaging in the commercial business of the reception and feeding of livestock for finishing the livestock.

*i. Subdivision*

The Parties agree that the division, subdivision, de facto subdivision or partition in kind of the Property, whether by legal or physical process, into more parcels of land or partial or separate interests (including, but not limited to, condominium interests or the partition of undivided interests) is prohibited. Notwithstanding the total number of parcels as assigned by the Rio Grande County Assessor, at all times the Property shall be owned and conveyed as a single parcel in a single ownership which shall be subject to the provisions of this Easement. Ownership of the single parcel by joint tenancy or tenancy in common is permitted; provided, however, that Landowner, and Landowner's successors in interest, shall not undertake any legal proceeding to partition in kind, subdivide or divide in any manner the Property.

*j. Mineral Extraction*

As of the Effective Date, Landowner owns all of the coal, oil, gas, hydrocarbons, sand, soil, gravel, rock and other minerals of any kind or description (the “**Minerals**”) located on, under, or in the Property or otherwise associated with the Property. This Easement expressly prohibits the mining or extraction of Minerals using any surface mining method. Notwithstanding the foregoing, Landowner and Land Trust may permit mineral extraction utilizing methods other than surface mining if the method of extraction has a limited, localized impact on the Property that is not irretrievably destructive of the Conservation Values. However, Landowner and Land Trust agree that the following provisions shall apply to any proposed mineral extraction by Landowner or any third party, as applicable.

This Paragraph 5j shall be interpreted in a manner consistent with I.R.C. § 170(h) and the Treasury Regulations adopted pursuant thereto.

*(1) Soil, Sand, Gravel and Rock*

Landowner may extract soil, sand, gravel or rock without further permission from Land Trust so long as such extraction: (i) is solely for use on the Property for non-commercial purposes; (ii) is in conjunction with activities permitted in this Easement, such as graveling roads; (iii) is accomplished in a manner consistent with the preservation and protection of the Conservation Values; (iv) does not involve disturbing by such extraction more than one half-acre of the Property at one time, and uses methods of mining that may have a limited and localized impact on the Property but are not irretrievably destructive of the Conservation Values; and (v) is reclaimed within a reasonable time by refilling or some other reasonable reclamation method for all areas disturbed.

*(2) Oil and Gas*

Landowner, or a third party permitted by Landowner, may explore for and extract oil and gas owned in full or in part by Landowner, provided Landowner ensures that such activities are conducted in a manner that does not constitute surface mining and complies with the following conditions:

The exploration for or extraction of oil, gas and other hydrocarbons is conducted in accordance with a plan (the “**Oil and Gas Plan**”), prepared at Landowner’s expense and which must be reviewed and receive Land Trust advance written approval in accordance with Paragraph 7. The Oil and Gas Plan shall describe:

- (a) the specific activities proposed;
- (b) the specific land area to be used for well pad(s), parking, staging, drilling, and any other activities necessary for the extraction of oil and gas, and the extent of the disturbance of such land area before and after reclamation;
- (c) the location of facilities, equipment, roadways, pipelines and any other infrastructure to be located on the Property;

- (d) the method of transport of oil or gas produced from the Property;
- (e) the method of disposal of water, mining byproducts and hazardous chemicals produced by or used in the exploration and development of the oil or gas;
- (f) the proposed operation restrictions to minimize impacts on the Conservation Values, including noise and dust mitigation and any timing restrictions necessary to minimize impacts to wildlife;
- (g) the reclamation measures necessary to minimize disturbance to and reclaim the surface of the Property, including restoring soils to the original contours and replanting and re-establishing native vegetation using specific seed mixes and processes to ensure successful re-vegetation of the Property, including and in addition to those measures required by law; and,
- (h) remedies for damages to the Conservation Values.

Additionally:

- (a) No tank batteries, refineries, secondary production facilities, compressors, gas processing plants, or other similar facilities may be located on the Property;
- (b) well facilities and pipelines shall either be placed underground, screened or concealed from view by the use of existing topography, existing native vegetation, newly planted but native vegetation, and/or use of natural tone coloring. Pipelines shall be located along or under existing roadways to the maximum extent possible;
- (c) drilling equipment may be located above ground without concealment or screening, provided that such equipment shall be promptly removed after drilling is completed;
- (d) any soil or water contamination due to the exploration for or extraction of oil or gas must be promptly remediated at the expense of Landowner;
- (e) any water, mining byproducts or hazardous chemicals produced by or used in the exploration and development of the oil or gas shall not be stored or disposed of on the Property;
- (f) flaring to enhance oil production is prohibited; flaring for emergencies or operational necessity is permitted;
- (g) landowner shall not allow use of the Water Rights for any oil and gas activities;
- (h) Land Trust shall be released, indemnified and held harmless from any liabilities, damages, or expenses resulting from any claims, demands, costs or judgments arising out of the exercise of any rights by Landowner, any lessees or other third parties relating to the exploration for or extraction of oil, gas or hydrocarbons.

### *(3) Third-Party Mineral Extraction*

If a third party owns all, or controls some, of the Minerals, and proposes to extract Minerals from the Property, Landowner shall immediately notify Land Trust in writing in accordance with Paragraph 8 of any proposal or contact from a third party to explore for or develop the Minerals on the Property. Landowner shall not enter into any lease, surface use agreement, no-surface occupancy agreement, or any other instrument related to Minerals associated with the Property (each, a “**Mineral Document**”), with a third party subsequent to the Effective Date without providing a copy of the same to Land Trust prior to its execution by Landowner for Land Trust’s review and advance written approval in accordance with Paragraph 7. Any Mineral Document shall

require that Landowner provide notice to Land Trust whenever notice is given to Landowner, require the consent of Land Trust for any activity not specifically authorized by the instrument, and give Land Trust the right, but not the obligation, to object, appeal and intervene in any action in which Landowner has such rights.

Any Mineral Document must include provisions that ensure that the proposed activities have a limited, localized impact on the Property that is not irretrievably destructive of the Conservation Values and contain a full description of the activities proposed, a description of the location and extent of disturbance, the location of facilities, equipment, roadways, pipelines and any other infrastructure, the proposed operation restrictions to minimize impacts on the Conservation Values, reclamation measures including and in addition to those required by law, and remedies for damages to the Conservation Values.

Any Mineral Document that only permits subsurface access to Minerals but prohibits any access to the surface of the Property shall also prohibit any disturbance to the subjacent and lateral support of the Property and shall not allow any use that would materially adversely affect the Conservation Values.

Landowner shall not allow the use of Water Rights for any third-party mineral extraction.

*k. Motorized Vehicles*

Motorized vehicles may be used only in conjunction with activities permitted by this Easement, including agriculture, recreation, hunting, and fishing, and in a manner that does not materially diminish or impair the Conservation Values.

*l. Signs or Billboards*

No commercial signs, billboards, or advertisements shall be displayed or placed on the Property, except for appropriate and customary "for sale" or "for lease" signs alerting the public to the availability of the Property for purchase or lease, signs related to commercial activities occurring on the Property that are permitted under Paragraph 5h, and signs informing the public of the status of ownership.

*m. Utilities, Storage and Septic Systems*

*(1) Water Wells*

Landowner may construct and maintain new wells on the Property, as permitted by law, for uses consistent with the Conservation Values and terms of this Easement.

*(2) Utility Improvements*

Utility improvements include but are not limited to: natural gas distribution pipelines; electric power poles, transformers and lines; telephone and communications towers, poles and line; septic systems; domestic water storage and delivery systems; and renewable energy generation

systems for Landowner's use on the Property including but not limited to wind, solar, geothermal or hydroelectric ("Utility Improvements").

Existing Utility Improvements may be maintained, repaired, removed and replaced in the same location and with a similar structure. No existing or new Utility Improvement shall exceed thirty (30) feet in height.

Within the Building Envelopes, Landowner may enlarge or construct Utility Improvements for the uses permitted on the Property without further permission of Land Trust.

Outside the Building Envelopes, Landowner may construct Utility Improvements only with the advance written approval of Land Trust in accordance with Paragraph 7. Utility Improvements outside the Building Envelopes shall be located underground to the extent practicable, and when located underground the surface above the utility shall be promptly restored to its natural state. When appropriate, Landowner may grant easements under the Property for such purposes.

*(3) Commercial Energy Generation Facilities*

The construction of commercial wind, solar, hydroelectric and other energy generation facilities is prohibited. If any excess energy is produced by the energy generation facilities allowed herein, Landowner may sell back that excess energy to a power company.

*n. Lights*

If possible, all outdoor lights installed after the date of this Easement shall be hooded, such that the lighting is fully shielded so that all light rays emitted are projected below, and not above, the horizontal plane of the fixture.

*o. Trash*

The dumping or accumulation of any kind of trash or refuse on the Property is prohibited, except that limited dumping or accumulation of ranch or farm-related trash and refuse produced on the Property is permitted, provided that such dumping does not materially diminish or impair the Conservation Values, does not occur in a riparian or wetland area, is temporary in nature, and is confined within a total area less than one-quarter acre in size at any given time. This Paragraph shall not be interpreted to prevent the storage of agricultural products and by-products on the Property in accordance with all applicable government laws and regulations. No radioactive or hazardous waste shall be placed, stored, dumped, or buried on the Property.

*p. Water Rights*

*(1) Water Rights Included*

The Parties agree that it is appropriate to encumber certain water rights beneficially used on the Property in the Easement pursuant to C.R.S. §38-30.5-102. The "Water Rights" consist of all of Landowner's right, title, and interests in and to the water and water rights described in **Exhibit D**,

together with all associated canals, ditches, laterals, headgates, springs and spring rights, reservoir and storage rights groundwater rights, and other rights in and to the use of water historically used on or otherwise appurtenant to the Property (collectively, the “**Water Rights**”).

The Parties intend and desire that the obligations and restrictions set forth in this Paragraph be enforceable pursuant to C.R.S. §§38-30.5-101 through 38-30.5-111, inclusive, in as much as the same relate hereto. In the alternative, the Parties intend and desire that the obligations set forth in this Paragraph be enforceable as a restrictive covenant or equitable servitude.

*(2) Permitted Water Uses*

The Parties agree that the Water Rights are hereby dedicated and restricted exclusively for uses consistent with the terms of this Easement (the “**Permitted Water Uses**”). The Permitted Water Uses are continued irrigation or other historical use of the Water Rights, and Landowner shall have the paramount right to use and enjoyment of the Water Rights on the Property consistent with recent historical practices and the adjudicated use of the water. The Parties acknowledge that the Permitted Water Uses and the Water Rights provide a substantial benefit to the Property's Conservation Values, by, among other things, providing return flow to riparian and wetland areas on the Property.

Landowner shall have the right, without Land Trust’s prior written approval, to maintain, repair, and if necessary, reconstruct or replace any existing structures or equipment associated with the Water Rights (such as ditches, wells, irrigation equipment, sloughs and impoundments), so long as any activity does not materially impair or interfere with the Conservation Values.

*(3) Restrictions on Water Rights*

Landowner shall retain and reserve the Water Rights and shall not transfer, sell or otherwise separate the Water Rights from the Property. Except as set forth in Paragraph 27 herein, Landowner may only encumber, lease, or change the historic use of the Water Rights with the prior written approval of Land Trust in accordance with Paragraph 7 and provided that such encumbrance, lease, or change does not:

- i. permanently separate the Water Rights from the Property;
- ii. facilitate or result in the Water Rights or any other water with its origin in the Rio Grande basin being used outside of the Rio Grande basin in Colorado;
- iii. rely on dry-up of the floodplain, immediate river corridor, or wetlands; and,
- iv. jeopardize the Conservation Values of the Property

If, for events beyond the reasonable control of Landowner, water is not received by the Property, Landowner shall not be required to replace water not received or maintain existing conditions of water features. If such event is temporary in nature, Landowner shall not prevent the pre-existing condition of affected water features from being restored once such temporary event has ended.



Landowner may not have the points of diversion, or the place of use changed, except with the advance written approval of Land Trust in accordance with Paragraph 7 that such changes are not inconsistent with the Permitted Water Uses and will not impair the Conservation Values of the Property. Landowner shall not construct or permit others to construct, any new diversion, storage, or other water structures on the Property, and shall not otherwise undertake any new development of water resources for use on the Property without the prior written approval of Land Trust in accordance with Paragraph 7, which approval shall not be unreasonably withheld.

Landowner shall not permit or conduct activities or uses detrimental to water quality, including but not limited to degradation or pollution of any surface or subsurface waters.

*(4) Protection of Water Rights*

Landowner shall not abandon or allow the abandonment of, by action or inaction, any of the Water Rights. In the event that Landowner fails, after written notice from Land Trust, to defend or protect the Water Rights or any portion thereof against injury or risk of abandonment, the Land Trust may, but shall not be required to, assert such defenses, seek to change such Water Rights, or take any other reasonable actions at Land Trust's sole cost and expense to avoid the loss or diminution of the Water Rights, or to maintain the historic use of the Water Rights.

Landowner shall promptly comply with all by-laws and requirements and pay, when due, all assessments, charges and fees of any kind for continued ownership, delivery and use of the Water Rights and the certificates of stock for such Water Rights. If Landowner fails to comply with any such by-laws or requirements or to pay assessments when due, Land Trust may comply with any such by-laws, complete such requirements and pay any such assessments on behalf of the Landowner, and thereafter to collect any such amount, together with interest, reasonable attorney fees, staff time, and court costs from the Landowner.

If in the future any Water Rights associated with the Property are included within a mutual ditch company, or any other entity that issues shares of stock representing the Water Rights, Landowner shall include the following notation on the stock certificates and issue a copy to Land Trust:

"These shares are subject to the terms and restrictions set forth in the Conservation Easement Deed from [Name of Landowner] to Rio Grande Headwaters Land Trust recorded at [Reception No.], in the office of Rio Grande County Clerk and Recorder on [DATE].

Additionally, Landowner shall provide Land Trust a copy of any written notice received by Landowner from the Company concerning the by-laws, requirements or unpaid assessments, fees and charges of any kind related to Water Rights. Landowner hereby authorizes and appoints Land Trust as its agent and attorney-in-fact for the limited purpose of contacting the Company to inquire about by-laws, requirements and assessments for continued ownership, delivery and use of the Water Rights and the certificates of stock for such Water Rights.

Nothing in this Paragraph shall be deemed to require Landowner to undertake steps to ensure flow from any ditch or any decreed or permitted wells on the Property in the event such flow is interrupted as a result of seasonal fluctuations in water flows, drought conditions, a naturally occurring decline in the water table, a naturally occurring lack of artesian pressure and/or curtailments from the Colorado Division of Water Resources.

*q. Water Features*

Landowner shall not act to materially alter or modify, impair or adversely affect any existing ponds, wetlands, stream channels, or other water features currently located on the Property without the advance written approval of Land Trust in accordance with Paragraph 7. If an emergency exists, Landowner may commence work provided that Landowner gives Land Trust notice within ten (10) working days of the emergency and describes the alteration or modification performed on the water feature to address the emergency. Any alterations or modifications to existing ponds, wetlands, streams, channels or other water features shall be conducted in compliance with all applicable statutes and regulations.

**6. Land Management / Management Plan**

Landowner and Land Trust acknowledge that the preservation and protection of the Conservation Values as contemplated under this Easement require careful and thoughtful stewardship of the Property. In the event Land Trust believes at any time that the resource management practices used on the Property are not consistent with the Purpose, Landowner and Land Trust shall jointly prepare a written plan (“**Management Plan**”), detailing requirements for the preservation and protection of the Conservation Values regarding: agricultural, timber, mining, water, wildlife, weed control or other management practices that Land Trust has identified as being at issue. Landowner shall comply with the requirements established in the Management Plan.

**7. Land Trust Approval**

The purpose of requiring Land Trust approval is to ensure that the activities in question are designed and carried out in a manner consistent with the terms of this Easement. Whenever approval is required, Landowner shall make a request in writing not less than forty-five (45) days prior (with the exception noted in Paragraph 5q for emergencies) to the date Landowner intends to undertake the activity in question. After making the written request, Landowner shall not undertake the requested activity until receiving Land Trust’s approval in writing.

The written request shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity in sufficient detail to permit Land Trust to make an informed judgment as to its consistency with the terms of this Easement. Landowner shall provide such additional information as Land Trust may reasonably request.

Land Trust shall approve or deny the written request within 30 days of receipt of Landowner’s written request. Land Trust’s approval may be withheld only upon Land Trust’s sole determination that the activity as proposed would materially diminish or impair the Conservation

Values or would be inconsistent with the Purpose of this Easement. Land Trust shall specify its basis for approval or denial in writing.

Land Trust's written approval is required prior to Landowner initiating the following actions:

- (a) Constructing buildings outside the Building Envelopes (Paragraph 5b);
- (b) Replacing existing buildings (Paragraph 5b(1));
- (c) Constructing agricultural structures or improvements outside the Building Envelopes (Paragraph 5b(3));
- (d) Constructing commercial improvements within the Building Envelopes (Paragraph 5b(5));
- (e) Covering any portion of the Property outside the Building Envelopes with concrete, asphalt, or any other impervious paving material, or construction of any new road or trail (Paragraph 5c);
- (f) Conversion of grasslands, meadows, riparian areas or wetlands to cultivated annual crops (Paragraph 5e);
- (g) Engaging in Mineral Extraction (Paragraph 5j(2)), including entering into a proposed surface mining lease, surface use agreement, or other conveyance by Landowner to a third party to develop any mineral rights (Paragraph 5j(3));
- (h) Constructing Utility Improvements outside the Building Envelopes and the design, location and construction of minor energy generation facilities with appropriate utilities and access, for the development and utilization of energy resources (Paragraph 5m(2));
- (i) Leasing the Property's surface (ditch) Water Rights in accordance with the Land Trust's provisions (Paragraph 5p(2));
- (j) Encumber, lease or change the historic use of the Water Rights (Paragraph 5p(3));
- (k) Changing the points of diversion, or the place of use (Paragraph 5p(3));
- (l) Constructing or permitting others to construct, any new diversion, storage, or other water structures on the Property, nor undertake any new development of water resources for use on the Property (Paragraph 5p(3));
- (m) Materially altering, impairing, modifying, or adversely affecting any existing ponds, wetlands, stream channels, or other water features currently located on the Property (Paragraph 5q); and

- (n) Any other activity or use set forth in this Conservation Easement that requires Land Trust's prior written approval.

## **8. Land Trust Notification**

Whenever notice is required, Landowner shall notify Land Trust in writing not less than 30 days prior to the date Landowner intends to undertake the activity in question. The written notification shall describe the nature, scope, design, location, timetable, and any other material aspect of the proposed activity. Notification to Land Trust is required in the following actions:

- (a) Undertaking any construction within the building envelopes (Paragraph 5b and 5b(3)), except for commercial structures and improvements which require advance written approval in accordance with Paragraph 7;
- (b) If a third party owns all, or controls some, of the Minerals, and proposes to extract Minerals from the Property (Paragraph 5j(3)); and,
- (c) Any other activity or use set forth in this Conservation Easement that requires Land Trust's prior notification.

## **9. Monitoring of Property**

With reasonable advanced notice to Landowner, Land Trust may enter the Property for the purpose of inspecting for violations. However, in the case of an emergency, Land Trust has the right to enter the Property to inspect without advance notice. In the event Land Trust gains knowledge of a non-emergency violation, Land Trust may enter the Property three (3) calendar days after written notice is mailed or delivered to Landowner. Land Trust shall use reasonable efforts to provide Landowner with advance or contemporaneous notice of its intent to enter the Property. In the event Land Trust enters the Property without advance notice, Land Trust shall hold Landowner harmless from all accidents, injuries, or other damages. Landowner or its representative may accompany Land Trust on any inspections of the Property; however, Landowner's unavailability to accompany the Land Trust shall not limit the Land Trust in its inspections, monitoring visits or in the performance of its duties as related to this Easement.

## **10. Enforcement**

Land Trust shall have the right to prevent, correct, or require correction of violations of the terms of this Easement. If Land Trust finds what it believes is a violation of this Easement, or Land Trust has a reasonable and good faith basis for believing that a violation may occur, Land Trust shall timely notify Landowner in writing of the nature of the alleged violation ("**Notice of Violation**"). Upon receipt of the Notice of Violation, Landowner shall immediately discontinue the activity or use that has caused the alleged violation and shall either:

- (a) restore the Property to its condition prior to the violation; or

- (b) provide Land Trust with a written plan of correction including a timetable for completion of the correction of the violation; or
- (c) provide a written explanation to Land Trust of the reason why the alleged violation should be permitted, in which event both Parties agree to meet as soon as possible to resolve their differences.

If a resolution cannot be achieved, both Parties agree to meet with a mutually acceptable mediator to attempt to resolve the dispute pursuant to Paragraph 13. Landowner shall discontinue any activity that could increase or expand the alleged violation during the mediation process. Should mediation fail to resolve the dispute within ninety (90) days of Land Trust's written notice to Landowner of the alleged violation, or by such other date as the Parties may mutually agree, Land Trust may, at its discretion, take appropriate legal action.

When, in Land Trust's opinion, an ongoing or imminent violation could irreversibly diminish or impair the Conservation Values, Land Trust may, at its discretion, take appropriate legal action without pursuing mediation. If a court with jurisdiction determines that a violation is imminent, exists, or has occurred, Land Trust may seek an injunction to stop such violation, temporarily or permanently. A court may also issue an order requiring Landowner to restore the Property to its condition prior to the violation.

Land Trust'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. Land Trust shall not, however, claim a violation of any term of this Easement, unless Land Trust makes such a claim within two (2) years of the date of discovery of the claimed violation.

#### **11. Costs of Enforcement**

Landowner shall pay any costs incurred by Land Trust in enforcing the terms of this Easement against Landowner, including without limitation costs and expenses of suit, attorney fees and any costs of restoration necessitated by Landowner's violation of the terms of this Easement. If the deciding body determines that Landowner has prevailed in any such legal action, then each Party shall pay its own costs and attorney fees. However, if the deciding body determines that Land Trust's legal action was frivolous or groundless, Land Trust shall pay Landowner's costs and attorney fees in defending the legal action.

#### **12. No Waiver or Estoppel**

If the Land Trust does not exercise, or delays the exercise of, its rights under this Easement in the event of a violation of any term, such inaction or delay shall not be deemed or construed to be a waiver by Land Trust of such term or of any subsequent violation of the same or any other term of this Easement or of any of Land Trust's rights under this Easement. Landowner waives any defense of laches, estoppel, or prescription, including the one-year statute of limitations for commencing an action to enforce the terms of a building restriction or to compel the removal of any building or improvement because of the violation of the same under C.R.S. §§ 38-41-119, *et seq.*

### 13. Mediation

If a dispute arises between the Parties concerning the consistency of any proposed use or activity with the purpose of this Easement, either Party may refer the dispute to mediation by request made in writing upon the other. Within fifteen (15) working days of the receipt of such request, the Parties shall select a single, trained, and impartial mediator with experience in conservation easements and other land preservation tools. Mediation shall then proceed in accordance with the following guidelines:

*a. Purpose*

The purpose of the mediation is to: (i) promote discussion between the Parties; (ii) assist the Parties to develop and exchange pertinent information concerning the issue(s) in dispute; and (iii) assist the Parties to develop proposals which will enable them to arrive at a mutually acceptable resolution. The mediation shall not result in any express or *de facto* modification or amendment of the terms, conditions, or restrictions of this Easement.

*b. Participation*

The Parties agree that they will participate in the mediation process in good faith and expeditiously, attending all sessions scheduled by the mediator. The Parties or representatives of the Parties with settlement authority (other than their attorneys) will attend mediation sessions as required by the mediator.

*c. Confidentiality*

All information presented to the mediator shall be deemed confidential and shall be disclosed by the mediator only with the consent of the Parties or their respective counsel. The mediator shall not be subject to subpoena by any Party. No statements made or documents prepared for mediation sessions shall be disclosed in any subsequent proceedings or construed as an admission of a Party in accordance with Colorado Rules of Evidence, Rule 408.

*d. Time Period*

Neither Party shall be obligated to continue the mediation process beyond a period of one hundred eighty (180) days from the date of receipt of the initial request.

The costs of the mediator shall be borne equally by Landowner and Land Trust. The Parties shall bear their own expenses and attorney's fees.

### 14. Acts Beyond Landowner's Control

Nothing contained in this Easement shall be construed to entitle Land Trust to bring any action against Landowner for any injury, violations to or change in the Property resulting from any Acts of God and causes beyond Landowner's control, including, without limitation, fire, flood,

storm, and earth movement, or from any prudent action taken by Landowner under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

Notwithstanding the foregoing, the Landowner shall take reasonable efforts to prevent third parties from performing, and shall not knowingly allow third parties to perform, any act on or affecting the Property that materially diminishes or impairs the Conservation Values or is inconsistent with the Purpose of this Easement.

#### **15. Public Access**

No right of access by the general public to any portion of the Property is conveyed by this Easement.

#### **16. Costs and Liabilities Related to Ownership**

Landowner retains all responsibilities and shall bear all costs and liabilities of any kind related to the ownership, operation, upkeep, and maintenance of the Property, including weed control and eradication. Landowner shall maintain adequate comprehensive general liability insurance coverage, against claims for injury, death or property damage. Land Trust shall be named as an additional insured party on all such insurance policies, and Landowner shall provide evidence of such insurance to Land Trust promptly upon request. Landowner shall keep the Property free of any liens arising out of any work performed for, materials furnished to, or obligations incurred by Landowner.

#### **17. Taxes**

Before delinquency Landowner shall pay all taxes, assessments, fees, and charges of whatever description levied on or assessed against the Property Water Rights by competent authority (collectively "**Taxes**"), including any taxes imposed upon, or incurred as a result of this Easement, and shall furnish Land Trust with satisfactory evidence of payment upon request. If Land Trust ever pays any Taxes or assessments on its interest in the Property, Landowner will reimburse Land Trust for the same.

#### **18. Hold Harmless**

Landowner shall hold harmless, indemnify, and defend Land Trust and the members, directors, officers, employees, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively "**Indemnified Parties**") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation attorney's fees reasonably incurred, arising from or connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of any of the Indemnified Parties; (2) the obligations costs and expenses associated with enforcement of this Easement as specified in Paragraph 11; and (3) the presence or release of hazardous or toxic substances on, about, under or

from the Property. For the purposes of this Paragraph, hazardous or toxic substances shall mean any substance that is regulated under any federal, state or local law or regulation.

Without limiting the foregoing, nothing in this Easement shall be construed as giving rise to any right or ability of Land Trust, nor shall Land Trust have any right or ability, to exercise physical or managerial control over the day-to-day operations of the Property or otherwise to become an operator with respect to the Property within the meaning of The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

## 19. Real Property Interest

This Easement constitutes a real property interest immediately vested in Land Trust. The Parties stipulate, based on a qualified appraisal, that this Easement (which includes the value of the Land Trust's Development Rights) has a fair market value of fifty five (55%) of the full unencumbered fair market value of the Property (the "**Easement Value Ratio**"). 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 Code and the Treasury Regulations adopted pursuant thereto, whether or not Landowner claims any deduction for federal income tax purposes. For the purposes of this Easement, Easement Value Ratio shall remain constant.

## 20. Termination, Eminent Domain, and Condemnation

If this Easement is taken, in whole or in part, by the 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, whether in whole or in part, by judicial proceedings in a court of competent jurisdiction, provided however that such changes are not attributable to the actions or inactions of the Landowner. In making this grant Landowner has considered the possibility that uses prohibited by the terms of this Easement may become more economically valuable than permitted uses and that neighboring properties may in the future be put entirely to such prohibited uses.

Each Party shall promptly notify the other Party and the CWCB in writing when it first learns of such circumstances. If this Easement is extinguished, terminated, or condemned, in whole or in part, then the Landowner must reimburse the Land Trust and the Land Trust shall be entitled to full compensation for its interest in any portion of this Easement that is terminated as a result of condemnation or other proceedings. Land Trust shall then reimburse the CWCB according to the Proportionate Share ("**Proportionate Share**") percentages below in this Paragraph 20. Land Trust shall use any proceeds it receives in a manner consistent with the conservation Purpose of this Easement.

Land Trust's compensation shall be an amount at least equal to the Easement Value Ratio, multiplied by the fair market value of the unencumbered fee simple interest in the portion of the Property that will no longer be encumbered by this Easement as a result of condemnation or termination as required under Treasury Regulation § 1.170A-14(g)(6)(ii). Proceeds received by Land Trust as a result of Termination or Condemnation, as provided in this Paragraph, must be used



in a manner consistent with the conservation purposes of this Easement as required under Treasury Regulation § 1.170A-14(c)(2) and § 1.170A-14(g)(6)(i).

The CWCB shall be entitled to receive thirty one percent (31%) of Land Trust's compensation. Upon receipt of said compensation Land Trust shall promptly remit the CWCB's share of these proceeds to the respective funders.

## **21. Amendment of Easement**

The Parties acknowledge that biological, geological, climate and other changes will occur on the Property, and over time those changes may warrant amendments to this Easement to address such changes, while preserving one or more of the Conservation Values in the context of such changes. If the circumstances arise under which an amendment to or modification of this Easement or any of its exhibits would be appropriate, Landowner and Land Trust may jointly amend this Easement so long as the amendment:

- (a) is consistent with the Conservation Values and Purpose of this Easement;
- (b) does not affect the perpetual duration of the restrictions contained in this Easement;
- (c) does not affect the qualifications of this Easement under any applicable laws or as a charitable gift or the status of any applicable laws, including Section 170 (h) of the Code or the laws of Colorado;
- (d) complies with Land Trust's policies for amendments (as such procedures, standards and policies may be amended from time to time); and,

Any amendment must be in writing, signed by both Parties, and recorded in the records of the Clerk and Recorder of Rio Grande County. In order to preserve the Easement's priority, the Land Trust may require that the Landowner obtain subordinations of any then existing liens, mortgages, easements, or other encumbrances.

Nothing in this Paragraph shall be construed as requiring Land Trust to agree to any particular proposed amendment.

If the amendment is at the request of the Landowner for any reason, including Landowner error or omission in the original Easement, the Landowner shall pay all costs associated with the amendment, including closing costs, costs of consultants, including but not limited to appraisers, surveyors, and biologists; and shall pay all of Land Trust's administrative, implementation, and legal costs; but Landowner shall not pay an amount less than one thousand five-hundred dollars (\$1,500.00) adjusted for inflation at 3% annually as of the Effective Date.

If the amendment is at the request of Land Trust, Land Trust shall bear the closing and recording costs as well as its own costs. The Landowner shall bear the costs of any outside consultants or advisors whose counsel Landowner seeks.

## **22. Easement Correction**

The Parties shall cooperate to correct mutually acknowledged errors in this Easement (and exhibits), including typographical, spelling, or clerical errors. The Parties shall make such corrections by written agreement. Any corrections shall be recorded in the records of the Clerk and Recorder of the county or counties in which the Property is located.

## **23. Transfer of Easement**

This Easement is transferable. With the advance written consent of Landowner (which shall not be unreasonably withheld), Land Trust shall have the right to transfer this Easement to any public agency or private nonprofit organization that, at the time of transfer:

- (a) is a "qualified organization" under § 170(h) of the Code of 1986, as amended (or any successor provision then applicable), and the applicable regulations promulgated thereunder;
- (b) is authorized to acquire and hold conservation easements under C.R.S. §§ 38-30.5-101 to 38-30.5-111 (or any successor provision then applicable);
- (c) expressly agrees, in writing, to assume the responsibility imposed on Land Trust by this Easement; and,
- (d) is approved in writing as a transferee by the CWCB each in their sole and absolute discretion. Land Trust shall provide the CWCB with a written request to assign the Easement at least forty-five (45) days prior to the date proposed for the assignment transaction.

The CWCB may disapprove of the transfer for any reason, including but not limited to, Land Trust's desire to sell its interest in the Property.

If Land Trust desires to transfer this Easement to a qualified organization having similar purposes as Land Trust, but Landowner, the CWCB refuses to approve the transfer, a court with jurisdiction shall transfer this Easement to another qualified organization having similar purposes that agrees to assume the responsibility imposed on Land Trust by this Easement, provided that Landowner and the CWCB shall have adequate notice of and an opportunity to participate in the court proceeding leading to the court's decision on the matter.

Upon compliance with the applicable portions of this Paragraph 23, the Parties shall record an instrument completing the assignment in the records of the county or counties in which the Property is located. Assignment of the Easement shall not be construed as affecting the Easement's perpetual duration and shall not affect the Easement's priority against any intervening liens, mortgages, easements, or other encumbrances.

## **24. Transfer of Property**

Landowner shall expressly reference the terms and conditions of this Easement in any contract for sale, deed or other legal instrument by which it divests itself or attempts to divest itself of any interest in all or a portion of the Property. Landowner further agrees to give written notice to Land Trust of the transfer of any interest at least thirty (30) days prior to the date of such transfer.

Any time the Property itself or any interest in it is transferred by Landowner to any third party, Landowner shall pay a transfer fee (“**Transfer Fee**”) of 0.25 percent of the sales price to be used by Land Trust for purposes consistent with its mission. The Transfer Fee shall not be due upon transfer of any interest in the Property by Landowner to: 1) a trust for the exclusive benefit of Landowner; 2) a family partnership, family limited partnership, limited liability company or entity, where the majority of interest is held by Landowner; 3) a lender through the form of a grant of a mortgage, deed of trust or similar security interest; 4) upon Landowner’s death, if the transfer is to a family member through a probate, trust, or other estate distribution (i.e., the transfer fee shall apply if sold to a third party as part of settling Landowner’s estate); and 5) an immediate family member.

The failure of Landowner to perform any act required by this section shall not impair the validity of this Easement or limit its enforceability in any way. Failure to provide notice pursuant to this section or in the recorded document shall not invalidate any transfer of the Property.

## **25. Notices**

Any notice, demand, request, consent, approval or communication that either Party or other addresses as the Parties may designate written notice is required to give the other in writing shall be either e-mailed to the appropriate e-mail address; served personally or sent by first class mail, addressed as follows:

To Landowner:

Rock B. Paulson and Terri. R. Paulson  
1551 Swede Lane  
Monte Vista, CO 81144

To Land Trust:

Rio Grande Headwaters Land Trust  
P.O. Box 444  
Del Norte, CO 81132

To the CWCB

Attn: Craig Godbout  
1313 Sherman, #718  
Denver, CO 80203

## **26. Landowner’s Title Warranty**

Landowner owns the fee simple interest in the Property, including the Water Rights. Landowner warrants that Landowner has good and sufficient title to the Property and hereby promises to defend the same against all claims from persons claiming by, through, or under Landowner.

Landowner further warrants to Land Trust that Landowner has the right, power and lawful authority to grant, bargain, and convey to Land Trust the rights conveyed in this Easement, including access to the Property for the purposes described in this Easement, and that the Property is free and clear from any and all adverse claims, liens, and encumbrances (except those noted in **Exhibit F** "Exceptions to Title".) Landowner, and Landowner's successors in interest will warranty and forever defend this Easement against all and every person or persons lawfully claiming the whole or any part of the Easement.

Landowner further represents and warrants to Land Trust that, after reasonable investigation and to the best of its knowledge:

- (a) 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;
- (b) Landowner and the Property are in compliance with all federal, state, and local laws, regulations, and requirements applicable to the Property and its use;
- (c) 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, regulations, or requirement applicable to the Property or its use;
- (d) There is no pending or threatened litigation in any way affecting, involving, or relating to the Property; and
- (e) Other than the exceptions noted in **Exhibit F**, there are no other persons who may claim an interest in the Property that Landowner is aware of to the best of Landowner's knowledge.

## **27. Subsequent Liens on the Property**

No provisions of this Easement shall be construed as impairing the ability of Landowner to use this Property as collateral for subsequent borrowing, provided that any deed of trust, mortgage or lien arising from such a borrowing shall be subordinate to this Easement for all purposes so that any such instrument expressly shall be deemed to have been recorded after this Easement and so that any foreclosure of such deed of trust, mortgage or lien shall not affect any provision of this Easement, including without limitation its perpetual nature.

## **28. Recording**

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

## 29. Environmental Attributes

Unless otherwise provided in this Easement, Landowner reserves all Environmental Attributes associated with the Property. “**Environmental Attributes**” shall mean any and all tax or other credits, benefits, renewable energy certificates, emissions reductions, offsets, and allowances (including but not limited to water, riparian, greenhouse gas, beneficial use, and renewable energy), generated from or attributable to the conservation, preservation and management of the Property in accordance with this Easement. Nothing in this Paragraph 29 shall modify the restrictions imposed by this Easement or otherwise be inconsistent with the Purpose.

## 30. Tax Benefits

Landowner acknowledges that Landowner is responsible for obtaining legal and accounting counsel to advise Landowner regarding the applicability of federal or state tax benefits that might arise from the bargain sale (sale at less than fair market value) or donation of the Easement. Land Trust makes no representation or warranty that Landowner will receive tax benefits for the bargain sale or donation of the Easement.

## 31. General Provisions

### a. Controlling Law

The interpretation and performance of this Easement shall be governed by the laws of the State of Colorado.

### b. Liberal Construction

Any general rule of construction to the contrary notwithstanding this Easement shall be liberally construed in favor of the grant to effect the purpose of this Easement and the policy and purpose of C.R.S. §§ 38-30.5-10, *et seq.* If any provision in this instrument is found to be ambiguous, an interpretation consistent with the Purpose of this Easement that would render the provision valid shall be favored over any interpretation that would render it invalid.

### c. Severability

If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid, it shall be deemed severed from this Easement, and the balance of this Easement shall otherwise remain in full force and effect.

### d. Entire Agreement

This instrument sets forth the entire agreement of the Parties with respect to the Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Easement, all of which are merged herein.

*e. Joint Obligation*

The obligations imposed upon by the Landowner and Land Trust of this Easement shall be joint and several in the event that more than one entity or individual holds either interest at any given time.

*f. Non-Merger*

No merger shall be deemed to have occurred hereunder or under any documents executed in the future affecting this Easement, unless the Parties expressly state that they intend a merger of estates or interests to occur and the CWCB provides written approval. The Parties further intend that no merger of interests occurs if Land Trust acquires fee title to the Property.

If Land Trust wishes to acquire fee title to the Property or any additional interest in the Property (such as a leasehold), Land Trust must first obtain the written approval of the CWCB. As a condition of such approval, the CWCB may require that the Land Trust first transfer the Easement to another qualified organization consistent with Paragraph 23.

*g. Termination of Rights and Obligations*

A Party's rights and obligations under this Easement terminate upon transfer of the Party's interest in the Easement or Property, except that liability for acts or omissions occurring prior to transfer shall survive transfer.

*h. Captions*

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

*i. No Third-Party Beneficiaries*

This Easement is entered into by and between Landowner and Land Trust, and is solely for the benefit of Landowner, Land Trust, the CWCB and their respective successors and assigns for the purposes set forth herein and does not create rights or responsibilities in any third parties beyond Landowner, Land Trust, and the CWCB.

*j. Change of Conditions*

A change in the potential economic value of any use that is prohibited by or inconsistent with this Easement, or a change in any current or future uses of neighboring properties, shall not constitute

a change in conditions that makes it impossible for continued use of the Property for conservation purposes and shall not constitute grounds for terminating the Easement in whole or in part.

*k. Authority to Execute*

Each Party represents to the other that such Party has full power and authority to execute, deliver, and perform this Easement, that the individual executing this Easement on behalf of said Party is fully empowered and authorized to do so, and that this Easement constitutes a valid and legally binding obligation of said Party enforceable against said Party in accordance with its terms.

*l. Violation of Criminal Laws*

Violation of Federal, State, or local criminal law is prohibited. No activities shall be permitted on the Property in violation of current Federal, State or local criminal laws.

*n. Easement Runs with the Property*

The terms and conditions of this Easement run with the land and are binding upon the Landowner and Land Trust and their respective heirs, successors, agents, assigns, lessees, and any other person claiming under them must comply with all terms and conditions of this Easement.

**32. Acceptance**

**Acknowledgement of Donation (I.R.C. § 170(f)(8)).** As attested by Rio Grande Headwaters Land Trust and the signature of its representative affixed hereto, Land Trust hereby accepts the rights and responsibilities conveyed by this Easement. The Land Trust acknowledges receipt and acceptance of this Deed of Conservation Easement encumbering the Property for which no goods or services were provided, except for the consideration, if any, paid for this Easement.

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

**IN WITNESS WHEREOF,** Landowner and Land Trust, intending to be legally bound hereby, have hereunto set their hands on the day and year first written above.

LANDOWNER:

Rock Paulson aka Rock B. Paulson, and Terri Paulson aka Terri R. Paulson

By: Rock Paulson Rock B Paulson

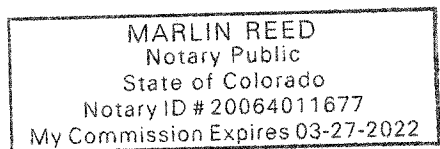
Rock Paulson aka Rock B. Paulson

By: Terri Paulson Terri R Paulson  
Terri Paulson aka Terri R. Paulson

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF RIO GRANDE            )

The foregoing instrument was acknowledged before me this 10 day of December, 2020 by Rock Paulson aka Rock B. Paulson and Terri Paulson aka Terri R. Paulson as Landowner.

Witness my hand and official seal.



Marlin Reed  
Notary Public

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



ACCEPTED:

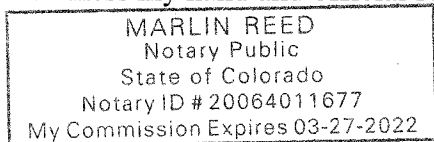
RIO GRANDE HEADWATERS LAND TRUST,  
a Colorado non-profit corporation

By:   
Cathy Morin, its Board President

STATE OF COLORADO                    )  
  )ss.  
COUNTY OF RIO GRANDE            )

The foregoing instrument was acknowledged before me this 10 day of December, 2020, by Cathy Morin, as Board President of Rio Grande Headwaters Land Trust, a Colorado non-profit corporation.

Witness my hand and official seal.



  
Notary Public

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

<b>Exhibit A</b>	Legal Description of the Property
<b>Exhibit B</b>	Maps of Property
<b>Exhibit C</b>	Survey
<b>Exhibit D</b>	Water Rights
<b>Exhibit E</b>	Acknowledgement of Baseline
<b>Exhibit F</b>	Exceptions to Title

**Exhibit A**  
**Legal Description of Property**  
**(Page 1 of 2)**

PARCEL 1:

A tract of land located in the East half of the Northwest Quarter (E½NW¼) of Section 26 and the Northeast Quarter of the Southwest Quarter (NE¼SW¼) of Section 26, all in Township 39 North, Range 7 East, New Mexico Principal Meridian, Rio Grande County, Colorado, being more particularly described by metes and bounds as follows:

Beginning at the Southwest Sixteenth Corner of Section 26, monumented by a No. 6 rebar with a 3.25" Aluminum cap set by PLS. No. 23847; thence N 00°30'01" E along the west line of said NE¼SW¼ of said Section 26 a distance of 1329.62 to the Center West Sixteenth Corner of Section 26, monumented by a #6 rebar with a 3.25" aluminum cap set by PLS No. 23847; thence N 00°19'32" E along the west line of said E½NW¼ of Section 26 a distance of 2150.98 feet to the northwest corner of the tract herein described, known as "the Nelson Boundary Survey, Tract 3", being a point on the south right of way of Swede Lane, as fenced; thence S 79°01'13" E along said south right of way a distance of 1338.84 feet to the northeast corner of said "Tract 3", also being a point on the east line of said E½NW¼; thence S 00°18'49" W along said east line a distance of 1903.79 feet to the Center Quarter Corner of Section 26, a #6 rebar with a 3.25" aluminum cap set by PLS No. 22583; thence S 00°14'55" W along the east line of said NE¼SW¼ a distance of 1331.03 feet to the southeast corner of said "Tract 3" also being the South Center Sixteenth Corner of Section 26, a #6 rebar with a 3.25" aluminum cap set by PLS No. 23847; thence N 89°35'55" W along the south line of said NE¼SW¼ a distance of 1322.50 feet to the Point of Beginning.

SAVE AND EXCEPT the right of way for the Creede branch of the Denver and Rio Grande Western Railroad, which right of way is a strip of land 100 feet in width, containing 3.43 acres more or less.

SAVE AND EXCEPT the right of way for Swede Land as per the Deed recorded September 5, 1972 under Reception Number 248142 in the records of the Rio Grande County Clerk and Recorder.

**Exhibit A**  
**Legal Description of Property**  
**(Page 2 of 2)**

**PARCEL 2:**

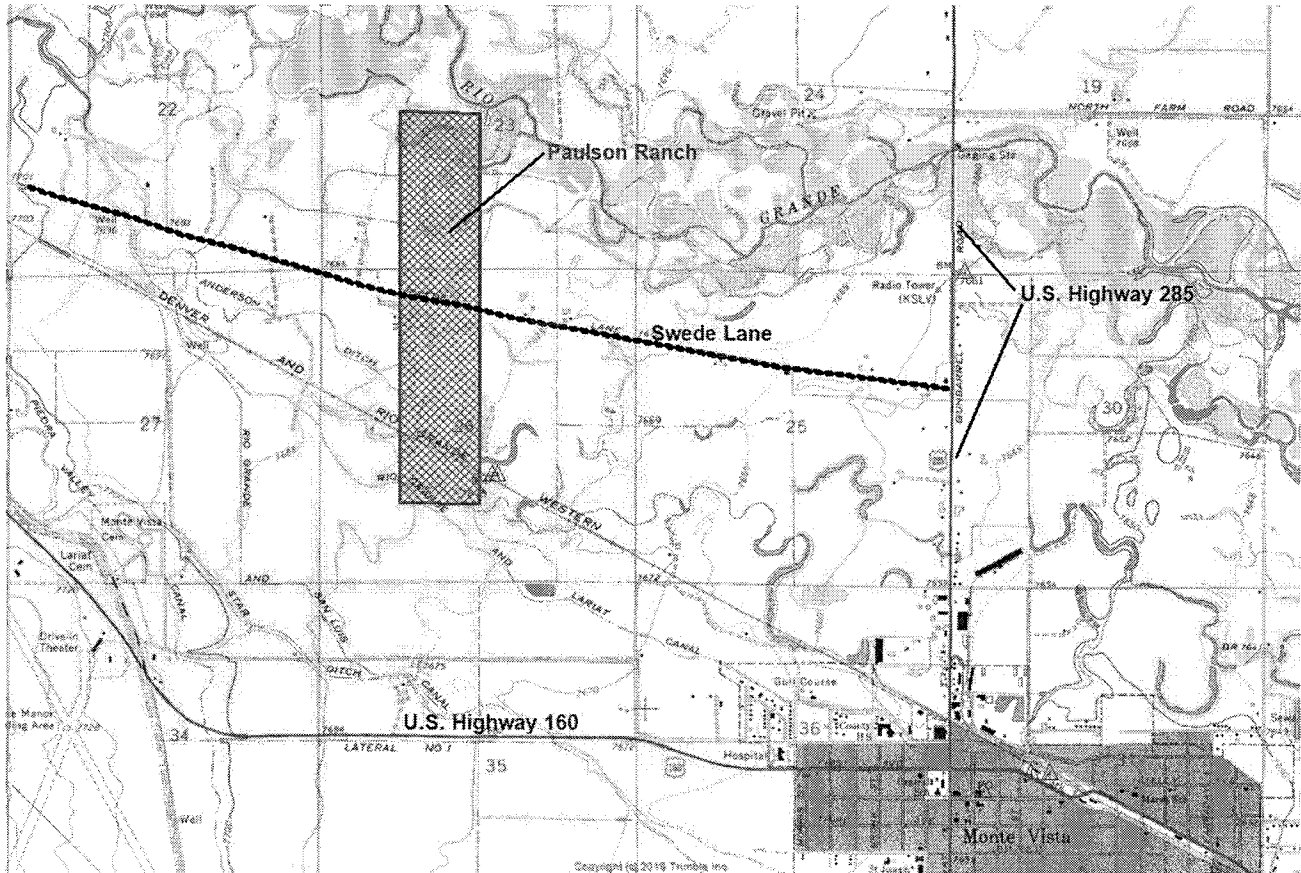
The East Half of the Southwest Quarter of Section Twenty-Three, Township Thirty-nine North, Range Seven East, New Mexico Principal Meridian, Rio Grande County, Colorado, and being more particularly described by metes and bounds as follows, to-wit:

Beginning at the Southeast corner of said E1/2 SW1/4 Section 23, which corner is identical with the South Quarter corner of said Section 23: thence South 89° 56.5' West, 1314.61 feet along the south line of said E1/2SW1/4 Section 23 to the Southwest corner thereof: thence North 0° 17' East, 2644.42 feet along the west line of said E1/2 SW1/4 Section 23 to the northwest corner thereof; thence North 89° 40.5' East, 1318.52 feet along the north line of said E1/2 SW1/4 Section 23 to the northeast corner thereof; thence South 0° 22' West, 2650.60 feet along the east line of said E1/2 SW1/4 Section 23 to the place of beginning.

TOGETHER WITH that fraction of the Northeast Quarter of the Northwest Quarter of Section Twenty-Six, Township Thirty-Nine, North, Range Seven East, New Mexico Principal Meridian, located northerly of Swede Lane, which fraction is more particularly described by metes and bounds as follows, to-wit: Beginning at the northwest corner of the fraction herein described, which corner is identical with the northwest corner of said NE1/4 NW1/4 Section 26, whence the northwest corner of said Section 26 bears South 89° 56.5' West, 1314.61 feet distant; thence North 89° 56.5' East, 1314.61 feet along the north line of said NE1/4 NW1/4 Section 26 to the northeast corner thereof which corner is identical with the North Quarter corner of said Section 26; thence South 0° 08.5' East, 692.50 feet along the east line of said NE1/4 NW1/4 Section 26 to its point of intersection with the northerly limit, as fenced, of said Swede Lane, which point is identical with the southeast corner of the fraction herein described; thence North 79° 29' West, 1338.86 feet along the northerly limit, as fenced, of said Swede Lane to its point of intersection with the West line of said NE1/4NW1/4 Section 26, which point is identical with the southwest corner of the fraction herein described: thence North 0° 05' West, 443.20 feet along the west line of said NE1/4 NW1/4 Section 26 to the place of beginning.

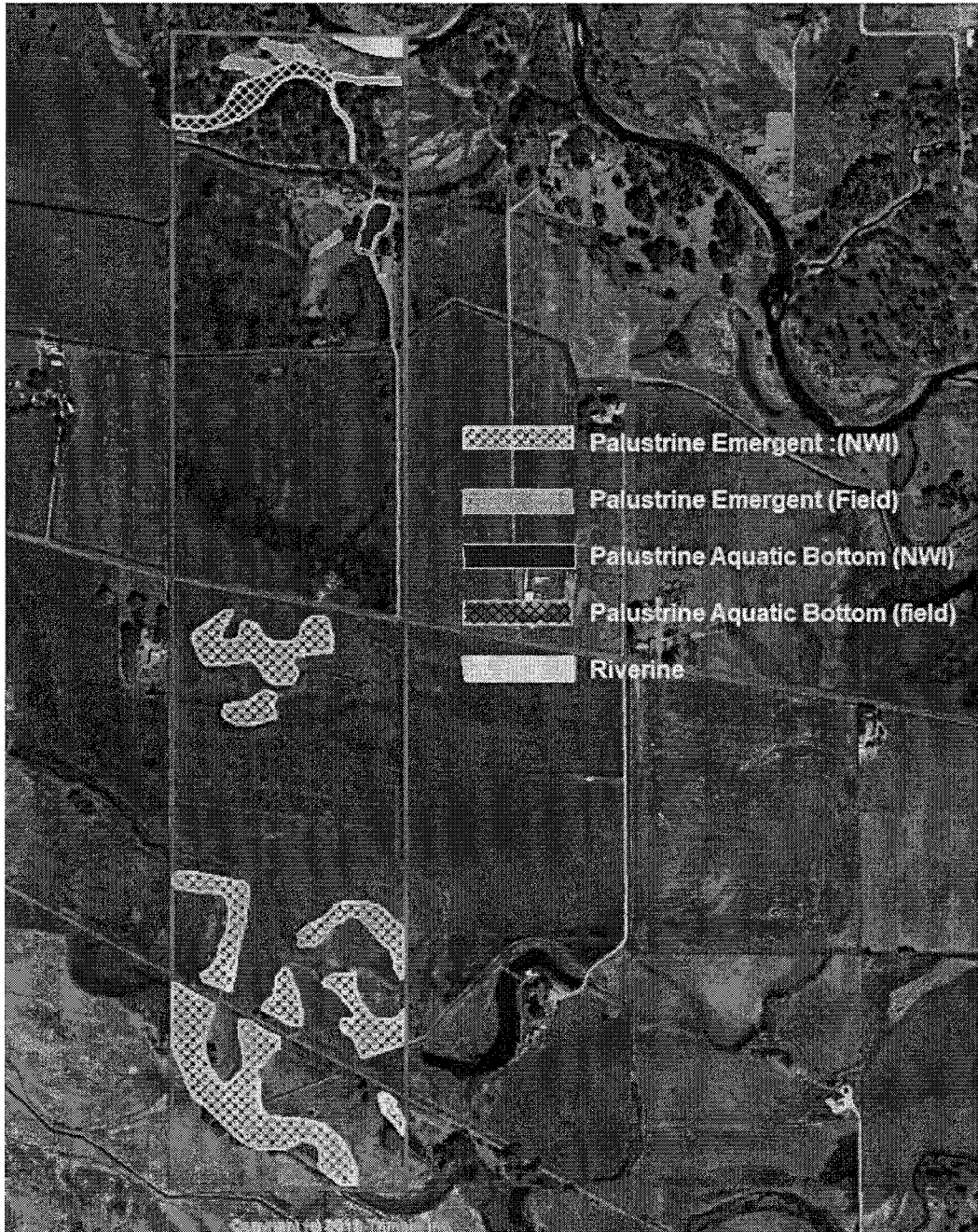
**Exhibit B**  
**Maps of Property**  
**(Page 1 of 3)**

**PAULSON CONSERVATION EASEMENT LOCATION MAP**  
**(Scale: 1 inch= approx. 0.45 miles)**



**Exhibit B**  
**Maps of Property**  
**(Page 2 of 3)**

**NWI & FIELD-IDENTIFIED WETLANDS**



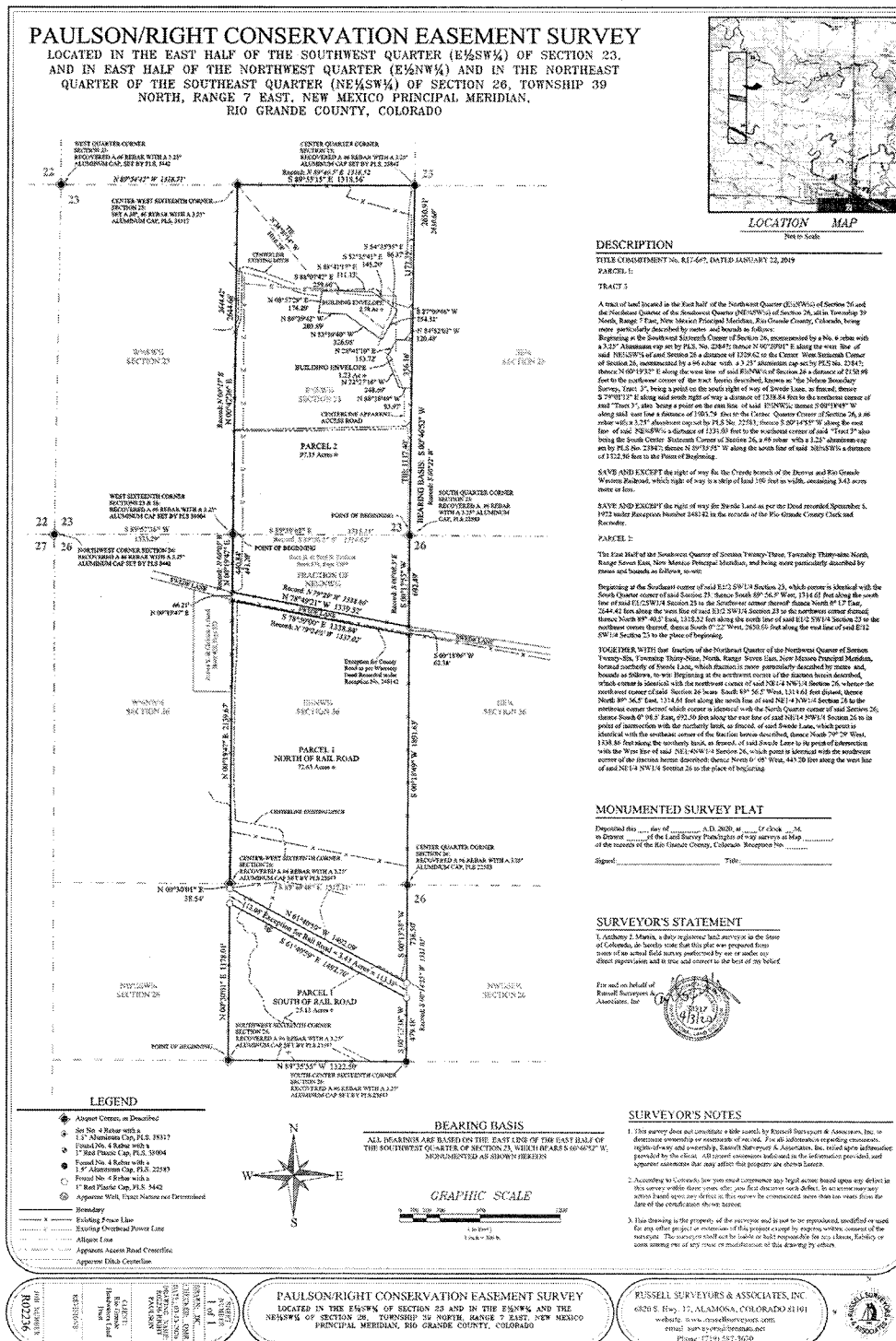
**Exhibit B**  
**Maps of Property**  
**(Page 3 of 3)**

**VEGETATION COVER MAP**



## Exhibit C

### Survey



**Exhibit D**  
**Water Rights**

**The following shares of capital stock and water rights, together with appurtenances, are encumbered by this Easement:**

1. 28.51 shares of capital stock in The Consolidated Ditch & Headgate Co. represented by Certificate No. 259 for delivery of the following Water Rights of Grantor:
  - a. 0.667 cfs of Horner and Ydren Ditch and Overflow Priorities #14 (Adjudicated on May 1, 1896 and Appropriated April 15, 1873) and #44 (Adjudicated on May 1, 1896 and Appropriated May 31, 1874).
  - b. 0.6 cfs of John Anderson Ditch Priority #193 (Adjudicated on May 1, 1896 and Appropriated September 15, 1880).
2. 41.69 shares of capital The Consolidated Ditch & Headgate Co. represented by Certificate No. 280 for delivery of the following Water Rights of Grantor:
  - a. 0.333 cfs of Horner and Ydren Ditch and Overflow Priorities #14 (Adjudicated on May 1, 1896 and Appropriated April 15, 1873) and #44 (Adjudicated on May 1, 1896 and Appropriated May 31, 1874).
  - b. 1.52 cfs of Atencio Ditch Priority #43 (Adjudicated on May 1, 1896 and Appropriated May 31, 1874).




Exhibit E

Page 1 of 2

**Owner Acknowledgment of Condition**

We, Rock and Terri Paulson, hereby accept this Conservation Easement Present Condition Report prepared by Rhea Environmental Consulting, dated November 1, 2019, as an accurate representation of the biological and physical conditions of the properties, herein described, as of the date of the conveyance of the conservation easement.


  
\_\_\_\_\_  
**Rock Paulson**

12-10-20  
**Date**

  
\_\_\_\_\_  
**Terri Paulson**

12-10-2020  
**Date**

This report is accepted by the Rio Grande Headwaters Land Trust.

  
\_\_\_\_\_  
**Allen Law**  
Executive Director

12.10.20  
**Date**

This report, to the best of my knowledge, is an accurate representation of the condition of the properties, described herein, as of November 1, 2019.

  
\_\_\_\_\_  
**Barry Rhea**  
Rhea Environmental Consulting

1/15/20  
**Date**



Conserving our  
Land, Water and Way of Life  
in Colorado's San Luis Valley

December 10, 2020

Re: Paulson Conservation Easement, Rio Grande County, Colorado  
Update to Baseline Documentation & Present Condition Report prepared for  
Rock & Terri Paulson & Rio Grande Headwaters Land Trust by Barry Rhea of  
Rhea Environmental Consulting dated November 1, 2019 (the "**Baseline  
Report**").

To whom it may concern:

This letter serves to update the Baseline Report described above and to verify  
that the condition of the property described in the Baseline Report is unchanged as of  
December 10, 2020, and as of the date and time of the recording of the Deed of  
Conservation Easement granted by Rock Paulson aka Rock B. Paulson and Terri  
Paulson aka Terri R. Paulson to the Rio Grande Headwaters Land Trust.

Sincerely,

Allen Law, Executive Director

By our countersignature below, we as the landowners attest as to the validity of  
the statements contained herein and agree that conditions on the property as noted in  
the Baseline Report remain the same.

A handwritten signature in black ink, appearing to read "Rock Paulson", written over a horizontal line.

Rock Paulson aka Rock B. Paulson

A handwritten signature in black ink, appearing to read "Terri Paulson", written over a horizontal line.

Terri Paulson aka Terri R. Paulson

**Exhibit F**  
**Exceptions to Title**

1. Subject to any vested and accrued water rights for mining, agricultural, manufacturing or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts, and also subject to the right of a proprietor of a vein or lode to extract and remove his ore therefrom should the same be found to penetrate or intersect the premises as contained in Patents: U.S. Patent recorded February 6, 1888 at Reception No. 10151 (NE1/4SW1/4 Section 26).
2. Those items as set forth in the Patent issued by the United States of America to Josefita Rebera for the heirs of Ventura Rebera, deceased, on May 10, 1881 and imaged in the records of the Bureau of Land Management as Serial Number COCOAA 033383 (E1/2NW1/4 Section 26).
3. Right of Way between Jon Persson and Denver and Rio Grande Railway Company of Colorado, recorded May 31, 1881 at Reception No. 4761. (NE1/4SW1/4 of Section 26).
4. Right of way for and rights of others to Swede Lane.
5. Those items as indicated on Nelson Boundary Survey, deposited December 12, 2013 in Drawer A, Map 1024, Reception No 1000.
6. Those items as indicated on Nelson Boundary Survey,-Revised, deposited March 5, 2015 in Drawer A, Map No. 1060, Reception No. 1036.
7. Agreement between Charles E. Fath, Arthur F. Wiley, Corrie E. Rees, Carl G. Backstrom, Jay L. Wolfe and John Nelson to John E. Davenport, recorded May 26, 1910 at Reception No. 38017.
8. Memorandum of Agreement between Gust Ydren, C.J. Nelson, Foe Lentz, Roy McConnell, Phillip H. Schaefer and Ralph Caldwell and L.R. Sawyer, recorded May 12, 1955 at Reception No. 180873.
9. Those items as set forth on the Paulson/RiGHT Conservation Easement Survey executed by Russell Surveyors & Associates, Inc., dated April 3, 2020 as Job Number R02236.