

ORDINANCE NO. 022, 2017
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE
AGREEMENT WITH THE LANDOWNERS ASSOCIATION FOR
PHANTOM CANYON RANCHES FOR RECREATIONAL USE OF
HALLIGAN RESERVOIR AND CERTAIN SURROUNDING LANDS

WHEREAS, Halligan Reservoir, also known as North Poudre Reservoir No. 16 (“Reservoir”) is an on-channel reservoir located on the North Fork of the Cache la Poudre River, in portions of Section 29, 32, 33, and 34, Township 11 North, Range 71 West of the 6th P.M., Larimer County, Colorado; and

WHEREAS, the City acquired various rights to the Reservoir and certain surrounding lands (“Property”) pursuant to: the Warranty Deed, dated January 22, 2004, recorded with the Larimer County Clerk on January 26, 2004 at Reception No. 2004-0007821; and the Bargain and Sale Deed, dated January 22, 2004, recorded with the Larimer County Clerk on January 26, 2004 at Reception No. 2004-0007822; and

WHEREAS, The Landowners’ Association for Phantom Canyon Ranches (“Association”), is an organization, the members of which own an interest in one or more of the parcels of the Phantom Canyon Ranches in the vicinity of the Reservoir; and

WHEREAS, the City’s predecessor-in-interest to the Reservoir and Property historically leased certain recreational rights to the Reservoir and the Property to the Association and its predecessor, and the Association desires to continue to have access to the Reservoir and Property for recreational purposes; and

WHEREAS, the City desires access to the Reservoir using the Association’s Meadow Creek Road for certain purposes, such as: conducting studies required for the permitting process by the U.S. Army Corps of Engineers or other federal, state, or local agencies associated with the City’s proposed enlargement of the Reservoir; for maintenance and safety inspections of the Halligan Dam; for regulatory compliance, and for water quality studies; and

WHEREAS, the City and the Association has negotiated the proposed Lease Agreement attached hereto as Exhibit “A”, pursuant to which the City would lease to the Association certain recreational rights to the Reservoir and the Property, and the City would gain certain rights to access to the Reservoir using the Association’s Meadow Creek Road for certain purposes; and

WHEREAS, said Lease Agreement will benefit the City by, among other things, gaining certain rights to access to the Reservoir using the Association’s Meadow Creek Road for certain purposes; assisting in the maintenance of the Reservoir and Property, facilitating certain aspects of the federal permitting process for the City’s Halligan Water Supply Project, and generating a revenue stream from the Reservoir and Property; and

WHEREAS, the City Manager and City staff have recommended to the City Council that it approve the Agreement as set forth herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

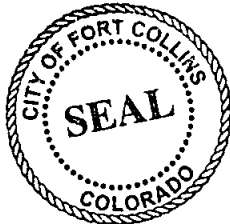
Section 2. That the City Council finds, pursuant to Sections 23-111(a), 23-113(a), and 23-113(b) of the City Code, that the lease of the Reservoir and Property pursuant to an agreement that is substantially similar to the attached Lease Agreement is in the best interests of the City.

Section 3. That the City Council finds, pursuant to Sections 23-111(b) and 23-113(a) of the City Code, that the lease of the Reservoir and Property pursuant to an agreement that is substantially similar to the attached Lease Agreement will not materially impair the viability of the water utility system as a whole and that it will be for the benefit of the citizens of the City.

Section 4. That the City Council finds, pursuant to Section 23-114 of the City Code, that the lease of the Reservoir and Property pursuant to an agreement that is substantially similar to the attached Lease Agreement will result in the City receiving a value in an amount equal to or greater than the fair market value of the Property.

Section 5. That the City Council hereby authorizes the City Manager to enter into an agreement with the Association that is substantially similar to the attached Lease Agreement, with such additional terms and conditions as the City Manager, in consultation with the City Attorney, may determine to be necessary and appropriate to protect the interests of the City or effectuate the purposes of this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 7th day of February, A.D. 2017, and to be presented for final passage on the 21st day of February, A.D. 2017.

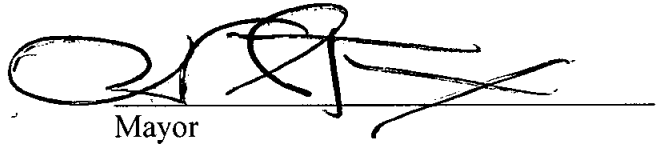


A handwritten signature in black ink, appearing to be "B. J. ...", is written over a horizontal line. Below the line, the word "Mayor" is printed in a serif font.

ATTEST:

A handwritten signature in black ink, appearing to be "W. Winkelmann", is written over a horizontal line. Below the line, the words "City Clerk" are printed in a serif font.

Passed and adopted on final reading on the 21st day of February, A.D. 2017.



Mayor

ATTEST:

W Winkelmann
City Clerk



**LEASE AGREEMENT BETWEEN THE CITY OF FORT COLLINS
AND THE LANDOWNERS ASSOCIATION FOR PHANTOM CANYON RANCHES
FOR HALLIGAN RESERVOIR AND ADJACENT PROPERTY**

This Lease Agreement (this "Lease Agreement") is entered into this ___ day of _____, 20___, by and between the following Parties: the City of Fort Collins, Colorado, a municipal corporation (the "City"), and The Landowners' Association for Phantom Canyon Ranches, a Colorado nonprofit corporation (the "Association").

RECITALS

A. Halligan Reservoir, also known as North Poudre Reservoir No. 16 (the "Reservoir") is an on-channel reservoir located on the North Fork of the Cache la Poudre River, in portions of Section 29, 32, 33, and 34, Township 11 North, Range 71 West of the 6th P.M., Larimer County, Colorado. The visible portions of the Reservoir's dam and spillway are located in the NE1/4 of the SW1/4 of Section 34, Township 11 North, Range 71 West of the 6th P.M. (the "Dam and Spillway").

B. The North Poudre Irrigation Company ("North Poudre") historically owned and operated the Reservoir and owned the real property described in Recital D (the "Property"). North Poudre also historically leased recreational rights to the Reservoir and the Property to the Association and its predecessor.

C. The City acquired various rights to the Reservoir and surrounding lands from North Poudre pursuant to: the Warranty Deed, dated January 22, 2004, recorded with the Larimer County Clerk on January 26, 2004 at Reception No. 2004-0007821; and the Bargain and Sale Deed, dated January 22, 2004, recorded with the Larimer County Clerk on January 26, 2004 at Reception No. 2004-0007822.

D. Pursuant to said Warranty Deed, the City acquired the following lands in Township 11 North, Range 71 West of the 6th P.M.:

- Section 32: The N1/2 of the NE1/4;
- Section 33: The N1/2; the N1/2 of the SE1/4 and the N1/2 of the SW1/4;
- Section 34: The N1/2 of the NE1/4; the SW1/4 of the NE1/4; the NW1/4 of the SE1/4 and the SW1/4;

Excepting from all of the above that portion lying above the 110 foot contour of Halligan Reservoir as conveyed by Deed recorded January 9, 1913 in Book 242 at Page 355.

E. The Association is an organization, the members of which own an interest in one or more of the parcels of the Phantom Canyon Ranches (the "Members"). A map of the Phantom Canyon Ranches is attached hereto as Exhibit "A" and incorporated herein by reference (the

"Map"). The Map shows the parcels within Phantom Canyon Ranches ("Parcels") and the Roads that provide access to the Parcels and the Reservoir (the "Roads"). Easements for the Roads were created by a Declaration of Easements dated December 30, 1988 and recorded January 31, 1989 with the Larimer County Clerk at Reception No. 89004600 (the "Declaration of Easements"). The Declaration of Easements and the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Phantom Canyon Ranches recorded June 8, 2009 with the Larimer County Clerk at Reception No. 20090037601 of the Larimer County, Colorado records (the "Covenants") apply to use of Meadow Creek Road (from Larimer County Road 80C to Halligan Reservoir, as highlighted in yellow on the Map) and rights granted under this Lease Agreement. The Association and its Members have historically shown a commitment to the preservation of the land. For instance, many of the Parcels are subject to conservation easements, and the Association has historically cared for the Reservoir and preserved and enhanced the habitat of the Property and the surrounding lands owned by the Association.

F. The City intends to enlarge the Reservoir from its current capacity of approximately of approximately 6,408 acre feet to, among other things, meet the projected future demand of lands and persons that receive water service from the City (the "Project"). Presently, the City anticipates enlarging the Reservoir to approximately 14,525 acre feet. The City has applied to the United States Army Corps of Engineers for a permit (the "Permit") under Section 404 of the federal Clean Water Act for the Project (the "Permitting Process").

G. The City desires to lease the Property and Reservoir to the Association, which will benefit the City (including Fort Collins Utilities) by, among other things, assisting in the maintenance of the Reservoir and Property, facilitating the Permitting Process, and generating a revenue stream from the Property and Reservoir.

H. The Association desires to acquire rights to use the Reservoir and Property, primarily for recreational purposes.

I. The City desires to use Meadow Creek Road to obtain access to Halligan Reservoir and the Property and the Association is willing to grant to the City the right to use Meadow Creek Road subject to the terms and conditions of Section 4(c) for this Lease Agreement.

AGREEMENT AND UNDERSTANDING

1. **INCORPORATION OF RECITALS.** The foregoing recitals are hereby incorporated herein as if fully restated in their entirety.

2. **LEASE OF THE PROPERTY AND RESERVOIR.** The City hereby grants an exclusive lease to the Association for the Property and Reservoir, subject to the terms and conditions of this Lease Agreement including, by example and not limitation, the City's reserved rights as set forth in Paragraph 4.

3. **TERMS AND CONDITIONS ON USE OF THE PROPERTY AND RESERVOIR.**

a. The Association acknowledges that the Property and Reservoir are being taken "as is" under this Lease Agreement. The City makes no warranties as to the suitability of the Property for the Association's intended activities.

b. The Property may be used by the Association, its Members, their guests, and invitees for recreational purposes, including, by example and not limitation, hunting, hiking, and horseback riding. In addition, the Association may use the Property for livestock grazing and related activities.

c. The Reservoir may be used by the Association, its Members, their guests, and invitees for recreational purposes only, including, by way of example and not limitation, fishing, boating, canoeing, sailing, and swimming.

d. Use of the Reservoir and the Property by the Association, its Members, their guests, and invitees shall comply with and shall not be in violation of any applicable laws, regulations or ordinances of the United States of America, State of Colorado, County of Larimer, the City, and any other governmental entity having jurisdiction over the Reservoir and/or the Property including, by example and not limitation, rules and regulations pertaining to hunting, fishing, boating safety.

e. The Association shall not install any permanent fixtures or improvements on the Property.

f. The Dam and Spillway are located near the southeast corner of the Reservoir in the channel of the North Fork of the Cache la Poudre River. The Association agrees to act in good faith and use reasonable efforts to prohibit any recreational activity in the immediate vicinity of the Dam and Spillway. The Association shall adopt rules and regulations and post appropriate signs and notices prohibiting swimming, boating, sailing, canoeing, fishing, or conducting any other activity near the Dam and Spillway.

g. To the extent allowed by law, the Association shall have the right, but not the obligation, to prohibit any and all persons from entering upon the Property and/or Reservoir for any reason; provided, however that the Association shall not act in any way that inhibits the City's reserved rights as set forth in Paragraph 4.

4. **RESERVED RIGHTS OF THE CITY.** The City hereby reserves the following rights to the Property and Reservoir for itself, its employees, agents, and contractors, and persons and entities working on the Permitting Process or the Project:

a. The City shall be entitled to use and operate the Reservoir as a water storage reservoir including, but not limited to, maintenance, repair, and operation of the Dam and Spillway, and fluctuation of the water level in the Reservoir. The Parties expressly acknowledge that the City has retained and may continue to retain North Poudre (and/or another entity) to operate the Reservoir and associated property pursuant to various service agreements.

b. The City shall be entitled to enter the Property and the Reservoir by roads other than Meadow Creek Road, Andrews Park Road, Jackson Park Road, or Three Corner Gate Road for the following purposes:

i. Any and all purposes associated with the Permitting Process and other processes associated with the enlargement of the Reservoir including, but not limited to, investigations and studies performed by the City and relevant governmental agencies and their employees and agents (such as, by way of example and not limitation, the United States Army Corps of Engineers, Larimer County, Colorado Parks and Wildlife, and the Colorado Water Conservation Board).

ii. Any and all purposes associated with legal and regulatory compliance including, but not limited to, dam safety inspections, water quality monitoring and compliance, and water rights administration.

iii. For site visits for the purposes of providing information to City employees and officials, governmental representatives, and members of the public.

iv. For purposes, of confirming that the Association is complying with the Lease Agreement's terms.

c. The City shall have the right to use Meadow Creek Road to enter the Property and the Reservoir pursuant to the following terms and conditions:

i. Use of Meadow Creek Road by the City shall be limited to the following purposes: for the purpose of conducting studies required for the Permitting Process by the U.S. Army Corps of Engineers or other federal, state, or local agencies; for maintenance and safety inspections of the Halligan Dam; for regulatory compliance, and for water quality studies.

ii. The City shall notify the Association President and Association's caretaker prior to each use of Meadow Creek Road. Notification may be given by phone call, email, or in writing.

iii. Any use of Meadow Creek Road by City for purposes other than those listed in Section 4(c)(i) shall be allowed at the sole and absolute discretion of the Association. The City shall provide a request to the Association to use Meadow Creek Road for purposes other than those listed in Section 4(c)(i) in writing five (5) days in advance of desired date of use of the Meadow Creek Road.

iv. A City employee shall be present for any use of Meadow Creek Road by any City agent(s) and contractors, and persons and entities working on the Permitting Process or the Project.

v. Use of Meadow Creek Road is subject to the Declaration of Easements, the Covenants, and the Rules and Regulations of the Association.

vi. The City may not make any improvements to Meadow Creek Road without the prior written consent of the Association, which consent may be granted or withheld in the sole and absolute discretion of the Association. The City, at its sole cost and expense, shall repair any damage to the Meadow Creek Road caused by or resulting from use of Meadow Creek Road by the City, its agents, employees, or contractors. In the event the City fails to repair any damage done to the Meadow Creek Road, the Association shall give to the City written notice of the required repairs and if such repairs are not completed by the City within thirty (30) days after notice of the required repairs is given to the City, the Association shall have the right to perform such repair work and shall be entitled to reimbursement from the City for all costs and expenses incurred by the Association in performing such repair work upon demand, together with interest on such amounts at the rate of 12% per annum from the date incurred by the Association until repaid by the City.

vii. The City shall be deemed to have accepted Meadow Creek Road in its present condition, as is, where is, with all faults, patent and latent, without any representations or warranties whatsoever by the Association, its agents or employees. The City assumes all risks associated with use of Meadow Creek Road. The City acknowledges that neither the Association nor any of Association's agents have made any representations or warranties whatsoever regarding Meadow Creek Road. The City assumes all risk that any adverse matter of whatever kind or nature including, but not limited to the physical condition of Meadow Creek Road may arise in the future. The Association shall have no obligation to the City to maintain Meadow Creek Road in its present condition or to improve Meadow Creek Road for the City's use.

viii. To the extent permitted by law and without waiving its right to governmental immunity, the City shall be deemed to have released the Association, its officers, directors, members, agents and employees and their respective heirs, personal representatives, successors and assigns (the "Released/Indemnified Parties") from and against any and all claims, demands, actions, suits, and proceedings of whatever kind or nature that the City may now have or may have at any time in the future arising out of or as a result of the present or any future condition of Meadow Creek Road or the use of Meadow Creek Road by the City, its agents or employees.

ix. To the extent permitted by law and without waiving its right to governmental immunity, The City shall defend, indemnify and hold harmless the Released/Indemnified Parties from and against any and all loss, cost, and expense including attorneys' fees arising out of, as a result of, or in connection with any claim made against the Released/Indemnified Parties as a result of the use or misuse of the of Meadow Creek Road by the City, its agents, employees, contractors or any other person or entity using Meadow Creek Road with the express or implied authorization, permission, or consent of the City. To the extent permitted by law and without waiving its right to governmental immunity, The City shall also defend, indemnify and hold harmless the Released/Indemnified Parties and the property upon which Meadow Creek Road is located from and against any and all loss, cost, and expense including attorneys' fees arising out of, as a result of, or in connection with any claim made against the Released/Indemnified Parties as a result of the any work performed on Meadow Creek Road by the City, its agents, employees, contractors, including but not limited to mechanic's lien claims.

5. **TERM.** The initial term of this Lease Agreement shall be ten (10) years commencing on the date at which this Lease Agreement is fully executed (the "Initial Term"). So long as the Association is current and not in default in the performance of any of the Association's obligations under this Lease Agreement (or has cured any default as of the time notice is given), the Association shall have the right to extend the term of this Lease Agreement for two (2) additional periods of ten (10) years each upon the same terms and conditions as contained in this Lease Agreement ("Extension Term[s]"). If the Association elects to exercise the Association's option to extend the term of this Lease Agreement for one or more Extension Terms, the Association shall do so by giving the City written notice of such extension not less than sixty (60) days prior to the expiration of the Initial Term of this Lease Agreement or prior to the expiration of the previous Extension Term. If the Association gives such notice, the term of this Lease Agreement shall be automatically extended for the additional period of each Extension Term without the necessity of executing any extension or renewal agreement. Notwithstanding the foregoing, this Lease Agreement may be terminated pursuant to Paragraph 6.

6. **TERMINATION.** The City shall have the right to terminate this Lease Agreement any time after any of the following conditions have occurred:

a. The United States Army Corps of Engineers has issued a record of decision approving the Permit and the City has issued a notice to the Association that the City intends to commence construction of the Project within ninety (90) days thereafter; or

b. The City determines, in its sole discretion, to no longer pursue the enlargement of the Reservoir and abandons the Permitting Process and re-conveys the Property and the Reservoir to North Poudre.

Notice of Termination shall be given pursuant to Paragraph 17. Any notice of termination shall provide the Association with a date by which the Association shall cease to have rights to the Property and Reservoir under this Lease Agreement, provided that said date is at least 63 days after the date of the notice ("Termination Date"). The City shall be entitled to record a notice of the termination in the Larimer County property records.

Upon termination of this Lease Agreement, the City shall reimburse to the Association a prorated portion of the annual rental payment paid in the year in which termination occurs for that portion of the year when the Lease Agreement is no longer in effect. Reimbursement shall be calculated by dividing the number of calendar days between the date of termination and the date the current lease year was to conclude by 365 multiplied by the annual rent as set forth in Section 8.

7. **REVOCABLE PERMIT.** Upon the execution of this Lease Agreement by the Parties, the "Revocable Permit for the Landowners' Association for Phantom Canyon Ranches on Certain City Lands in and Around Halligan Reservoir" dated June 1, 2016 ("Revocable Permit"), shall be deemed revoked and terminated and both Parties shall be released from their respective obligations thereunder.

8. **Rent.** During the Initial Term of this Lease Agreement, the annual rent (“Annual Rent”) shall be \$10,000.00 per year payable on or before the month and day on which this Lease Agreement is fully executed.

a. **Initial Payment:** Until the Lease Agreement is executed, the Association may at their sole discretion continue to make monthly payments prescribed by the Revocable Permit described in Section 7. The annual rent payment made in the first year of the Initial Term shall deduct any payments received under the terms of the Revocable Permit, such that the total payment in the first year of the Initial Term under both the Lease Agreement and Revocable Permit shall not exceed \$10,000.00.

b. **Rent Adjustments.** If the Association exercises its right to extend the Term of this Lease Agreement for one or both Extension Terms, the Annual Rent shall be adjusted at the commencement of each Extension Term to reflect changes in the “Price Index” as hereinafter defined. The adjusted Annual Rent shall hereinafter be referred to as the “Adjusted Annual Rent.” In applying the rent adjustment formula, the following definitions shall apply:

i. “Bureau” shall mean the Bureau of Labor Statistics of the United States Department of Labor or any successor agency that shall issue the Price Index referred to herein. Should the Bureau discontinue the publication of the Price Index or publish the same less frequently or alter the same in some significant respect, the City shall adopt a substitute Price Index or substitute procedure which reasonably reflects and monitors consumer prices.

ii. “Price Index” shall mean the Consumer Price Index published by the Bureau for All Urban Consumers (CPI-U) for the Denver-Boulder-Greeley, Colorado Metropolitan Area for All Items (Base Period 1982-84 = 100).

iii. “Base Price Index” shall mean the Price Index for the first half of 2016, which was 245.191.

iv. “Revised Price Index” shall mean the Price Index for the first half of 2026 and the first half of 2036.

The rent adjustment formula to be used to calculate the Adjusted Annual Rent for each Extension Term is as follows:

Revised Price Index divided by Base Price Index times the Annual Rent equals Adjusted Annual Rent.

9. **INSURANCE.** The Association must procure, pay for, and keep in full force and effect during the term of this Lease Agreement a comprehensive policy of general liability insurance insuring the Association in an amount not less than \$1,000,000 covering bodily injury, including death to persons, personal injury, and property damage liability arising out of a single occurrence. Such coverage must include, without limitation, the insured’s liability for property damage, bodily injuries, and death of persons in connection with the Association’s activities on the Property and Reservoir (including acts or omissions of the Association or of its officers, employees, or agents), and protection against liability for non-owned and hired automobiles. All policies of insurance required hereunder must name the City as an additional insured, and shall

contain a provision that the policy or policies cannot be canceled or materially altered either by the insured or the insurance company until 15 days' prior written notice thereof is given to the City. Upon issuance or renewal of any such insurance policy, the Association shall furnish a certified copy or duplicate original of such policy or renewal thereof with proof of premium payment to the City. In the event the Association fails or neglects to maintain the insurance required by this paragraph, the City shall have the right, upon giving the Association reasonable notice of its election to do so, to take out and maintain such insurance at the expense of the Association, and in such event the cost of such insurance shall be paid for by the Association promptly upon receipt of an invoice covering such charges.

10. **INDEMNITY.** The Association agrees to indemnify and hold harmless the City, its officers, agents, employees, representatives, successors and assigns from all claims and liability, including the City's reasonable attorneys' fees and costs, for claims resulting from or arising out of the Association's use of the Property and Reservoir, and for any actions or omissions by the Association in violation of this Lease Agreement or in violation of any applicable law or regulation.

11. **RECORDING.** The Association shall record this Lease Agreement in the Larimer County property records and shall provide the City with a copy of this Lease Agreement, as recorded, as soon as practicable.

12. **REMEDIES.** If either Party fails to comply with the provisions of this Lease Agreement, the other Party, after providing written notification to the noncomplying Party, and upon the failure of the noncomplying Party to achieve compliance within thirty-five (35) days, may seek all such remedies available under Colorado law.

13. **FISCAL CONTINGENCY.** Notwithstanding any other provision of this Lease Agreement to the contrary, the obligations of the City in fiscal years after the fiscal year of this Lease Agreement shall be subject to appropriation of funds sufficient and intended therefor, with the City having the sole discretion to determine whether the subject funds are sufficient and intended for use under this Lease Agreement, and the failure of the City to appropriate such funds shall be grounds for termination of this Lease Agreement upon ninety one (91) days prior written notice of the failure to appropriate such funds.

14. **NO THIRD-PARTY BENEFICIARIES.** This Lease Agreement is entered into between the Parties for the purposes set forth herein. It is the intent of the parties that they are the only beneficiaries of this Lease Agreement and the Parties are only benefitted to the extent provided under the express terms and conditions of this Lease Agreement.

15. **GOVERNING LAW AND ENFORCEABILITY.** This Lease Agreement shall be construed in accordance with the laws of the State of Colorado, insofar as any matter is not regulated by applicable laws of the United States. The Parties recognize that the constitutions, statutes, and rules and regulations of the State of Colorado and of the United States, as well as the Parties' respective bylaws, city charters and codes, and rules and regulations, impose certain legal constraints on each Party and that the Parties intend to carry out the terms and conditions of this Agreement subject to those constraints. Whenever possible, each provision of this

Agreement shall be interpreted in such a manner so as to be effective and valid under applicable law.

16. **WAIVER.** A waiver of a breach of any of the provisions of this Lease Agreement shall not constitute a waiver of any subsequent breach of the same or another provision of this Lease Agreement.

17. **NOTICES.** All notices or other communications required or desired to be given by one Party to the other Party under this Lease Agreement shall be sufficiently given and shall be deemed given when personally delivered, or after the lapse of five (5) business days following mailing by certified mail-return receipt requested, postage prepaid, addressed as follows:

To the City: City Manager
City Hall West
300 LaPorte Avenue; P.O. Box 580
Fort Collins, Colorado 80522-0580

With copy to: Fort Collins City Attorney's Office

and: Fort Collins Utilities
Attn: Water Resources Manager
700 Wood Street P.O. Box 580
Fort Collins, Colorado 80522-0580

To the Association: Registered agent on file with the
Colorado Secretary of State

18. **CONSTRUCTION.** This Lease Agreement shall be construed according to its fair meaning as it was prepared by both Parties.

19. **ENTIRE AGREEMENT.** This Lease Agreement constitutes the entire agreement of the Parties regarding the matters addressed herein. This Lease Agreement binds and benefits the Parties and their respective successors. Covenants or representations not contained in this Lease Agreement regarding the matters addressed herein shall not bind the Parties.

20. **CAPTIONS.** The captions of the paragraphs of this Lease Agreement are for convenience only and shall not govern or influence the interpretation of the Lease Agreement

21. **REPRESENTATIONS.** Each Party represents to the other Party that it has the power and authority to enter into this Lease Agreement and the individual signing below on behalf of that Party has the authority to execute this Lease Agreement on its behalf and legally bind that Party.

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**CITY OF FORT COLLINS, COLORADO, a
Colorado home rule city**

By: _____
Darin A. Atteberry, City Manager

Date: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO LEGAL FORM:

By: _____
City Attorney's Office

**THE LANDOWNERS' ASSOCIATION FOR
PHANTOM CANYON RANCHES, a Colorado
nonprofit corporation**

By: *Brian Gray*
Brian Gray, President

STATE OF COLORADO

) ss.

COUNTY OF LARIMER

The foregoing instrument was acknowledged before me this 03rd day of January, 2017, by Brian Gray, as President of The Landowners' Association for Phantom Canyon Ranches, a Colorado nonprofit corporation.

Witness my hand and official seal

My commission expires: 11/29/2019

Junita Palusa
Notary Public

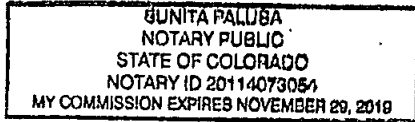


EXHIBIT A
(Road and Trail Map)


PHANTOM CANYON RANCHES


APPROXIMATE LOCATIONS OF EASEMENTS AND TRAILS LIVERMORE, COLORADO

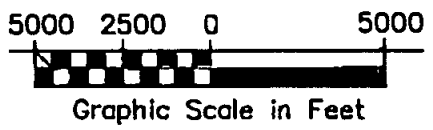
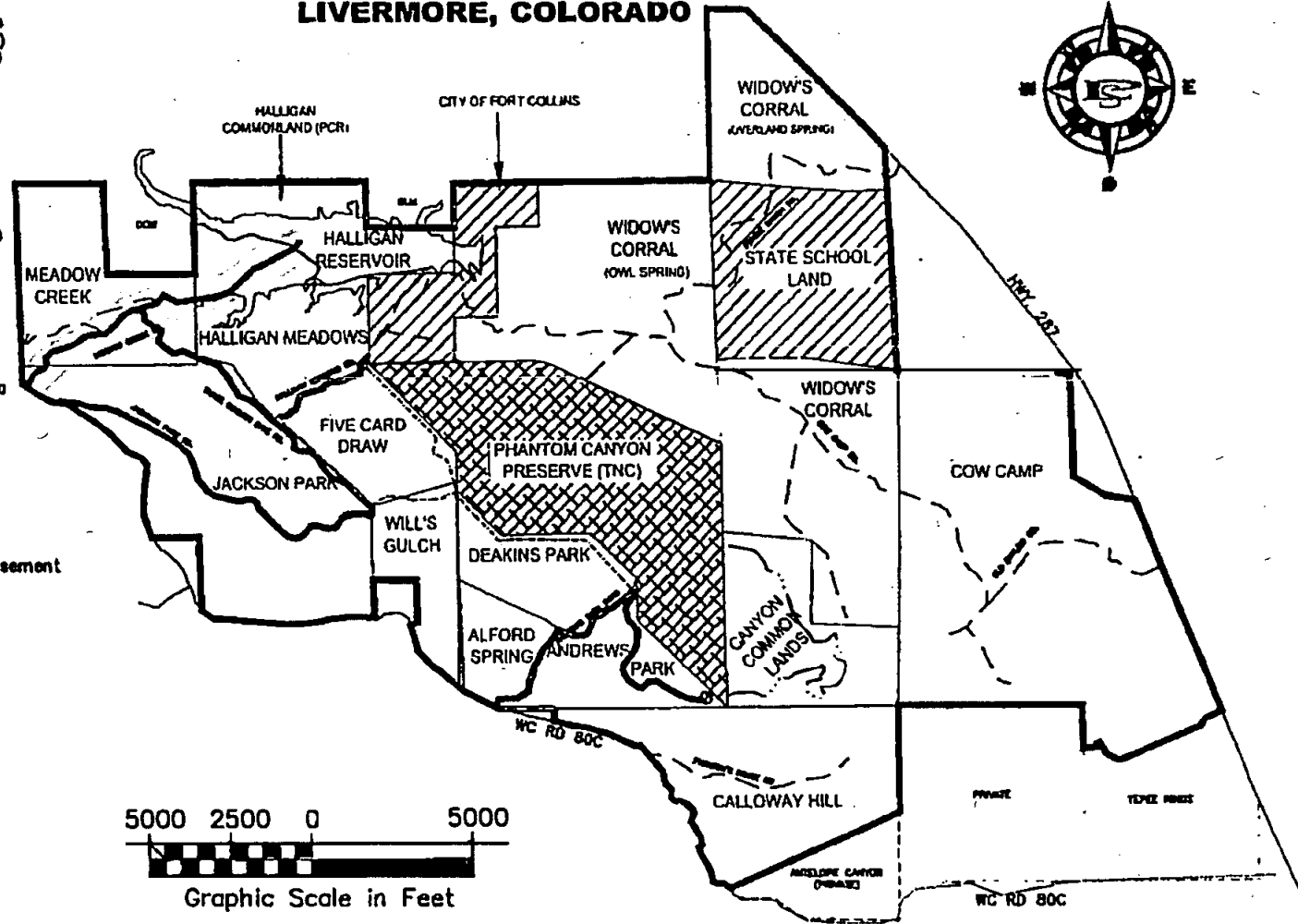
LAND SUMMARY (Approximate Acreage)

WIDOW'S CORRAL	1,934
Owl Spring	(800)
Overland Spring	(420)
Widow's Corral	(714)
COY CAMP	1,718
CALLOWAY HILL	760
ANDREWS PARK	257
DEAKINS PARK	288
WILL'S GULCH	246
ALEDO SPRING	168
FIVE CARD DRAW	309
JACKSON PARK	283
MEADOW CREEK	1,114
MEADOW CREEK	510
LARPER HALLIGAN COMMONLANDS	160
CITY OF FORT COLLINS	482
LARPER CANYON COMMONLANDS	480
THE NATURE CONSERVANCY'S PHANTOM CANYON PRESERVE	1,120

LEGEND:

 Road and Utility Easement

 Trail Easement



PROJECT NO. 06036

NOTE: THIS DRAWING IS ONLY A GRAPHICAL REPRESENTATION OF LARMER COUNTY ACCESSORS INFORMATION AND MAPS PROVIDED BY PHANTOM CANYON RANCHES L.O.A. AND IS NOT A LAND SURVEY PLAT AND DOES NOT REPRESENT AN ACTUAL LAND SURVEY.

REVISIONS:
JANUARY, 2007
NOVEMBER, 2007
SEPTEMBER 17, 2008



PERKINS LAND SURVEYING, INC.

171 NORTH COLLEGE AVENUE
FORT COLLINS, COLORADO 80524

PHONE: (970)407-9220 FAX: (970)407-9244 EMAIL: pls@verinet.com